

INVITATION TO BID
ITB # 4350

ANN ARBOR HOUSING COMMISSION
Geothermal Project



ANN ARBOR HOUSING COMMISSION

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ADVERTISEMENT FOR
ANN ARBOR HOUSING COMMISSION GEOTHERMAL PROJECT

ITB#- 4350

Sealed Bids will be received by Ann Arbor Procurement Office, Fifth Floor City Hall, **on or before Friday, September 26, 2014 by 10:00 AM** for Geothermal heating and cooling for the Ann Arbor Housing Commission (AAHC). Bids will be publically opened and read aloud at this time.

Work to be done shall include, but not be limited to installing Geothermal heating and cooling at 3 rental properties, Hillside Manor, Mallets Creek and Upper Platt Colonial. For a total of 17 individual rental units. All work is in the City of Ann Arbor.

Bid documents, specifications, plans and addendum shall be downloaded by vendors at either of the following web sites, Michigan Inter-governmental Trade Network (MITN) www.mitn.info or City of Ann Arbor web site www.A2gov.org.

Each Bid shall be accompanied by a certified check, or Bid Bond by a recognized surety, in the amount of 5% of the total bid price. A Bid, once submitted, becomes the property of the City and AAHC. In the sole discretion of the AAHC, the AAHC reserves the right to allow a bidder to reclaim submitted documents provided the documents are requested and retrieved no later than 48 hours prior to the scheduled bid opening.

The successful Bidder will be required to furnish satisfactory performance and payment bonds in the amount of 100% of the contract price and satisfactory insurance coverage.

Precondition for entering into a contract with the AAHC: 1) compliance with Chapter 112 of Title IX of the Code of the City of Ann Arbor; 2) compliance with applicable prevailing wage and living wage requirements of Chapter 23 of Title I of the Code of the City of Ann Arbor; and (3) compliance with the Davis-Bacon requirements.

After the time of opening, no Bid may be withdrawn for a period of 90 days. The AAHC reserves the right to accept any Bid, to reject any and all Bids, to waive irregularities and/or informalities in any Bid, and to make the award in any manner the AAHC believes to be in its best interest.

Any further information may be obtained from the Ann Arbor Procurement Office,
(734) 794-6576

CITY OF ANN ARBOR PROCUREMENT UNIT

NOTICE OF Mandatory PRE-BID CONFERENCE

A pre-bid conference for this project will be **held on Wednesday, September 10 at 10:00 am**. The pre-bid conference and site visit is provided to allow the potential bidders the opportunity to ask clarifying questions about the invitation to bid, view the project site, view existing conditions, site constraints, etc. Following the Mandatory conference, a tour will be offered to provide access to the rental units of Hillside Manor, 1020-1042 Pennsylvania, Mallet's Creek, 2670-2680 Main St. and Upper Platt Colonial, 3681-3689 Platt rd. The mandatory pre-bid conference and tour will start at 1030 Pennsylvania, on September 10th at 10:00 am.

Attendance at this conference is Mandatory. Administrative and technical questions regarding this project will be answered at this time. If any questions arise whose answers constitute modifications to the bid documents, an addendum will be issued.

All questions shall be due on or before Monday, September 22, 2014 by 5:00 PM and should be addressed as follows:

Specification/Scope of Work questions emailed to lmitchell@a2gov.org

Bid Process and HR Compliance questions emailed to mberryman@a2gov.org

BACKGROUND

Ann Arbor Housing Commission

The Ann Arbor Housing Commission (AAHC) is the Public Housing Authority (PHA) for the City of Ann Arbor. The mission of the AAHC is to seek to provide desirable housing and related supportive services for low-income individuals and families on a transitional and/or permanent basis. The AAHC partners with housing and service providers to build healthy residential communities and promote an atmosphere of pride and responsibility.

The AAHC is responsible for the management of eighteen (18) total developments, including ten (10) scattered site communities and two (2) single-family detached homes. The Public Housing (PH) developments are set up by Asset Management Project Groupings (AMPS). In total, the AAHC is responsible for the management of approximately 360 units.

The AAHC communities are subject to HUD, State of Michigan and other Federal regulations and statutes governing public housing rental units in Michigan.

INSTRUCTIONS TO BIDDERS

General

Work to be done under this Contract is generally described through the detailed specifications and must be completed fully in accordance with the contract documents. All work to be done under this Contract is located in or near the City of Ann Arbor. Any Bid which does not conform fully to these instructions may be rejected.

Preparation of Bids

Bids should be prepared providing a straight-forward, concise description of the Bidder's ability to meet the requirements of the ITB. Bids shall be written in ink or typewritten. No erasures are permitted. Mistakes may be crossed out and corrected and must be initialed and dated in ink by the person signing the Bid.

Bids must be submitted on the "Bid Forms" provided with each blank properly filled in. If forms are not fully completed it may disqualify the bid.

Each person signing the Bid certifies that he/she is the person in the Bidder's firm/organization responsible for the decision as to the fees being offered in the Bid and has not and will not participated in any action contrary to the terms of this provision.

Questions or Clarification on ITB Specifications

All questions regarding this ITB shall be submitted via email. Emailed questions and inquires will be accepted from any and all prospective Bidders in accordance with the terms and conditions of the ITB.

All questions shall be due on or before Monday, September 22, 2014 by 5:00 PM and should be addressed as follows:

Specification/Scope of Work questions emailed to lmitchell@a2gov.org

Bid Process and HR Compliance questions emailed to mberryman@a2gov.org

Addenda

If it becomes necessary to revise any part of the ITB, notice of the Addendum will be posted to Michigan Inter-governmental Trade Network (MITN) www.mitn.info and/or City of Ann Arbor web site www.A2gov.org for all parties to download.

Each Bidder must in its Bid, to avoid any miscommunications, acknowledge all addenda which it has received, but the failure of a Bidder to receive, or acknowledge receipt of; any addenda shall not relieve the Bidder of the responsibility for complying with the terms thereof.

The City will not be bound by oral responses to inquiries or written responses other than written addenda.

Bid Submission

All Bids are due and must be delivered to the City of Ann Arbor Procurement Unit on or before ***Friday, September 26th at 10 am.*** Bids submitted late or via oral, telephonic, telegraphic, electronic mail or facsimile **will not** be considered or accepted.

Each Bidder must submit one (1) original Bid and three (3) Bid copies in a sealed envelope clearly marked: **ITB 4350.**

Bids must be addressed and delivered to:

City of Ann Arbor
Procurement Unit,
C/O Customer Service 1st Floor
301 East Huron Street
P.O. Box 8647
Ann Arbor, MI 48107

All Bids received on or before the Due Date will be publicly opened and recorded immediately. No immediate decisions are rendered.

Bids should be date/time stamped/signed at the address above in order to be considered. Normal business hours are 8:00 a.m. to 4:00 p.m. Monday through Friday. The City will not be liable to any Bidder for any unforeseen circumstances, delivery or postal delays. Postmarking to the Due Date will not substitute for receipt of the Bid. Each Bidder is responsible for submission of their Bid.

Additional time will not be granted to a single Bidder; however, additional time may be granted to all Bidders when the City determines that circumstances warrant it.

Award

The AAHC will evaluate Bids based on cost as well as experience. Contractors that have not included the required list of similar work experience and associated references (located in the Appendix) may have their Bid rejected.

The AAHC intends to award a Contract(s) to the lowest responsible Bidder(s). The contract will be awarded based upon the total bid price stated by the bidder for the work items specified in the bid documents, with consideration given to any alternates selected by the AAHC. If the AAHC determines that the total bid price or the unit price for any item is materially different for the work item bid than either other bidders or the general market, the AAHC, in its sole

discretion, in addition to any other right it may have, may reject the bid as not responsible or non-conforming.

When applicable, the acceptability of major subcontractors will be considered in determining if a Bidder is responsible. In comparing Bids, the AAHC will give consideration to alternate Bids for items listed in the forms, or other alternates which the Bidder may wish to submit, but preference will be given to Base Bid.

The AAHC reserves the right to accept any Bid, to reject any or all Bids, to waive irregularities and/or informalities in any Bid, and to make the award in any manner the AAHC believes to be in its best interest.

Official Documents

The City of Ann Arbor shall accept no changes to the bid documents made by the Bidder unless those changes are set forth in the "Alternate" section of Bid form.

The City of Ann Arbor officially distributes bid documents from the Procurement Unit or through the Michigan Intergovernmental Trade Network (MITN). Copies of the bid documents obtained from any other source are not considered Official copies. Only those Bidders who obtain bid documents from MITN system are guaranteed access to receive addendum information if any issued. If you obtained City of Ann Arbor Bid documents from other sources, it is recommended that you register on www.MITN.info and obtain an official Bid.

Bid Security

Each Bid must be accompanied by a certified check, or Bid Bond by a surety licensed and authorized to do business within the State of Michigan, in the amount of 5% of the total Bid price.

Withdraw of Bids

After the time of opening, no Bid may be withdrawn for the period of days specified in the Advertisement.

Contract Time

Time is of the essence in the performance of the work under this Contract. The available time for work under this Contract is **60 consecutive calendar days** from contract execution date.

Liquidated Damages

A liquidated damages clause as stated in the Contract provides that the Contractor shall pay the AAHC as liquidated damages, and not as a penalty, a sum certain per day for each and every day the Contractor may be in default of completion of the specified work, within the time(s) stated in the Contract, or written extensions.

Liquidated damages clauses, as given in part in the General Conditions, and in full in the Contract, provide further that the AAHC shall be entitled to impose and recover liquidated damages for breach of the obligations under Chapter 112 of the City Code.

The liquidated damages are for the non-quantifiable aspects of any of the previously identified events and do not cover actual damages that can be shown or quantified nor are they intended to preclude recovery of actual damages in addition to the recovery of liquidated damages.

Human Rights Information

The General Conditions outline the requirements for fair employment practices under AAHC and City of Ann Arbor Contracts. To establish compliance with this Ordinance, the Bidder must complete and return with its bid completed copies of the **Human Rights Division Contract Compliance Forms** (see Forms and Attachments).

Wage Requirements

The General Conditions outline the requirements for payment of prevailing wages or of a “living wage” to employees providing service to the City under this contract. The successful Bidder must comply with all applicable requirements and provide documentary proof of compliance when requested. In addition, the employees providing service must be paid the higher of the City of Ann Arbor Living Wage or Davis-Bacon Wages. The hourly rates for Bidder’s staff shall be in accordance with the current **Davis-Bacon Wage Determination** schedule at the time of contract. The current Davis-Bacon Wage Determination schedule at the time this ITB publishing is included in the “Forms and Attachments” section. Staff may be paid more per hour but they cannot be paid less. Hourly payment shall correspond to the tasks performed. Please note, the bid opening date “locks-in” the wage decision provided that the contract is awarded within 90 days. If the contract is awarded more than 90 days after the bid opening, the contract award date “locks-in” the wage decision (see form HUD-4710 available at www.hud.gov).

Debarment

Submission of a Bid in response to this ITB is certification that the Bidder is not currently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from participation in this transaction by any State or Federal departments or agency. Submission is also agreement that the City will be notified of any changes in this status.

Disclosures

All information in a submitter's bid is subjected to disclosure under the provisions of Public Act No. 442 of 1976 know as the "Freedom of Information Act". This act also provides for the complete disclosure of contracts and attachments thereto except where specifically exempted under the Freedom of Information Act.

Bid Protest

All bid protests must be in writing and filed with the AAHC Procurement Manager or designee within ten (10) calendar days of the award action. The vendor must clearly state the reasons for the protest. All bid protests will be responded to in writing and decisions by the Procurement Manager may be appealed to the Executive Director for resolution. The Executive Director shall be the final authority of AAHC disputes or claims.

Reservation of Rights

The AAHC reserves the right to accept any bid or alternative bid proposed in whole or in part, to reject any or all bids or alternatives bids in whole or in part and to waive irregularity and/or informalities in any bid and to make the award in any manner deemed in the best interest of the City.

INVITATION TO BID FORM

Ann Arbor Housing Commission
727 Miller Avenue
Ann Arbor, MI 48103

Ladies and Gentlemen,

The undersigned, as Bidder, hereby declares that this bid is made in good faith, without fraud or collusion with any person or persons bidding on the same Contract; that he/she has carefully read and examined indexed items in the Invitation to Bid and understands all the same. The Bidder declares that he or his representative has made a personal investigation at the site and of the work herein proposed and is fully informed as to the nature of the work and the conditions relating to its performance.

The Bidder acknowledges that he has not received or relied upon any representations or warrants of any nature whatsoever from the Ann Arbor Housing Commission, its agents or employees, and that this bid is based solely upon the Bidder's own independent business judgment.

The undersigned hereby proposes to perform all work described in the Scope of Work and Specifications, including any Addenda issued thereto, and to furnish all necessary machinery, tools, apparatus, and other means of construction to do all the work, furnish all the materials, and complete the work herein described in strict accordance with all aspects of the ITB, Contract and bid form. .

In accordance with these Bid Documents, and Addenda thereto numbered _____, the undersigned, as Bidder, hereby proposes to perform at the site(s) specified in Ann Arbor, Michigan, the work included herein for the amounts set forth in the Bid Form.

The undersigned agrees to contract for said work and to furnish the all necessary Insurance Certificates within ten (10) days after being notified of the acceptance of his Bid.

If this Bid is accepted by the Ann Arbor Housing Commission and the Bidder fails to contract as aforesaid and to furnish the required Insurance Certificates with ten (10) days after being notified of the acceptance of this Bid, then the undersigned shall be considered to have abandoned the Contract and the Ann Arbor Housing Commission will execute a contract with the next responsive bidder or re-bid the work.

In submitting this Bid, it is understood that the right is reserved by the Ann Arbor Housing Commission to accept any Bid, to reject any or all Bids, to waive irregularities and/or informalities in any Bid, and to make the award in any manner deemed in the best interest of the Ann Arbor Housing Commission.

SIGNED THIS _____ DAY OF _____, 2014.

Firm Name Authorized Signature of Bidder

Official Address Telephone Number

LEGAL STATUS OF BIDDER

(The Bidder shall fill out the appropriate form and strike out the other two.)

Bidder declares that it is:

*A corporation organized and doing business under the laws of the state of

_____, for whom _____, bearing the office
title of _____, whose signature is affixed to this Bid, is
authorized to execute contracts.

*A partnership, list all members and the street and mailing address of each:

1. _____
2. _____
3. _____
4. _____

Also identify the County and State where partnership papers are filed:

County of _____, State of _____

*An individual, whose signature with address, is affixed to this Bid: _____

(Initial here)

BID FORM

Schedule of Prices (Page 1 of 2)

Project: Geothermal Heating and Cooling for the Ann Arbor Housing Commission

NOTES:

1. All bidders shall provide a Unit Price and Total Price for all bid items identified where possible.
2. Quantities included in bid table represent estimated quantities for different work. Contractor shall be compensated for the actual number of repairs completed using the unit prices provided.
3. The Housing Commission, at their sole discretion, may elect to delete any portion of the work delineated below, with no change to the unit prices provided.
4. There is limited funding available for this project. Quantities approved for Award shall be based on the availability of the Owner's funds.

Description	Quantity	Unit	Unit Price	Total Price
Hillside Manor site				\$
Mallet's Creek site				\$
Upper Platt colonial site				\$
				\$
				\$
TOTAL BID				\$

Certification of Bid for ITB- 4350 for Geothermal Heating and Cooling (Page 2 of 2):

The undersigned, as Bidder, hereby declares that this bid is made in good faith, without fraud or collusion with any person or persons bidding on the same Contract; that he/she has carefully read and examined indexed items in the Invitation to Bid and understands all the same, including that this bid will fulfill the entire scope of work.

In submitting this Bid, it is understood that the right is reserved by the Ann Arbor Housing Commission to accept any Bid, to reject any or all Bids, to waive irregularities and/or informalities in any Bid, and to make the award in any manner deemed in the best interest of the Ann Arbor Housing Commission.

SIGNED THIS _____ DAY OF _____, 2014

Firm and Bidder Name _____

Authorized Signature of Bidder _____

Official Address _____

Telephone Number _____



SCOPE OF WORK FOR AAHC ITB- 4350

Full Scope of Work and Detailed Specifications included in attached documents by Process Results Inc.

CONTRACT AND BOND FORMS - An example of a Contract is placed in the Appendix below. An example of a Bid Bond (required at submission of Bid) is below, and examples of acceptable Payment and Performance Bond Forms are provided in the Appendix below:

PERFORMANCE BOND (example)

**Performance-Payment
Bond
Dual Obligees**

U. S. Department of Housing and Urban
Development
Office of Housing
Federal Housing Commissioner

OMB Approval No. 2502-0297
(exp. 8/31/2013)

Under Section 202 of the Housing Act 1959 and

Section 811 of the National Affordable Housing Act of 1990

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information collection is necessary to ensure that viable projects are developed. It is important to obtain information from applicants to assist HUD in determining if nonprofit organizations initially funded continue to have the financial and administrative capacity needed to develop a project and that the project design meets the needs of the residents. The Department will use this information to determine if the project meets statutory requirements with respect to the development and operation of the project, as well as ensuring the continued marketability of the projects. This information is required in order to obtain benefits. This information is considered non-sensitive and no assurance of confidentiality is provided.

Project Number:	Project Name:	Location:

Know all men by these presents: That we (Name of Contractor) _____
a (Corporation, Partnership, or Individual) _____ hereinafter called
"Principal" and (Surety) _____ of, State of, _____ hereinafter
called the "Surety" are held and firmly bound unto (Owner) _____
of, _____ hereinafter call "Owner" and unto the Secretary of Housing and
Urban Development, hereinafter called "HUD" as their respective interests may appear as Obligees in the penal sum of _____
Dollars (\$)) in lawful money of the United States, for the payment of which sum well and truly to be made, we
bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

The Condition Of This Obligation is such that Whereas the Principal entered into a certain contract with the Owner,
dated the _____ day of _____, 20____, a copy of which is hereto attached and made a part hereof
for the construction of: _____

And Whereas, HUD has agreed to lend to Owner a sum of money to be secured by a mortgage on said project and to be used in making payment under said contract, and desires protection as its interest may appear, in event of default by Principal under said contract, said protection to be subject to the performance by the Obligees, or either of them, of the obligations to Principal in connection with said Contract.

Now Therefore, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term thereof, and any authorized extension or modification thereof, with or without notice to the Surety, and if he shall satisfy all claims and demands incurred under such contract, and fully indemnify and save harmless the Obligees from all costs and damages which they may suffer by reason of failure to do so, and shall reimburse and repay the Obligees all outlay and expense which they may incur in making good any default, and shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

Payment Bond

U.S. Department of Housing
and Urban Development
Office of Housing

OMB Approval No. 0000-0000
(Exp. 00/00/00)

Public Reporting Burden for this collection of information is estimated to average 0.5 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, DC 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2502-0468), Washington, DC 20503. Do not send this completed form to either of the above addresses.

CONTRACTOR/PRINCIPAL (Name and Address):

LENDER (Name and Address):

OWNER (Name and Address):

SURETY (Name and Principal Place of Business):

PROJECT (Name, HUD Project Number and Location):

CONSTRUCTION CONTRACT:

Date:
Amount:

BOND:
Date:
Amount:

RIDERS TO THIS BOND: Yes No

This Payment Bond is issued simultaneously with a Performance Bond-Dual Obligee (Performance Bond) issued in connection with the Project. As used herein, "Obligees" shall mean Owner, Lender, HUD and the additional obligee(s), if any, identified in a Rider to this Bond and "Obligee" shall mean any of the Obligees.

GENERAL CONDITIONS

AAHC sets the following conditions:

1. All Bids should be firm for a period of ninety (90) days from the Bid deadline date.
2. The AAHC reserves the right to reject any and all Bids, and to waive any minor informalities and/or irregularities in the ITB process. The AAHC shall be the sole judge of these minor informalities and/or irregularities. Late submissions *do not constitute a minor informality or irregularity*.
3. Where applicable, all firms shall be licensed in Washtenaw County and/or the State of Michigan.
4. No minimum or maximum contract hours is stated or implied.
5. The AAHC reserves the right to request an interview with any and/or all of the responders in order to finalize any decisions.
6. The AAHC will consider non-responsive any submittal that lacks critical information or deviates substantially from the ITB requirements.
7. The AAHC reserves the right to request additional information from any responder after the submittal deadline.
8. **Hourly rates for Bidder's staff shall be in accordance with the higher of the Ann Arbor Living Wage or the current Davis-Bacon Wage Determination schedule at the time of contract or lock-in date.** The current Davis-Bacon Wage Determination schedule at the time this ITB publishing is included in the Appendix. Staff may be paid more per hour but they cannot be paid less. Hourly payment shall correspond to the tasks performed.
9. Any solicitation or lobbying directed at any AAHC staff or Board of Commissioners or agent is prohibited and may be grounds for the disqualification of the Bid.
10. The responder shall state the earliest possible start date from contract execution date.
11. The signer of the Bid *must* have the requisite authorization to commit the applicant and to conduct negotiations or discussions if deemed necessary by the AAHC.
12. The AAHC assumes no liability for any costs incurred by responders in the preparation and delivery of a Bid in response to this ITB, or attendance of any subsequent meetings relative to responding to this ITB.
13. The responder shall provide proof of current insurance to include, but not limited to, general liability, vehicular liability, workers' compensation, and errors and omissions, when applicable.
14. The AAHC reserves the right to request a bank reference from any/or all of the responders.

15. All contracts must be approved by the Executive Director and may also require approval by the AAHC Board of Commissioners and HUD.
16. The AAHC reserves the right to make multiple awards as a result of this ITB. However, a single offeror may be awarded multiple contracts for services listed herein. The AAHC also reserves the right to limit the number of awards to any one firm, all to the benefit of the AAHC. The successful Bidder will be granted the right to perform the services described as described in the scope of work for the specified contract period.
16. In addition, the AAHC reserves the right to award contracts to all or some of the aforementioned Bidders all to the benefit of the AAHC.
17. AAHC staff designated to receive Bids will determine when the deadline for receipt of Bids has expired. No responsibility will attach to an officer, employee or agent of AAHC for not recognizing or receiving a Bid which is not properly marked, addressed or delivered to the submission place, in the submission method, by the submission date and time.
18. **The AAHC will not award contracts to vendors that are debarred, suspended or otherwise determined ineligible by HUD or other government agencies, or to vendors that the AAHC has determined to be non-responsible.** Prior to contract award, the AAHC shall establish contractor responsibility by review of a proposed vendor's ability and competence to perform the contract successfully, and to ensure that they have a satisfactory record of performance and integrity. A determination of non-responsibility may be based on, without limitation, unsatisfactory performance on other contracts with the AAHC or another Housing Commission, or on other contracts of a similar nature.
19. **LIQUIDATED DAMAGES** – The work to be completed under this Contract shall begin immediately after the Contractor's receipt of the fully executed Contract. Time is of the essence in the performance of the work under this Contract. **The entire work for this Contract shall be within 60 consecutive calendar days from contract execution date.** Failure to complete all work within the time specified above, including any extension granted in writing by the AAHC Executive Director or her designee, shall obligate the Contractor to pay the AAHC, as liquidated damages and not as a penalty, an amount to be determined for each calendar day of delay in the completion of all the work as is outlined in Chapter 112 of the City Code and in the "Non-Discrimination" form in the "Forms and Attachments" section of this ITB. Full liquidated damages terms will be documented in the Contract.

20. **SECTION 3** - The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic
21. opportunities to low- and very low-income persons. Specifically, the contract with the lowest qualified bidder will include this Section 3 Clause:

Section 3 Clause

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C.1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

Please review the entire AAHC Section 3 plan at www.a2gov.org/housingcommission.

22. **WBE/MBE/DBE** - Consistent with Presidential Orders 11625, 12138, and 12432, the PHA shall make every feasible effort to ensure that small businesses MBE's, WBE's, and labor surplus area businesses participate in PHA contracting. It is the policy of the AAHC to encourage its contractors to understand, endorse and fully implement the policies and programs associated with expanding the business potential for small (women-owned (WBE), minority-owned (MBE), and/or disadvantaged business enterprises (DBE).

23. **CITY OF ANN ARBOR LIVING WAGE ORDINANCE** - Rate are effective May 1, 2014 and ending April 30, 2015. The rates are as follows: \$12.70 per hour, if the employer provides health care benefits and \$14.80 per hour if the employer does *not* provide health care benefits. Employers providing services to or for the City of Ann Arbor or recipients of grants or financial assistance from the City of Ann Arbor for a value of more than \$10,000 in a twelve-month period of time *must pay those employees performing work on a city of Ann Arbor contract or grant, the above living wage. Please see forms to be completed in the Forms and Attachments section.*

1. Enforcement

- The City of Ann Arbor may recover back wages either administratively or through court action for the employees that have been underpaid in violation of the law. Persons denied payment of the living wage has the right to bring a civil action for damages in addition to any action taken by the city.
- Violation of this ordinance is punishable by fines of not more than \$500/violation plus costs, with each day being considered a separate violation. Additionally, the City of Ann Arbor has the right to modify, terminate, cancel or suspend a contract in the event of a violation of the ordinance.

- Health care benefits shall include those paid for by the employer or making an employer contribution toward the purchase of health care. The employee contribution must not exceed \$.50 an hour for an average work week; and the employer cost or contribution must equal no less than \$1/hr for the average work week.
2. For additional information or to file a complaint contact: Procurement Agent, 734-794-6576, x4-5206.

24. **BONDING AND INSURANCE REQUIREMENTS** - The contractor is required to submit:

1. A bid guarantee/bid bond from each bidder equivalent to 5% of the bid price (due at the time of submission of the Bid/bid); and
2. A performance bond for 100% of the contract price; and
3. A payment bond for 100% of the contract price (both the performance and payment bonds are due from the successful bidder).

The complete indemnity requirements are detailed within Section 11 of the sample contract.

The contractor will secure and maintain during the term of the contract insurance from an insurance company authorized to do business in the State of Michigan that will protect contractors and subcontractors and the City from all liability (public liability, personal injury and property damage) claims which may arise from operations under the contract. In this regard, the **Contractor shall maintain the following insurance coverage during the effective term(s) of this contract:**

1. The contractor will furnish insurance certificates within ten (10) days of being notified of acceptance of his/her bid. Execution of this contract will not occur until evidence of all required insurance has been submitted and approved by the AAHC.
2. Failure to maintain the above-reference insurance coverage, including naming the AAHC as an additional insured (where appropriate) during the term(s) of this contract shall constitute a material breach thereof. The contractor must cease work if any of the required insurance is canceled or expires.
3. Copies of certificates of insurance shall be submitted to, and approved by, the AAHC prior to the execution of the contract.

4. The Certificate shall specifically name the City of Ann Arbor and the AAHC as additional insured parties. **In the area for the listing of additional insured on the binder it must read: "The City of Ann Arbor and the Ann Arbor Housing Commission."**
5. The certificates must contain the agreement of the insurance company notifying the AAHC ten (10) days prior to any cancellation or material alteration of the policy. **The cancellation clause must have the language "will mail" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" removed from this clause.**
6. The contractor shall not allow any work under the contract to be performed by a subcontractor unless evidence of similar insurance covering the activities of the subcontractor is submitted to and approved by the AAHC.
7. The limits of insurance shall not be less than the following:
 - 7.1 General Liability - \$1,000,000 per occurrence for bodily injury, personal injury and property damage, and an aggregate limit of \$2,000,000;
 - 7.2 Automobile Liability - \$1,000,000 per accident for bodily injury and property damage;
 - 7.3 Bodily Injury Liability (if the contract involves motor vehicles or mechanized equipment) - \$1,000,000 per occurrence for bodily injury and/or personal injury and/or property damage.
 - 7.4 Employer's Liability - \$1,000,000 per accident for bodily injury or disease; and if applicable
 - 7.5 Error and Omission Liability (if necessary) - \$1,000,000 per occurrence and an aggregate limit of \$1,000,000.
 - 7.6 Insurance certificate(s)/endorsement(s) shall be delivered to the following person representing the AAHC: **ANN ARBOR HOUSING COMMISSION, FINANCIAL DEPARTMENT, 404 Ashley, ANN ARBOR, MI 48103**

25. **PROGRESS PAYMENTS AND PARTIAL PAYMENT FORMS** – The contractor will be required to prepare and submit to the AAHC a construction progress schedule for this project after being issued a notice to proceed (most likely to be required on the Form HUD-5372). The AAHC may require use of other HUD partial payment forms – examples found in the “Sample Progress Schedule and Partial Payment Forms” section of the “Forms and Attachments” section.

CONTENTS OF BID

The below list is a guide regarding items that are required at minimum to be included in the bid submission:

- 1. Completed Bid Form*
- 2. Completed Legal Status of Bidder*
- 3. Completed Invitation To Bid Form*
- 4. Copies of State license(es) in state(s) where licensed, where applicable*
- 5. A Bid Bond submitted at bid submission*
- 6. Addenda Form (if applicable/there are addenda)*
- 7. Completed Certificate of Non-Segregated Facilities*
- 8. Completed Reference Form*
- 9. Completed Section 3 Certification Form (Section 3 Clause reviewed)*
- 10. HUD Forms-5369 and 5370 (reviewed) and Completed 5369-A*
- 11. Completed Non-Collusive Affidavit*
- 12. Completed Ann Arbor Human Rights (Forms 1 and 2) and Living Wage Ord. Forms*

Omission of any of the aforementioned documents or certifications will render the Bid non-responsive. AAHC is the sole determinant of responsiveness/responsibleness.

BID SCHEDULE OF EVENTS

ITB-4350 posted September 5, 2014

Pre-Bid Conference and Site Visit: 2014 Wednesday, September 10, 2014 10:00am

Questions received by: Monday, September 22, 2014 5:00pm

Bid Due Date: Friday September 26, 2014 10:00am

Evaluation: September 31 through October 2014

Contract Award and Execution: Mid-October 2014 (estimated)

**AAHC
Geothermal Project**

**ITB # 4350
APPENDIX**



ANN ARBOR HOUSING COMMISSION

A. CERTIFICATION OF NON-SEGREGATED FACILITIES

The Bidder certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Bidder certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location under his control, where segregated facilities are maintained. The Bidder agrees that a breach of this certification will be a violation of the Equal Opportunity clause in any contract resulting from acceptance of this bid. As used in the certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Bidder agrees that (except where he has obtained identical certification from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such certifications in his files.

Note: The penalty for making false statements in offers is prescribed in 18 U.S.C., subsection 1001.

NAME OF BIDDER

DATE

By

Title

Official Address (including zip code)

B. NON-DISCRIMINATION

- (1) All contractors proposing to do business with the City of Ann Arbor, except those specifically exempted by regulations promulgated by the Administrator and approved by City Council shall receive approval from the Director prior to entering into a contract with the City. Said contractors shall take affirmative action to insure that applicants are employed and that employees are treated during employment in a manner, which provides equal employment opportunity and tends to eliminate inequality based upon race, national origin or sex.
- (2) Each prospective contractor shall submit to the City data showing current total employment by occupational category, sex and minority group. If, after verifying this data, the Director concludes that it indicates total minority and female employment commensurate with their availability within the contractor's labor recruitment area, i.e., the area from which the contractor can reasonably be expected to recruit, said contractor shall be accepted by the Director as having fulfilled affirmative action requirements for a period of six (6) months at which time the Director shall conduct another review. Other contractors shall develop an affirmative action program in conjunction with the Director. Said program shall include specific goals and timetables for the hiring and promotion of minorities and females. Said goals shall reflect the availability of minorities and females within the contractor's labor recruitment area. In the case of construction contractors, the labor recruitment area shall be the Ann Arbor-Ypsilanti standard metropolitan statistical area.
- (3) In hiring for construction projects, contractors shall make good faith efforts to employ local persons, so as to enhance the local economy.
- (4) All contracts shall include provisions through which the contractor agrees, in addition to any other applicable Federal or State labor laws:
 - (a) To set goals, in conference with the Director, for each job category or division of the work forces used in the completion of the City work;
 - (b) To provide periodic reports concerning the progress the contractor has made in meeting the affirmative action goals it has agreed to.
 - (c) To permit the Director access to all books, records and accounts pertaining to its employment practices for the purpose of determining compliance with the affirmative action requirements;
 - (d) To permit the Director access to all books, records and accounts pertaining to its employment practices for the purpose of determining compliance with the affirmative action requirements.

- (5) The Director shall monitor the compliance of each contractor with the affirmative action agreement provisions of each contract. For instances of non-compliance, the Director shall develop procedures and regulations which provide the contractor with notice of his non-compliance. Such procedures and regulations shall include a provision for the posting of contractors not in compliance.
- (6) All such contractors shall provide further that breach of the obligation to take affirmative action shall be a material breach of the contract for which the City shall be entitled, at its option, to do any or all of the following
- (a) To cancel, terminate, or suspend the contract in whole or part and/or refuse to make any required periodic payments hereunder.
 - (b) Declare the contractor ineligible for the award of any future contracts with the City for a specified length of time;
 - (c) To recover liquidated damages of a specified sum, said sum to be that percentage of the labor expenditure for the time period involved which would have accrued to minority group members had the affirmative action not been breached;
 - (d) Impose for each day of non-compliance, liquidated damages of a specified sum, based upon the following schedule:

Contract Amount	Assessed Damages Per Day of Non-compliance
\$ 5,000 - 24,999	\$ 25.00
25,000 - 99,999	50.00
100,000 - 199,999	100.00
200,000 - 499,999	150.00
500,000 - 1,499,999	200.00
1,500,000 - 2,999,999	250.00
3,000,000 - 4,999,999	300.00
5,000,000 - and above	500.00

(e) In addition the contractor shall be liable for any costs or expenses incurred by the City of Ann Arbor in obtaining from other sources the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the City under this contract

C. REFERENCE FORM –

Please provide a list of a minimum of three (3) references from previously completed, similar work, within the past five (5) years:

CONTRACTOR NAME: _____

ADDRESS: _____

PHONE: _____

1) _____ \$ _____ _____
Project Name Cost Date Constructed

Contact Name Phone Number

2) _____ \$ _____ _____
Project Name Cost Date Constructed

Contact Name Phone Number

3) _____ \$ _____ _____
Project Name Cost Date Constructed

Contact Name Phone Number

D. MICHIGAN EEO CLAUSE

It is agreed the Contractor and his/her subcontractors will not discriminate against an employee, or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status; or because of handicap that is unregulated to the individual's ability to perform the duties of a particular job or position. Breach of its covenant may be regarded as a material breach of the Contract.

E. CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

Name of Business _____

Address of Business _____

Type of Business: Corporation Partnership
 Sole Proprietorship Joint Venture

Attached is the following documentation as evidence of status:

For Business claiming status as a Section 3 resident-owned enterprise:

- Copy of resident lease Copy of receipt of public assistance
- Copy of evidence of participation in a public assistance program Other evidence

For business entity as applicable:

- Copy of Articles of Incorporation Certificate of Good Standing
- Assumed Business Name Certificate Partnership Agreement
- List of owners/stockholders and % ownership of each Corporation Annual Report
- Organization chart with names and titles and brief function statement Latest Board minutes appointing officers
- Additional documentation

For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business:

- List of subcontracted Section 3 business(es) and subcontract amount

For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

- List of all current full-time employees List of employees claiming Section 3 status
- PHA/IHA Residential lease less than 3 years from day of employment Other evidence of Section 3 status less than 3 years from date of employment

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- Current financial statement
- Statement of ability to comply with public policy
- List of owned equipment
- List of all contracts for the past two years

Authorizing Name and Signature

(corporate Seal)

Attested by: _____

F. DAVIS-BACON DECISION

See Next Page

MI140024 MOD 2 REVISED 06/06/14 MI24
 ***** THIS WAGE DETERMINATION WAS REPLACED ON 06/06/14*****
 General Decision Number: MI140024 04/18/2014

Superseded General Decision Number: MI20130024

State: Michigan

Construction Type: Residential

County: Washtenaw County in Michigan.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories).

Modification Number	Publication Date
0	01/03/2014
1	02/28/2014
2	04/18/2014

ASBE0025-005 06/01/2013

Townships of Ann Arbor, Augusta, Lodi, Northfield, Pittsfield, Salem, Saline, Scio, Superior, Webster, Ypsilanti & York

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR.....	\$ 31.49	28.66

ASBE0047-004 07/01/2013

Townships of Bridgewater, Dexter, Freedom, Lims, Lyndon, Manchester, Sharon & Sylvan

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR.....	\$ 28.82	15.78

CARF1234-003 08/01/2013

	Rates	Fringes
CARPENTER		
Multi-family condominiums...	\$ 23.65	10.05
Single-family homes and detached condominiums.....	\$ 21.26	9.58

ELEC0252-005 05/30/2011

	Rates	Fringes
ELECTRICIAN.....	\$ 25.96	13.05

ENGI0325-004 06/01/2013

G. HUD FORM-5369

See Next Page

**U.S. Department of Housing and
Urban Development**
Office of Public and Indian Housing

**Instructions to Bidders for Contracts
Public and Indian Housing Programs**

H. HUD FORM-5369-A

See Next Page

**U.S. Department of Housing
and Urban Development**
Office of Public and Indian Housing

**Representations, Certifications,
and Other Statements of Bidders**
Public and Indian Housing Programs

I. HUD FORM-5370

See Next Page

General Conditions for Construction Contracts - Public Housing Programs

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB Approval No. 2577-0157 (exp. 1/31/2017)

Applicability. This form is applicable to any construction/development contract greater than \$100,000.

This form includes those clauses required by OMB's common rule on grantee procurement, implemented at HUD in 24 CFR 85.430. Those requirements set forth in Section 3 of the Housing and Urban Development Act of 1968 and its amendment by the Housing and Community Development Act of 1992, implemented by HUD at 24 CFR Part 135. The form is required for construction contracts awarded by Public Housing Agencies (PHAs).

The form is used by Housing Authorities in solicitations to provide necessary contract clauses. If the form were not used, HAs would be unable to enforce their contracts.

Public reporting burden for this collection of information is estimated to average 1.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Responses to the collection of information are required to obtain a benefit or to retain a benefit.

The information requested does not lend itself to confidentiality.

HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a current valid OMB number.

Clause		Page	Clause	
1.	Definitions	2		Administrative Requirements
2.	Contractor's Responsibility for Work	2	25.	Contract Period
3.	Architect's Duties, Responsibilities and Authority	2	26.	Order of Precedence
4.	Other Contracts	3	27.	Payments
	Construction Requirements		28.	Contract Modifications
5.	Preconstruction Conference and Notice to Proceed	3	29.	Changes
6.	Construction Progress Schedule	3	30.	Suspension of Work
7.	Site Investigation and Conditions Affecting the Work	3	31.	Disputes
8.	Differing Site Conditions	4	32.	Default
9.	Specifications and Drawings for Construction	4	33.	Liquidated
10.	As-Built Drawings	5	34.	Termination of Convenience
11.	Material and Workmanship	5	35.	Assignment of Contract
12.	Permits and Codes	5	36.	Insurance
13.	Health, Safety, and Accident Prevention	6	37.	Subcontracts
14.	Temporary Buildings and Transportation Materials	6	38.	Subcontracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms
15.	Availability and Use of Utility Services	6	39.	Equal Employment Opportunity
16.	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements	6	40.	Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968
17.	Temporary Buildings and Transportation Materials	7	41.	Interest of Members of Congress
18.	Clean Air and Water	7	42.	Interest of Members, Officers, or Employees and Former Members, Officers, or Employees
19.	Energy Efficiency	7	43.	Limitations on Payments Made to Influence
20.	Inspection and Acceptance of Construction	7	44.	Royalties and Patents
21.	Use and Possession Prior to Completion	8	45.	Examination and Retention of Contractor's Records
22.	Warranty of Title	8	46.	Labor Standards-Davis-Bacon and Related Acts
23.	Warranty of Construction	8	47.	Non-Federal Prevailing Wage Rates
24.	Prohibition Against Liens	9	48.	Procurement of Recovered Materials

K. NON-COLLUSIVE AFFIDAVIT

I, _____, BEING DULY SWORN DEPOSES AND SAYS:

That said name person is _____
(A Partner or Officer of the Firm, or etc.)

The bid has been arrived at by the bidder independently and has been submitted without collusion with, and without any agreement, understanding, or planned common course of action with any other vendor of materials, supplies, equipment, or services described in the invitation to bid, designed to limit independent bidding or competition; and

The contents of the bid have not been communicated by the bidder or its employees or agents to any person not an employee or agent of the bidder or its surety on any bond furnished with the bid and will not be communicated to any such person prior to the official opening of the bid.

The undersigned is duly authorized to execute this affidavit on behalf of the bidder.

Authorized Signature _____

Printed Name of Signatory _____

Company Name _____

Subscribed and sworn to before me this

_____ day of _____ 20____
a notary public in and for said County.

Address

Address

Notary Public

City State Zip Code

My Commission expires:

Area Code & Phone Number

L. ANN ARBOR CONTRACT COMPLIANCE AND LIVING WAGE-RELATED DOCUMENTS

Five (5) to Insert Here

- Human Rights Contract Compliance Forms #1 and #2*
- Contract Compliance Form - Instructions for Contractors*
- Current Living Wage Ordinance Poster*
- Living Wage Ordinance Declaration of Compliance*

See Next Pages

**CITY OF ANN ARBOR PROCUREMENT OFFICE
HUMAN RIGHTS CONTRACT COMPLIANCE FORM**
Local Office (Only those employees that will do local or on-site work, if applicable)

Form #2

Name of Company/Organization _____ Date Form Completed _____

Name and Title of Person Completing this Form _____ Name of President _____

Address _____ (Street address) _____ (City) _____ (State) _____ (Zip) _____ County _____ Phone # _____ (Area Code)

Fax# _____ (Area Code) _____ Email Address _____

EMPLOYMENT DATA

Job Categories	Number of Employees (Report employees in only one category)												TOTAL COLUMNS A-L
	Male						Female						
	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaska Native	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaska Native	
A	B	C	D	E	F	G	H	I	J	K	L		
Exec/Sr. Level Officials													
Supervisors													
Professionals													
Technicians													
Sales													
Admin. Support													
Craftspeople													
Operatives													
Service Workers													
Laborers/Helper													
Apprentices													
Other													
TOTAL													
PREVIOUS YEAR TOTAL													

**CITY OF ANN ARBOR
LIVING WAGE ORDINANCE**

RATE EFFECTIVE APRIL 30, 2014 - ENDING APRIL 29, 2015

\$12.70 per hour

If the employer provides health
care benefits*

\$14.18 per hour

If the employer does NOT
provide health care benefits*

Employers providing services to or for the City of Ann Arbor or recipients of grants or financial assistance from the City of Ann Arbor for a value of more than \$10,000 in a twelve-month period of time must pay those employees performing work on a City of Ann Arbor contract or grant, the above living wage.

ENFORCEMENT

The City of Ann Arbor may recover back wages either administratively or through court action for the employees that have been underpaid in violation of the law. Persons denied payment of the living wage have the right to bring a civil action for damages in addition to any action taken by the City.

Violation of this Ordinance is punishable by fines of not more than \$500/violation plus costs, with each day being considered a separate violation. Additionally, the City of Ann Arbor has the right to modify, terminate, cancel or suspend a contract in the event of a violation of the Ordinance.

* Health Care benefits include those paid for by the employer or making an employer contribution toward the purchase of health care. The employee contribution must not exceed \$.50 an hour for an average work week; and the employer cost or contribution must equal no less than \$1/hr for the average work week.

The Law Requires Employers to Display This Poster Where Employees Can Readily See It.

**For Additional Information or to File a Complaint Contact
Mark Berryman at 734/794-6500 or mberryman@a2gov.org**

**ATTACHMENT C
CITY OF ANN ARBOR
LIVING WAGE ORDINANCE
DECLARATION OF COMPLIANCE**

The Ann Arbor Living Wage Ordinance (Section 1:811-1:821 of Chapter 23 of Title I of the Code) requires that employers providing services to the City or recipients of grants for financial assistance (in amounts greater than \$10,000 in a twelve-month period of time) pay their employees who are working on the City project or grant, a minimum level of compensation known as the **Living Wage**. This wage must be paid to the employees for the length of the contract/project.

Companies employing fewer than 5 persons and non-profits employing fewer than 10 persons are exempt from the Ordinance. If this exemption applies to your firm, please check below:

- _____ This **company** is exempt due to the fact that we employ or contract with fewer than 5 individuals.
_____ This **non-profit agency** is exempt due to the fact that we employ or contract with fewer than 10 employees.

The Ordinance requires that all contractors/vendors and/or grantees agree to the following terms:

- a) To pay each of its employees performing work on any covered contract or grant with the City, no less than the living wage, which is defined as \$12.70/hour when health care is provided, or no less than \$14.18/hour for those employers that do *not* provide health care. It is understood that the Living Wage will be adjusted each year on April 30, and covered employers will be required to pay the adjusted amount thereafter. The rates stated above include any adjustment for 2014.
- b) Please check the boxes below which apply to your workforce:
- Employees who are assigned to any covered City project or grant will be paid at or above the applicable living wage without health benefits. Yes _____ No _____
- OR**
- Employees who are assigned to any covered City project or grant will be paid at or above the applicable living wage with health benefits. Yes _____ No _____
- c) To post a notice approved by the City regarding the Living Wage Ordinance in every work place or other location in which employees or other persons contracting for employment are working.
- d) To provide the City payroll records or other documentation as requested; and,
- e) To permit access to work sites to City representatives for the purposes of monitoring compliance, investigating complaints or non-compliance.

The undersigned authorized representative hereby obligates the contractor/vendor or grantee to the above stated conditions under penalty of perjury and violation of the Ordinance.

Company Name

Address, City, State, Zip

Signature of Authorized Representative

Phone (area code)

Type or Print Name and Title

Email address

Date signed

**Questions about this form? Please contact:
Procurement Office City of Ann Arbor
Phone: 734/794-6500**

M. SAMPLE PROGRESS SCHEDULE AND PARTIAL PAYMENT FORMS

Depending on the final project and agreement, these forms are examples of what may be required of the contractor to submit to the AAHC.

HUD Form-5372 – Construction Progress Schedule

HUD Form-51000 – Schedule of Amounts

HUD Form-51001 – Periodic Estimate for Partial Payment

HUD Form-51002 – Schedule of Change Orders

HUD Form-51003 – Schedule of Materials Stored

HUD Form – 51004 – Summary of Materials Stored

See Next Pages

Construction Progress Schedule

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This information collection is required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

1. Name of Public Housing Agency/Indian Housing Authority (PHA/IHA)

2. City		3. State	5. Project Name			
4. Location			6. Project Number			
7. Contract For			8. Contract Time (Days)			
9. From (mm/dd/yyyy)		To (mm/dd/yyyy)	10. Contract Price \$			
11. Number of Buildings		12. Number of Dwelling Units		13. Number of Rooms		

(Submit as many pages as necessary to cover the construction period.)	Year					
	(yyy)	Month				
Actual Monthly Value, Work in Place	(\$)					
Actual Accumulated Progress	(%)					
Anticipated Monthly Value	(\$)					
Accumulated Scheduled Progress	(%)					

Submitted by	Contractor's Name		
	Title	Signature	Date
Approved by	PHA/IHA		
	Title		Date
Approved by	Architect		
			Date

Periodic Estimate for Partial Payment

**U.S. Department of Housing
and Urban Development**
Office of Public and Indian Housing

OMB A

Submit original and one copy to the Public Housing Agency.
Complete instructions are on the back of this form.

Public reporting burden for this collection of information is estimated to average 3.5 hours per response, including the time for reviewing existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency sponsors, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

This information is collected under the authority of Section 6(c) of the U.S Housing Act of 1937 and HUD regulations. HAs are required to ensure that the work for project development is done in accordance with State laws and HUD requirements. The reports provide details and summaries on payments, change orders, and schedule of materials stored for the project. The information on the total development costs, identified in the ACC, are kept as low as possible and consistent with HUD construction requirements. Reports are necessary to obtain a benefit. The information requested does not lend itself to confidentiality.

Name of Public Housing Agency		Periodic Estimate Number	Period From (mm/dd/yyyy) To
Location of Project			Project
Name of Contractor			Contractor
Item Number (1)	Description of Item (2)		C

\$

CONTRACT – DRAFT

***** DRAFT *****

CONTRACT

BETWEEN

THE ANN ARBOR HOUSING COMMISSION

AND

[CONTRACTOR]

INTRODUCTION

This contract by and between the Ann Arbor Housing Commission hereinafter (“AAHC”), and [CONTRACTOR] (hereinafter “the Contractor”) is hereby entered into this [DATE].

Services pursuant to this contract shall begin on the xst Day of August, 2014 and shall end on the 60th consecutive day following execution of this contract on the xxth Day of August, 2014, unless otherwise extended, modified, terminated or renewed by the parties as provided for within this contract. Unless otherwise detailed herein, all references to “days” shall be calendar days (in the case that the last day referenced falls on a Saturday, Sunday or legal holiday, then the period of time shall be automatically extended to include the next work day). Also, whenever the term “herein” is referred to, such refers to this contract form, the appendices and all listed attachments.

1.0 Definitions:

- 1.1 Housing Commission (HC):** Any reference herein or within any Appendix to the “Housing Commission” shall be interpreted to mean the same as the AAHC.
- 1.2 Purchasing Manager (PM):** The HC Purchasing Manager, acting on behalf of the HC.
- 1.3 Invitation to Bid (ITB):** A competitive solicitation process conducted by the HC wherein award was completed to the top-rated responsive and responsible proposer.

2.0 Services and Payment:

- 2.1 Scope of Services:** The services provided pursuant to this contract generally consist of those services for the HC **as described herein and within the Appendices**. Said services shall be provided on the dates and times determined by the HC at the designated HC communities and facilities. In addition, the HC shall retain the right to implement and/or enforce any item issued as a part of **ITB-**. (Please see below Appendix No. ____ **Scope of Work, as agreed upon by negotiation between the HC and the Contractor.**)

2.2 Provisions of any and all Work (Task Orders): (When applicable) The Contractor shall not begin any additional work (other than that already detailed herein) without the receipt of a completed agreement between the AAHC and the Contractor. (An example of such agreement include a Contract Task Order Form (CTOF) and other forms.)

2.3 Cost/Value of Services:

2.3.1 Contract Value: The current total Not-To-Exceed (NTE) value of this contract is: \$[AMOUNT], inclusive of all expenditures invoiced for XXXX-related work for the entire project. Any other services provided related to this contract shall be as negotiated between contractor and the AAHC.

The Contractor exceeds the NTE amount at his/her own risk. The Contractor is under no obligation to provide additional services that would cause the Contractor's fees to exceed the NTE amount without prior revision of this amount by written change order.

2.4 Renewal Options: This contract is not a renewable contract.

2.5 Time Performance: The Contractor will complete each assigned task as detailed within the executed Scope of Work.

2.6 Billing Method:

2.6.1 To receive payment for services rendered pursuant to this contract the Contractor shall submit a fully completed invoice for work previously performed to:

**Ann Arbor Housing Commission
Attn: Accounts Payable
727 Miller Avenue
Ann Arbor, MI 48103**

2.6.2 At a minimum, the invoice shall detail the following information:

- 2.6.2.1** Unique invoice number;
- 2.6.2.2** Contractor's name, address and telephone number;
- 2.6.2.3** Date of invoice and/or billing period;
- 2.6.2.4** Applicable Purchase Order No.;
- 2.6.2.5** Brief description of services rendered, including applicable time frame, total hours being billed for each service at each detailed site, and at the approved rate (may be submitted in the form of a report or invoice);
- 2.6.2.6** If applicable, Task Order, approved by the HC Executive Director; and
- 2.6.2.7** Total dollar amount being billed.

2.6.3 The HC will pay each such properly completed invoice received on a Net/30 basis. Any invoice received not properly completed will not be paid unless and/or until the Contractor complies with the applicable provisions of this contract.

3.0 HC's Obligations: Pursuant to this contract, the HC agrees to provide the specific services detailed herein and also shall be responsible for the following:

3.1 The HC agrees to not provide to the Contractor any assigned work to the Contractor outside the scope of services without the prior written approval of the HC's Executive Director.

4.0 Contractor's Obligations: Pursuant to this contract, the Contractor agrees to provide the specific services detailed herein and also shall be responsible for the following:

4.1 Supervision and Oversight: The Contractor shall be solely responsible for providing supervision and oversight to all of the Contractor's personnel that are assigned to the HC properties pursuant to this contract.

4.2 Qualified Personnel: The Contractor warrants and represents that it will assign only qualified personnel to perform the services outlined herein and within the appendices. For the purposes of this contract, the term "qualified personnel" shall mean those personnel that have been investigated, tested and trained in the manner described within this contract and, as proposed by the Contractor within its Bid or as provided by the Contractor during the Contractor's normal conduct of business.

4.3 Compliance with Federal and State Laws: All work performed by the Contractor, pursuant to this contract, shall be done in accordance with applicable all Federal, State and local laws, regulations, codes and ordinances.

4.4 Contractor's Employees: There will be a pre-employment background check conducted by the contractor/employer of all personnel prior to them being employed on City Properties. The contractor will be required to verify previous employers and references listed in the employment application.

4.4.1 Security: The following security standard should be used to determine whether or not an employee should be assigned to work in high security areas as designated by the City:

4.4.1.1 – Standard: Any felony or misdemeanor conviction involving theft, murder or assault in the last five years. Assignment Restriction: May not be assigned to a high-security area.

4.4.1.2 - Standard: Any other criminal conviction. Assignment Restriction: May be allowed to work in a high-security area if that department's director is notified and agrees to said assignment.

4.4.2 Contractor will have all employees bonded for any losses while employed and assigned to the City of Ann Arbor properties.

- 4.4.3 The AAHC will have the right to require the contractor to remove any employee deemed incompetent, careless or otherwise objectionable, or any personnel whose actions or appearance are deemed inconsistent with the best interests of the "City". The decision of the City of Ann Arbor, acting through the contract Administrator, or his/her authorized representative, shall be final as to what constitutes incompetent or deviant behavior.
- 4.4.4 It is assumed that all employees employed by the contractor will have the requisite skills to perform their designated tasks. Necessary training shall be performed at the contractor's expense and untrained individuals will not be brought into the premises for so-called "ON THE JOB" training. Employees of the contractor will eat and take work breaks in designated areas and will not be allowed to eat in offices. Employees of the contractor will not use city telephones, except for the pay telephones at the various locations. The AAHC via the City of Ann Arbor will charge back all long distance charges for calls made by the contractor's employees. The contractor will not pay his employees less than the minimum wage guidelines of the Federal Government.

4.5 Insurance Requirements:

- 4.4.1 The complete indemnity requirements are detailed within Section 11 herein.
- 4.4.2 The contractor will secure and maintain during the term of the contract insurance from an insurance company authorized to do business in the State of Michigan that will protect contractors and subcontractors and the City from all liability (public liability, personal injury and property damage) claims which may arise from operations under the contract. In this regard, the Contractor shall maintain the following insurance coverage during the effective term(s) of this contract:
 - 4.4.2.1 The contractor will furnish insurance certificates within seven (7) days of being notified of acceptance of his/her bid. Execution of this contract will not occur until evidence of all required insurance has been submitted and approved by the City.
 - 4.4.2.2 Failure to maintain the above-reference insurance coverage, including naming the HC as an additional insured (where appropriate) during the term(s) of this contract shall constitute a material breach thereof. The contractor must cease work if any of the required insurance is canceled or expires.
 - 4.4.2.3 Copies of certificates of insurance shall be submitted to, and approved by, the City prior to the execution of the contract.
 - 4.4.2.4 The Certificate shall specifically name the City and the Ann Arbor Housing Commission as additional insured parties. **In the area for the listing of additional insured on the binder it must read: "The City of Ann Arbor and through the Ann Arbor Housing Commission."**
 - 4.4.2.5 The certificates must contain the agreement of the insurance company notifying the City ten (10) days prior to any cancellation or material alteration of the policy. **The cancellation clause must**

have the language "will mail" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" removed from this clause.

4.4.2.6 The contractor shall not allow any work under the contract to be performed by a subcontractor unless evidence of similar insurance covering the activities of the subcontractor is submitted to and approved by the City.

4.4.2.7 The limits of insurance shall not be less than the following:

4.4.2.7.1 General Liability - \$1,000,000 per occurrence for bodily injury, personal injury and property damage, and an aggregate limit of \$2,000,000.

4.4.2.7.2 Automobile Liability - \$1,000,000 per accident for bodily injury and property damage.

4.4.2.7.3 Employer's Liability - \$1,000,000 per accident for bodily injury or disease.

4.4.2.7.4 Bodily Injury Liability (if the contract involves motor vehicles or mechanized equipment) - \$1,000,000 per occurrence for bodily injury and/or personal injury and/or property damage.

4.4.2.7.5 Error and Omission Liability (if necessary) - \$1,000,000 per occurrence and an aggregate limit of \$1,000,000.

4.4.2.7.6 Worker's compensation coverage evidencing carrier and coverage amount required by the State of Michigan.

4.4.2.7.7 Insurance certificate(s)/endorsement(s) shall be delivered to the following person representing the HC:

ANN ARBOR HOUSING COMMISSION

FINANCIAL DEPARTMENT

404 N. Ashley ANN ARBOR, MI 48103

4.5 Licensing: The Contractor shall also provide to the HC a copy of the required State of Michigan Business License. Failure to maintain this license in a current status during the term(s) of this contract shall constitute a material breach thereof.

4.6 Financial Viability and Regulatory Compliance:

4.6.1 The Contractor warrants and represents that its corporate entity is in good standing with all applicable federal, state and local licensing authorities and that it possesses all requisite licenses to perform the services required by this contract. The Contractor further warrants and represents that it owes no outstanding delinquent federal, state or local taxes or business assessments.

4.6.2 The Contractor agrees to promptly disclose to the HC any IRS liens or insurance or licensure suspension or revocation that may adversely affect its capacity to perform the services outlined within this contract. The failure by

the Contractor to disclose such issue to the HC in writing within 5 days of such notification received will constitute a material breach of this contract.

4.6.3 The Contractor further agrees to promptly disclose to the HC any change of more than 50% of its ownership and/or any declaration of bankruptcy that the Contractor may undergo during the term(s) of this contract. The failure of the Contractor to disclose any change of more than 50% of its ownership and/or its declaration of bankruptcy within 5 days of said actions shall constitute a material breach of this contract.

4.6.4 All disclosures made pursuant to this section of the contract shall be made in writing and submitted to HC within the time periods required herein.

5.0 Modification: This contract shall not be modified, revised, amended or extended except by written addendum, executed by both parties.

6.0 Severability: The invalidity of any provision of this contract, as determined by a court of competent jurisdiction and/or HUD, shall in no way affect the validity of any other provision herein.

7.0 Applicable Laws:

7.1 Compliance with Federal and State Laws: All work performed by the Contractor, pursuant to this contract, shall be done in accordance with applicable all Federal, State and local laws, regulations, codes and ordinances.

7.2 Jurisdiction of Law: The laws of the State of Michigan shall govern the validity, construction and effect of this contract, unless said laws supersede, or in conflict with applicable federal laws and/or federal regulations. This contract will be binding upon the parties, their heirs, beneficiaries, and devisees of the parties hereto. The parties agree that Washtenaw County, Michigan is the appropriate forum for any action relating to this contract. Should any party hereto retain counsel for the purpose of initiating litigation or arbitration to enforce, prevent the breach of any provision hereof, or for any other judicial remedy, then the prevailing party shall be entitled to be reimbursed by the losing party for all costs and expenses incurred thereby, including, but not limited to, reasonable attorneys fees and costs incurred by such prevailing party. This contract may be signed in counterparts.

8.0 Notices, Invoices and Reports:

8.1 All notices, reports and/or invoices submitted to the HC by the Contractor pursuant to this contract shall be in writing and delivered to the attention of the following person representing the HC:

ANN ARBOR HOUSING COMMISSION
727 MILLER AVENUE
ANN ARBOR, MI 48103
734-794-6720 or if appropriate, faxed to: 734-996-3018

- 8.2 All notices submitted to the Contractor pursuant to this contract shall be in writing and mailed to the attention of:

_____, Owner
[CONTRACTOR]
[ADDRESS]

Ann Arbor, MI 4810X
Phone: _____

9.0 Disputed Billings (Charges):

- 9.1 **Procedures: HUD 5370** - In addition to the procedures detailed within Form HUD-5370, in the event that the HC disputes any portion of its billing(s), the HC shall pay the undisputed portion of such billing and initiate the dispute-resolving procedures, as follows:

9.1.1 The HC's representative shall, within 10 days after the HC's receipt of such billing, formally notify the contractor's representative of all particulars pertaining to the dispute, and request that he/she investigate and respond to this issue.

9.1.2 If such dispute cannot be resolved by the contractor's response, within 10 days after such notification is given, the HC PM and the contractor's representative shall meet to discuss the matter and attempt to arrive at a resolution.

9.1.3 If the HC PM and the contractor's representative are unable to resolve the dispute through such discussion within 10 days, the HC shall refer the dispute for arbitration with the HC Attorney, within 10 days thereafter, either:

9.1.3.1 pay the disputed charges and reserve the right to submit the matter to the appropriate district court in the State of Michigan if the disputed amount does not exceed \$40,000.00.

9.1.3.2 not pay the disputed charge and submit the matter to the appropriate district court in the State of Michigan if the disputed amount does not exceed \$40,000.00.

9.1.3.3 not pay the disputed charge and allow the Contractor submit the matter to the appropriate district court in the State of Michigan if the disputed amount does not exceed \$40,000.00.

9.1.3.4 The decision from arbitration will be binding upon both parties. If the decision is adverse to the HC, the HC shall pay the HC's receipt of the decision. If the decision is in favor of the HC, the contractor will either:

9.1.3.5 clear the amount which is ordered from the HC account; or

9.1.3.6 repay to the HC the amount ordered;

Either option shall be completed within 10 days after the contractor's receipt of the arbitrator's decision.

10.0 24 CFR 85.36(i), Procurement: Pursuant to this CFR, as issued by the Office of the Secretary, HUD, the HC and the Contractor each agree to comply with the following provisions:

10.1 Remedies for Contractor Breach: Pertaining to contract-related issues, it is the responsibility of both the HC and the contractor to communicate with each in as clear and complete a manner as possible. If at any time during the term of this contract the HC or the contractor is not satisfied with any issue, it is the responsibility of that party to deliver to the other party communication, in writing, fully detailing the issue and corrective action (please note that the HC has the right to issue unilateral addendums to this contract, but the contractor does not have the same right). The other party shall, within 10 days, respond in writing to the other party (however, the HC shall retain the right to, if conditions warrant, require the contractor to respond in a shorter period of time). Further, the HC shall, at a minimum, employ the following steps in dealing with the contractor as to any performance issues:

10.1.1 If the contractor is in material breach of the contract, the HC may promptly invoke the termination clause detailed within Form HUD-5370, which is attached hereto, and terminate the contract for cause. Such termination must be delivered to the contractor in writing and shall fully detail all pertinent issues pertaining to the cause of and justification for the termination.

10.1.2 Prior to termination, the HC may choose to warn the contractor, verbally or in writing, of any issue of non-compliant or unsatisfactory performance. Such written warning may include placing the contractor on probation, thereby giving the contractor a certain period of time to correct the deficiencies or potentially suffer termination. The HC shall maintain in the contract file a written record of any such warning detailing all pertinent information. If the contractor does not agree with such action, the contractor shall have ten 10 days to dispute or protest, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the HC's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the HC's alleged incorrect action(s).

10.1.3 After termination, if the contractor does not agree with the HC's justification for the termination, the contractor shall have 10 days to dispute, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the HC's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the HC's alleged incorrect action(s).

10.1.4 The response to any protest received shall be conducted in accordance with Section No. 4.0 of this document.

10.2 Termination For Cause and Convenience: As detailed within Form HUD-5370 attached hereto.

- 10.3 Executive Order 11246:** For all construction contracts awarded in excess of \$10,000, both parties hereby agree to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).
- 10.4 Copeland "Anti-Kickback" Act:** For all construction or repair contracts awarded, both parties hereby agree to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3).
- 10.5 Davis-Bacon Act:** For all construction contracts awarded in excess of \$2,000 when required by Federal Grant Program legislation, both parties hereby agree to comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 10.6 Sections 103 and 107 of the Contract Work Hours and Safety Standards Act:** For all construction contracts awarded in excess of \$2,000 and for other contracts, which involve the employment of mechanics or laborers awarded in excess of \$2,500, both parties hereby agree to comply with the Sections 103 and 107 of the Contract Work Hours and Safety Act (40 U.S.C. 327-330) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 10.7 Reporting:** Both parties hereby agree to comply with any reporting requirements that may be detailed herein.
- 10.8 Patent Rights:** Both parties hereby agree to comply with HUD Bulletin 90-23, which is the (a) Notice of Assistance Regarding Patent and Copyright Infringement.
- 10.9 Copy Rights/Rights in Data:** In addition to the requirements contained within, the HC has unlimited rights to any data, including computer software, developed by the contractor in the performance of the contract specifically:
- 10.9.1** Except as provided elsewhere in this clause, the HC shall have unlimited rights in data first produced in the performance of this contract; form, fit, and function data delivered under this contract; data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and all other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software.
- 10.9.2** The contractor shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the contractor in the performance of this contract, unless provided otherwise in this clause; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this clause; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this clause; and establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided below.

- 10.9.3** For data first produced in the performance of this contract, the contractor may establish, without prior approval of the PM, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this contract. The contractor grants the HC and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of the HC.
- 10.9.4** The contractor shall not, without the prior written permission of the contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains copyright notice, unless the contractor identifies such data and grants the HC a license of the same scope as identified in the preceding paragraph.
- 10.9.5** The HC agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this contract are improperly marked, the HC may either return the data to the contractor, or cancel or ignore the markings.
- 10.9.6** The contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the contractor's obligations under this contract.
- 10.9.7** Notwithstanding any provisions to the contrary contained in the contractor's standard commercial license or lease contract pertaining to any restricted computer software delivered under this contract, and irrespective of whether any such contract has been proposed prior to the award of this contract or of the fact that such contract may be affixed to or accompany the restricted computer software upon delivery, the contractor agrees the HC shall have the rights set forth below to use, duplicate, or disclose any restricted computer software delivered under this contract. The terms and conditions of this contract, including any commercial lease or licensing contract, shall be subject to the following procedures.
- 10.9.8** The restricted computer software delivered under this contract may not be used, reproduced, or disclosed by the HC except as provided below or as expressly stated otherwise in this contract. The restricted computer software may be: used or copied for use in or with the computer(s) for which it was acquired, including use at any HC location to which such computer(s) may be transferred; used or copied for use in or with backup computer if any computer for which it was acquired is inoperative; reproduced for safekeeping (archives) or backup purposes; modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this contract; and used or copies for use in or transferred to a replacement computer.
- 10.10 Clean Air Act:** For all contracts in excess of \$100,000, both parties hereby agree to comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

10.11 Energy Policy and Conservation Act: Both parties hereby agree to comply with all mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

11.0 Additional Considerations:

11.1 Right of Joinder Pursuant to NRS 332.195:

11.1.1 Any political subdivision within the State of Michigan may be granted the privilege of joining the awarded contract, only at the option of the Contractor. If the Contractor so grants such a privilege, the terms and conditions of the RFP documents, including the ensuing contract, may be passed on to the joining political subdivision by the Contractor.

11.1.2 The Contractor shall retain the unilateral right to allow or disallow any political subdivision the privilege of joining the awarded contract. In the event the Contractor allows another political subdivision to join the HC contract, it is expressly understood that the HC shall in no way be liable for the joining political subdivision obligations to the Contractor in any manner whatsoever.

11.2 Non-Escalation: Unless otherwise specified within the RFP documents, the unit prices reflected on the contract shall remain firm with no provision for price increases during the term of the contract.

11.3 Funding Restrictions and Order Quantities: The HC reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to the HC, if:

12.3.1 funding is not available;

12.3.2 legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or

12.3.3 the HC's requirements in good faith change after award of the contract.

11.4 Unless otherwise stated in the competitive Bid documents, all local, State or Federal permits which may be required to provide the services ensuing from award of this RFP, whether or not they are known to either the HC or the proposers at the time of the Bid submittal deadline or the award, shall be the sole responsibility of the Contractor and any costs that were submitted by the Contractor in response to the competitive Bid shall reflect all costs required by the Contractor to procure and provide such necessary permits.

- 11.5 Taxes:** All persons doing business with the HC are hereby made aware that the HC is exempt from paying Michigan State Sales and Use Taxes and Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.
- 11.6 Government Standards:** It is the responsibility of the proposer to ensure that all items and services proposed conform to all local, State and Federal law concerning safety (OSHA and NOSHA) and environmental control (EPA and City of Ann Arbor Pollution Regulations) and any other enacted ordinance, code, law or regulation. The Contractor shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the Contractor for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.
- 11.7 Freight on Bill and Delivery:** All costs submitted by the proposer shall reflect the cost of delivering the proposed items and/or services to the location(s) specified within the RFP documents or within the contract.
- 11.7.1** The Contractor agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the Contractor. Upon default, the Contractor agrees that the HC may, at its option, rescind the finalized contract under the default clause herein and seek compensatory damages as provided by law.
- 11.8 Backorders:**
- 11.8.1** The HC PM must be notified in writing by the contractor within 10 days of any and all backordered materials and/or any incomplete services; and the estimated delivery date.
- 11.8.2** Unless otherwise stipulated in the contract, any order that will take more than a maximum of 10 days past the original agreed upon delivery date, may at the option of the HC, be canceled and ordered from another source, if, in the opinion of the HC PM, it is in the best interests of the HC to do so.
- 11.9 Work on HC Property:** If the Contractor's work under the contract involves operations by the Contractor on HC premises, the Contractor shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is caused solely and directly by the HC's negligence, shall indemnify the HC, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the Contractor, its agents, employees, or subcontractors.
- 11.10 Official, Agent and Employees of the HC Not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the HC in any way be personally liable or responsible for any covenant or

agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.

- 11.11 Subcontractors:** Unless otherwise stated within the RFP documents, the Contractor may not use any subcontractors to accomplish any portion of the services described within the RFP documents or the contract without the prior written permission of the HC PM.
- 11.12 Salaries and Expenses Relating to the Contractors Employees:** Unless otherwise stated within the ITB documents, the Contractor shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The Contractor further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.
- 11.13 Attorney's Fees:** In the event that litigation is commenced by one party hereto against the other in connection with the enforcement of any provision of this agreement, the prevailing party shall be paid by the losing party all court costs and other expenses of such litigation, including reasonable attorneys' fees. The amount so allowed as attorneys' fees shall be taxed to the losing party as costs of the suit, unless prohibited by law.
- 11.14 Independent Contractor:** Unless otherwise stated within the competitive Bid documents or the contract, the Contractor is an independent contractor. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.
- 11.15 Severability:** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held valid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.
- 11.16 Waiver of Breach:** A waiver of either party of any terms or condition of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.
- 11.17 Time of the Essence:** Time is of the essence under this agreement as to each provision in which time of performance is a factor. The entire work for this Contract shall be completed within 60 consecutive calendar days.
- 11.17.1 Liquidated Damages:** Failure to complete all the work within the time specified above, including any extension granted in writing by the Executive Director, PM or designee, shall obligate the Contractor to pay the AAHC, as liquidated damages and not as a penalty, an amount equal to \$300.00 for each calendar day of delay in the completion of all the work. If any

11.18 Limitation of Liability: In no event shall the HC be liable to the Contractor for any indirect, incidental, consequential or exemplary damages.

11.19 Indemnification:

11.19.1 The Contractor shall indemnify, defend, and hold the HC (and its officers, employees, and agents) harmless from and against any and all claims, damages, losses, suits, actions, decrees, judgments, attorney's fees, court costs and other expenses of any kind or character, which are caused by, arise out of, or occur due to any failure of the Contractor to (1) abide by any of the applicable professional standards within its industry, or (2) comply with the terms, conditions, or covenants that are contained in this contract, (3) comply with the "Michigan Industrial Insurance Act," or any other law, ordinance, or decree; or (4) ensure that the any subcontractors abide by the terms of this provision and this contract; provided, however, that Contractor will not be required to indemnify the HC against any loss or damage which was specifically caused by the HC providing inaccurate information to the Contractor, failing to provide necessary and requested information to the Contractor, or refusal to abide by any recommendation of the Contractor.

11.19.2 In this connection, it is expressly agreed that the Contractor shall, at its own expense, defend the HC, its officers, employees, and agents, against any and all claims, suits or actions which may be brought against them, or any of them, as a result of, or by reason of, or arising out of, or on account of, or in consequence of any act or failure to act the consequences of which the Contractor has indemnified the HC. If the Contractor shall fail to do so, the HC shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs of such defense to the Contractor including attorney's fees and court costs.

11.19.3 Any money due to the Contractor under and by virtue of this contract, which the HC believes must be withheld from the Contractor to protect the HC, may be retained by the HC so long as it is reasonably necessary to ensure the HC's protection; or in case no money is due, its surety may be held until all applicable claims have been settled and suitable evidence to that effect furnished to the HC provided, however, neither the Corporation's payments shall not be withheld, and its surety shall be released, if the Contractor is able to demonstrate that it has adequate liability and property damage insurance to protect the HC from any potential claims.

11.19.4 The Contractor shall provide that any contractual arrangement with a subcontractor shall be in conformance with the terms of this Contract including the terms of this indemnity provision. The Contractor guarantees that it will promptly handle and rectify any and all claims for materials, supplies and labor, or any other claims that may be made against it or any of its subcontractors in connection with the contract.

12.0 Lobbying Certification: By execution of this contract with the HC the Contractor thereby certifies, to the best of his or her knowledge and belief, that:

12.20.1 No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement.

12.20.2 If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form- LLL, Disclosure Form to Report Lobbying, in an accordance with its instructions.

12.20.3 The Contractor shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

12.21 Additional Federally Required Orders/Directives: Both parties agree that they will comply with the following laws and directives, where applicable:

12.21.1 Executive Order 11061, as amended, which directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.

12.21.2 Public Law 88-352, Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. The HC hereby extends this requirement to the Contractor and its private contractors. Specific prohibited discriminatory actions and corrective action are described in Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 19901 et. seq.).

12.21.3 Public Law 90-284, Title VIII of the Civil Rights Act of 1968., popularly known as the Fair Housing Act, which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. Pursuant to this statute, the HC requires that the Contractor administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.

- 12.21.4 The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age.
- 12.21.5 Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).
- 12.21.6 HUD Information Bulletin 909-23 which is the following:
 - 12.21.6.1 Notice of Assistance Regarding Patent and Copyright Infringement;
 - 12.21.6.2 Clean Air and Water Certification; and,
 - 12.21.6.3 Energy Policy and Conversation Act.
- 12.21.7 That the funds that are provided by the HC and HUD hereunder shall not be used, directly or indirectly, to employ, award a contract to, or otherwise engage the services of any debarred, suspended or ineligible Contractor.
- 12.21.8 That none of the personnel who are employed in the administration of the work required by this contract shall, in any way or to any extent, be engaged in the conduct of political activities in violation of Title V, Chapter 15, of the United States Code.
- 12.21.9 The mention herein of any statute or Executive Order is not intended as an indication that such statute or Executive Order is necessarily applicable not is the failure to mention any statute or Executive Order intended as an indication that such statute or Executive Order is not applicable. In this connection, therefore each provision of law and each clause, which is required by law to be inserted in this agreement, shall be deemed to have been inserted herein, and this agreement shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or correction upon the application of either part.

13.0 Appendices:

- 13.1 The following noted documents are placed under each of the noted appendix and are a part of this contract:
 - 13.1.1 **Appendices (to be finalized by contract time) – Items will include, among possible others:**
 1. **Applicable HUD Form(s)** - Select and attach APPLICABLE HUD FORMS. Depending on contract type, forms included may include: **HUD-5369 Instructions to Bidders for Contracts; HUD-5369-A Representations, Certifications, and Other Statements of Bidders; HUD-5369-B Instruction to Offerers – Non-Construction; HUD-5369-C Certifications and Representations of Offerers – Non-Construction; HUD-5370 General Conditions**

Date: _____

Ann Arbor Housing Commission
727 Miller Avenue
Ann Arbor, MI 48103
734-994-2831

APPENDIX NO. 1

PLACE AND COMPLETE HUD FORMS

5369

5369-A

5370

HERE

(with possibly others, such as partial payment forms – see HUD Procurement Handbook, 11.2.E)

APPENDIX NO. 2

PLACE AND COMPLETE APPLICABLE DAVIS-BACON WAGE DECISION(S) HERE

APPENDIX NO. 3

PLACE AND COMPLETE SCOPE OF WORK FROM ITB HERE

APPENDIX NO. 4

AAHC Section 3 Clause and Related Information (depending on contract)

Other Appendices (depending on Contract)

END OF DRAFT CONTRACT

Summary of Materials Stored

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0157
(exp. 01/31/2017)

Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number. This information is collected under the authority of Section 6(c) of the U.S. Housing Act of 1937 and HUD regulations. HAs are responsible for contract administration to ensure that the work for project development is done in accordance with State laws and HUD requirements. The contractor/subcontractor reports provide details and summaries on payments, change orders, and schedule of materials stored for the project. The information will be used to ensure that the total development costs, identified in the ACC, are kept as low as possible and consistent with HUD construction requirements. Responses to the collection are necessary to obtain a benefit. The information requested does not lend itself to confidentiality.

Instructions: This form is for the Contractor to summarize the value of materials stored at the site (as shown on the schedule, form HUD-51003). Use a separate line for the contractor and each of his/her subcontractors. Prepare an original and one copy, attach form HUD-51003, and send to the Public Housing Agency with the Periodic Estimate for Partial Payment, form HUD-51001. **Payment Value.** No more than 90 percent of the estimated value of the stored materials will be allowed, and only the net amount will be carried to line 13 on the back of the Periodic Estimate for Partial Payment, form HUD-51001. **Signatures.** This form must be signed by those employees of the contractor and of the Public Housing Agency who prepare and check the Schedule of Materials Stored, form HUD-51003.

Name of Public Housing Agency	Supporting Periodic Estimate for Partial Payment Number	Period From (mm/dd/yyyy)	To (mm/dd/yyyy)
Location of Project		Project Number	
Name of General Contractor		Contract Number	
Name of General Contractor or Subcontractor		Amounts	
General Contractor		\$	
Subcontractors		\$	
		Total	\$
		Less 10%	\$
		Net	\$

Prepared by	Date (mm/dd/yyyy)	Checked by	Date (mm/dd/yyyy)
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I certify that I or my authorized representatives have examined and checked in detail the invoices representing the cost of materials set forth in appended "Schedule of Materials Stored", form HUD-51003, dated (mm/dd/yyyy) _____ submitted by _____ consisting of _____ sheets with an indicated cost of \$ _____, and find that the net unit prices set forth in the schedule are the same or less than the invoices examined, and that such materials were suitably stored at the site of the development as of (date)(mm/dd/yyyy) _____.

Name of Owner	By (Authorized Representative)	Title	Date (mm/dd/yyyy)
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Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)