



**CHALLENGE GRANT FUND PROGRAM**  
**MILWAUKEE HOME PROGRAM**

**CONTRACT FOR RESIDENTIAL REHABILITATION**

**ARTICLE I. GENERAL**

- A. PARTIES:** THIS CONTRACT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_ (hereinafter referred to as the "CONTRACTOR") and HOUSING AUTHORITY OF THE CITY OF MILWAUKEE (hereinafter referred to as the "OWNER"), the sole parties to this Contract for rehabilitation of the following:
- B. PROJECT ADDRESS:** \_\_\_\_\_
- C. CONTRACTOR REPRESENTATION:** The CONTRACTOR has submitted a bid in writing to the OWNER and represents self as being capable, experienced, and qualified to undertake and perform those certain services, as set forth in all of the Contract documents, as are required in accomplishing fulfillment of the obligations under the terms and conditions of this Contract as an independent contractor.
- D. CONSIDERATION AND RETENTION:** The OWNER hereby agrees to engage the CONTRACTOR and the CONTRACTOR hereby agrees in consideration of the payments hereinafter to personally perform, as an independent contractor, the services set forth, all in accordance with the terms and conditions of this Contract. CONTRACTOR agrees time is of the essence and will meet all deadlines and any schedules set forth.
- E. REQUIREMENTS:** The CONTRACTOR is required to:
1. Do, perform, and carry out in a satisfactory, timely, and proper manner, the services delineated in this Contract.
  2. Furnish all labor, materials, and services required to execute the work indicated in the "Challenge Grant Fund/Milwaukee Home Program – Scope of Work for Residential Rehabilitation" and the CONTRACTOR's Quote or Proposal (see Article IV.B).
  3. Comply with requirements listed with respect to reporting on progress of the services, additional approvals required, and other matters relating to the performance of the services.
  4. Comply with time schedules and payment terms.
  5. Obtain and pay for all required permits including but not limited to lead abatement permit, construction, electrical, plumbing, and raze permits as outlined in the state and local building codes.
  6. Comply with all state and local building codes, applicable laws, and ordinances.
  7. Comply with all Federal, State and Local Lead (Pb) regulations, laws, and procedures.

**II. GRANT PROGRAM**

- A.** By Common Council Resolution File No. 140765 (passed October 14, 2014), the Milwaukee Housing Opportunities, Management and Employment Program (the "Milwaukee Home Program") was created to provide affordable housing, reduce unemployment and improve blighted parcels. Under the Milwaukee Home Program, and guided by the October 2014 Milwaukee Home Program Discussion Document that is in File 140765, the City's Department of City Development ("DCD") prepared a Request for Qualifications ("RFQ") to solicit interest of community development organizations and private developers to maintain, improve, manage, market, rent and sell selected City-owned, property-tax-foreclosed residential parcels, and to redevelop parcels into affordable rental and home ownership opportunities.

- B. As contemplated by File 140765, DCD presented its proposed RFQ to the Council. By Common Council Resolution File No. 141256 (passed December 16, 2014), the Council approved the RFQ and directed DCD to release the RFQ. DCD issued the RFQ on March 3, 2015.
- C. As contemplated by File 141256, DCD reported to the Council the RFQ response results. By Common Council Resolution File No. 150238 (passed June 23, 2015), the Council approved two development teams, the HACM (Harambee Neighborhood) and Northwest Side Community Development Corporation (Century City Neighborhood), and the Council authorized them to receive funding under Milwaukee's Challenge Grant Fund Program, and the Council directed the City to negotiate and enter Sale and Development Agreements with the two selected.

**ARTICLE III. NOTICE TO PROCEED**

The CONTRACTOR shall receive a Notice to Proceed within a reasonable time period after the execution of the Contract. Under no circumstances shall the CONTRACTOR order material/s or provide contract services until receiving a written Notice to Proceed from the OWNER. If Notice to Proceed is not received within sixty (60) days of the CONTRACTOR's signing of this Contract, then the CONTRACTOR may terminate the Contract.

**ARTICLE IV. INCORPORATION OF DOCUMENTS**

The following documents are hereby incorporated into this Contract by reference. If there is a conflict between any of these documents, then the document first listed below shall take precedence:

- A. This Contract
- B. Bid Documents
  - 1. General Conditions
  - 2. Scope of Work dated \_\_\_\_\_
  - 3. Technical Specifications dated \_\_\_\_\_, with addenda, as approved by OWNER
  - 4. Materials List (Manufacturers and Suppliers), as approved by OWNER
  - 5. Allowances, as approved by OWNER
  - 6. Drawings dated \_\_\_\_\_, with addenda, as approved by OWNER
  - 7. Attachment A, Weather-Related Repairs, as approved by OWNER

**ARTICLE V. CHANGES**

**A. DEFINITIONS AND REQUIREMENTS:**

- 1. The OWNER may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make changes in the work within the general scope of the Contract including changes:
  - a. In the specifications (including drawings and designs);
  - b. In the method or manner of performance of the work;
  - c. OWNER-furnished facilities, equipment, materials, services, or site; or,
  - d. Directing the acceleration in the performance of the work.
- 2. Any other written order or oral order (which, as used in this Paragraph 2, includes direction, instruction, interpretation, or determination) from the OWNER that causes a change shall be treated as a change order under this clause; provided, that the CONTRACTOR gives the OWNER written notice stating: (a) the date, circumstances and source of the order; and (b) that the CONTRACTOR regards the order as a change order.
- 3. Except as provided in this clause, no order, statement or conduct of the OWNER shall be treated as a change under this clause or entitle the CONTRACTOR to an equitable adjustment.
- 4. If any change under this clause causes an increase or decrease in the CONTRACTOR's cost of, or the time required for the performance of any part of the work under this Contract, whether or not changed by any such order, the OWNER shall make an equitable adjustment and modify the Contract in writing. However, except for an adjustment based on defective specifications, no proposal for any change under Paragraph 2 above shall be allowed for any costs incurred more than 20 days (5 days for oral orders) before the CONTRACTOR gives written notice as required. In the case of defective specifications for which the OWNER is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the CONTRACTOR in attempting to comply with the defective specification.

5. The CONTRACTOR must assert its right to an adjustment under this clause within 30 days after: (a) receipt of a written change order under Paragraph 1 of this clause; or (b) the furnishing of a written notice under Paragraph 2 of this clause, by submitting a written statement describing the general nature and the amount of the proposal. If the facts justify it, the OWNER may extend the period for submission. The proposal may be included in the notice required under Paragraph 2 above. No proposal by the CONTRACTOR for an equitable adjustment shall be allowed if asserted after final payment under this Contract.
6. The CONTRACTOR's written proposal for equitable adjustment shall be submitted in the form of a lump sum proposal supported with an itemized breakdown of all increases and decreases in the Contract in at least the following details:
  - a. Direct Costs. Materials (list individual items, the quantity and unit cost of each, and the aggregate cost); Transportation and delivery costs associated with materials; Labor breakdowns by hours or unit costs (identified with specific work to be performed); Construction equipment exclusively necessary for the change; Costs of preparation and/ or revision to shop drawings resulting from the change; Worker's Compensation and Public Liability Insurance; Employment taxes under FICA and FUTA; and, Bond Costs, when size of change warrants revision (see Paragraph 10 below).
  - b. Indirect Costs. Indirect costs may include overhead, general and administrative expenses, and fringe benefits not normally treated as direct costs. (See Paragraph 10 below.)
  - c. Profit. (See Paragraph 10 below.)
  - d. Equitable adjustments for deleted work shall include a credit for direct costs, indirect costs, and profit. On proposals covering both increases and decreases in the amount of the Contract, the application of indirect costs and profit shall be on the net-change in direct costs for the CONTRACTOR or subcontractor performing the work.
7. The CONTRACTOR shall include in the proposal its request for time extension (if any) and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the Contract in its entirety.
8. The OWNER shall act on proposals within 30 days after their receipt, or notify the CONTRACTOR of the date when such action will be taken.
9. Failure to reach an agreement on any proposal shall be a dispute under the Disputes clause of this Contract. Nothing in this clause, however, shall excuse the CONTRACTOR from proceeding with the Contract as changed.
10. Limits on General Conditions, Overhead, and Profit:
  - a. In preparing change orders, CONTRACTOR shall limit overhead, general conditions, and profit on self-performed work as follows:
    - overhead shall not exceed 2% of base costs
    - general conditions shall not exceed 6% of base costs
    - profit shall not exceed 3% of base costs
    - aggregate overhead, general conditions, and profit shall not exceed 11% of base costs
  - b. On work performed by others, i.e. subcontractors, CONTRACTOR shall limit mark-up as follows:
    - shall not exceed 6% of subcontractor's base costs and general conditions
    - no mark-up on subcontractor's overhead or profit is allowed
    - this 6% limit shall cover all costs to CONTRACTOR associated with implementing a subcontractor's work, including coordination/management, site supervision, administration, etc.
  - c. Similar limits on self-performed work and work performed by others (subcontractors) shall also apply at all tiers, e.g. when the CONTRACTOR's subcontractor itself proposes to subcontract a portion of the work to others.
  - d. The cost of bond and insurance premiums is included in these limits, not in addition to them.
  - e. Greater or lesser limits may be negotiated between the OWNER and the CONTRACTOR if the nature, extent, complexity, etc. of a change warrants such an adjustment.

**B. CONTRACT MODIFICATIONS AND CHANGES:** No modification of this Contract nor changes in the General Conditions, Scope of Work, CONTRACTOR's Quote or Proposal, Technical Specifications, Materials List(s), or Drawings shall be made except upon prior written approval by the OWNER and CONTRACTOR. Any change(s) not approved in writing prior to commencement of the change(s) will not be eligible for payment from the OWNER. Exception: When conditions occur that warrant immediate repair (e.g. an emergency endangering health, safety, life, or property or unforeseen conditions), the OWNER shall be notified. If deemed appropriate, the OWNER may give verbal authorization to modify the Scope of Work. Any such changes shall be documented in writing by the OWNER, as soon as administratively possible.

## ARTICLE VI. PAYMENTS TO CONTRACTOR

### **A. REQUESTS FOR PAYMENT:**

1. CONTRACTOR shall submit to the OWNER invoices itemizing the goods supplied, services performed, and cost incurred since the last request for payment. Payment will be made after review of the CONTRACTOR's work product and upon acceptance by the OWNER of the goods supplied and services performed. See also B, Use and Sales Tax, below.

2. Reimbursable expenses (if any are allowed; typically for professional services contracts only) are limited to cost plus no more than 10%, except for: mileage, which shall be reimbursed at the current applicable IRS standard mileage rate; other travel expenses (e.g. lodging, meals, etc.), if any and only if necessary (i.e. CONTRACTOR's location is a significant distance from the Milwaukee area), which shall be reimbursed at cost only.
3. CONTRACTOR shall provide lien waiver and/or release if requested.
4. CONTRACTOR shall provide required permits if requested.
5. CONTRACTOR shall provide W-9 form (if not already on file).
6. CONTRACTOR shall submit appropriate reporting forms, data, and/or certification regarding the use of and payment to Small Business Enterprises. See also Article XXX, Small Business Enterprises.

**B. USE AND SALES TAX:** OWNER is the Housing Authority of the City of Milwaukee. Pursuant to Section 77.54(9a) of the State of Wisconsin Statutes, the Housing Authority of the City of Milwaukee is exempt from Wisconsin Use and Sales Tax (see Attachment B, Tax Exemption Certificate). Bidders, therefore, shall not add State of Wisconsin Sales Tax or Use Tax to their proposals when bidding to the Housing Authority of the City of Milwaukee, but shall include in their lump sum bids only the taxes they will be required to pay directly as a consumer, when obtaining materials, equipment, etc. to fulfill the Contract requirements should they be the successful bidder. When preparing their bids, Bidders should not assume any owner-direct purchases by the Housing Authority of the City of Milwaukee (unless explicitly indicated). Bidders are ultimately responsible for determining the impact of the State of Wisconsin's Sale and Use Tax on their bids.

**C. SCHEDULE OF PAYMENTS:** The OWNER and the CONTRACTOR will agree on a performance and payment schedule. Schedule is typically monthly or as follows:

| <u>Bid Amount</u>   | <u>Payments</u>   |
|---------------------|---|
| \$0-\$7,499         | 50% complete, 100% complete, Final (release of retainage)                             |
| \$7,500-\$19,999    | 50% complete, 75% complete, 100% complete, Final (release of retainage)               |
| \$20,000 or greater | 25% complete, 50% complete, 75% complete, 100% complete, Final (release of retainage) |

**D. RETAINAGE:** Retainage shall be an amount equal to not more than 5% of each partial payment request until 50% of the work has been completed. At 50% completion, further partial payments shall be made in full to the CONTRACTOR and no additional amounts may be retained unless the OWNER certifies that the job is not proceeding satisfactorily, but amounts previously retained shall not be paid to the CONTRACTOR. At 50% completion or any time after 50% completion when the progress of the work is not satisfactory, additional amounts may be retained but the total retainage may not be more than 10% of the value of the work completed. Upon substantial completion of the work, an amount retained may be paid to the CONTRACTOR. When the work has been substantially completed except for work which cannot be completed because of weather conditions, lack of materials, or other reasons that in the judgment of the OWNER are valid reasons for non-completion, the OWNER may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the work still to be completed or may pay out the entire amount retained and receive from the CONTRACTOR guarantees in the form of a bond or other collateral sufficient to ensure completion of the job. Partial payment requests estimates may include any fabricated or manufactured materials and components specified, previously paid for by the CONTRACTOR and delivered to the work or properly stored and suitable for incorporation in the work embraced in the Contract. Upon final completion of the work, any retainage shall be paid within thirty (30) days after OWNER's acceptance of all the work performed under this contract, providing all Contract terms have been fulfilled.

#### ARTICLE VII. INSURANCE/LIABILITY

- A.** Before commencing work, the CONTRACTOR shall furnish the OWNER, for review and approval, evidence of its insurance coverage as delineated below. The Certificate is to be submitted on an approved form acceptable to the OWNER. The insurance carrier must be licensed to do business in the State of Wisconsin.
- B.** The CONTRACTOR shall carry Worker's Compensation Insurance for all employees engaged in work at the site, in accordance with State or Territorial Worker's Compensation Law.
- C.** The CONTRACTOR shall carry Commercial and Public Liability with bodily Injury and Property Damage Insurance. Limits shall be at a Combined Single Limit BI/PD of not less than \$500,000 to protect the CONTRACTOR and each subcontractor against claims for injury to or death of one or more persons.

- D.** The CONTRACTOR shall carry Automobile Liability Insurance on owned and non-owned motor vehicles used on the site(s) or in connection therewith. Limits shall be for a combined single limit for bodily injury and property damage of not less than \$500,000 per occurrence. This shall cover the use of all equipment, hoists, and vehicles on the site or sites.
- E.** When applicable and appropriate, the CONTRACTOR shall carry Builder's Risk Insurance (fire and extended coverage) on all work in place and/or materials stored at the building site(s), including foundations and building equipment. The Builder's Risk Insurance shall be for the benefit of the CONTRACTOR and the OWNER as their interests may appear and each shall be named in the policy or policies as an insured. The CONTRACTOR in installing equipment supplied by the OWNER shall carry insurance on such equipment from the time the CONTRACTOR takes possession thereof until the Contract work is accepted by the OWNER. The Builder's Risk Insurance need not be carried on excavations, piers, footings, or foundations until such time as work on the super-structure is started. It need not be carried on landscape work. Policies shall furnish coverage at all times for the full cash value of all completed construction, as well as materials in place and/or stored at the site(s), whether or not partial payment has been made by the OWNER. The CONTRACTOR may terminate this insurance on buildings as of the date taken over for occupancy by the OWNER. The CONTRACTOR is not required to carry Builder's Risk Insurance for modernization work that does not involve structural alterations or additions and where the OWNER's existing fire and extended coverage policy can be endorsed to include such work.
- F.** When applicable and appropriate, the CONTRACTOR shall carry Professional Liability (Architect/Engineer, Errors and Omissions, Consultant's, or similar insurance) appropriate for any professional services rendered by the CONTRACTOR. Limit shall be not less than \$1,000,000 per occurrence.
- G.** If any insurance is to expire during the period of work, the CONTRACTOR shall not permit the coverage to lapse and shall furnish evidence of coverage to the OWNER. All policies shall provide that at least thirty (30) days' notice of cancellation shall be given to the CONTRACTOR and the OWNER.
- H.** The OWNER shall be named as an additional insured on all policies, except Worker's Compensation and Professional Liability. The certificate holder shall be noted as: Housing Authority of the City of Milwaukee, 809 North Broadway, attention: Purchasing/Contract Services, Milwaukee, Wisconsin 53202.

#### **ARTICLE VIII. SITE SECURITY**

Where the property being rehabilitated is vacant, the CONTRACTOR shall leave the building in a secured state, including locking all windows and doors and, if applicable, arming the electronic security system. The replacement of material furnished as part of this Contract, which is lost due to theft or vandalism, is the responsibility of the CONTRACTOR, until the OWNER and CONTRACTOR agree the property is considered ready for occupancy and an occupancy permit is issued, if required. Material not installed and CONTRACTOR equipment is the responsibility of the CONTRACTOR.

Where the property being rehabilitated is occupied, the OWNER is responsible to ensure the building is maintained in a secured state. The replacement of all material lost due to theft or vandalism is then the responsibility of the OWNER, unless the OWNER or his representative is not physically on the property when the CONTRACTOR leaves. In such event, the CONTRACTOR shall take action to secure the property from unauthorized access and shall be responsible for materials and equipment left unsecured.

CONTRACTOR agrees to keep the premises (building and site) clean and orderly during the course of the work, to remove all debris after completion, and to be responsible for patching surfaces opened as a result of this work. CONTRACTOR authorizes OWNER to hire a third party, without additional notice, to remove debris left the by CONTRACTOR and deduct fee from the CONTRACTOR.

#### **ARTICLE IX. DELAYS IN WORK**

If the CONTRACTOR is delayed at any time in the progress of the work by any act, authorization, or neglect of the OWNER or any of its employees, or by any other contractor employed by the OWNER, or by changes ordered in the work or by bona fide labor disputes, fire, unusual and unforeseeable delays in materials transportation, or by causes beyond the CONTRACTOR's control that reasonably justify the delay, then the time for substantial completion of the work may be extended as determined by the OWNER for such reasonable time as may be necessary to avoid the monetary penalty described in Article X. Such requests or claims for extension shall be submitted in writing to the OWNER prior to the authorized completion date.

## ARTICLE X. DAMAGES

The CONTRACTOR is to substantially complete all work within the time provided in Article XXVII or will be liable for damages assessed against the Contract. Actual damages shall be assessed upon the presentation, by the OWNER, of documented loss of income or additional expenses and only when the work remains incomplete beyond the agreed upon completion date. If actual damages cannot be easily calculated, then liquidated damages not to exceed One Hundred and 00/100 Dollars (\$100) per day may be assessed. The sum of damages, either actual or liquidated, will, if assessed by the OWNER, be subtracted from the payments to the CONTRACTOR.

## ARTICLE XI. INDUSTRY STANDARDS

The Bid Documents prepared for the work covered in this Contract have been developed to provide a completed project. If a dispute should arise as to whether work is done in accordance with the Bid Documents and/or in a workmanlike manner, then the OWNER shall first assess the matter against this Contract, then the Scope of Work, Specifications, and Drawings. If these documents do not provide a resolution, then the Construction Industry Quality Standards as compiled and provided by the Metropolitan Builders Association of Greater Milwaukee Inc. shall be referred to for resolution.

## ARTICLE XII. DISPUTES

- A. The OWNER and CONTRACTOR shall make good faith efforts to resolve their differences informally. If unsuccessful, all claims or disputes arising under or relating to this Contract, including any claims for damages for the alleged breach thereof that are not disposed of by agreement, shall be resolved under this clause.
- B. All claims by the CONTRACTOR shall be made in writing and submitted to the OWNER for a written decision. A claim by the OWNER against the CONTRACTOR shall be subject to a written decision by the OWNER.
- C. The OWNER shall, within 30 days after receipt of the request, decide the claim or notify the CONTRACTOR of the date by which the decision will be made.
- D. The OWNER's decision shall be final unless the CONTRACTOR: (1) appeals in writing to a higher level in the OWNER'S governance in accordance with the OWNER'S policy and procedures; (2) refers the appeal to an independent mediator or arbitrator; or (3) files suit in a court of competent jurisdiction. Such appeal must be made within 30 days after receipt of the OWNER's decision.
- E. The CONTRACTOR shall proceed diligently with performance of this Contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the Contract, and comply with any decision of the OWNER.

## ARTICLE XIII. USE OF UTILITIES

- A. The OWNER shall make all reasonably required amounts of utilities available to the CONTRACTOR from existing outlets and supplies and shall cooperate with the CONTRACTOR to facilitate the performance of the work. The CONTRACTOR shall carefully conserve any utilities furnished without charge.
- B. The CONTRACTOR, at its expense and in a manner satisfactory to the OWNER, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges. Before final acceptance of the work by the OWNER, the CONTRACTOR shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia at its expense.

## ARTICLE XIV. TERMINATION OF CONTRACT

### A. FOR CAUSE:

- 1. If the CONTRACTOR refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will ensure its completion within the time specified in this Contract, or any extension thereof, or fails to complete said work within this time, the OWNER may, by written notice to the CONTRACTOR, terminate the right to proceed with the work (or ANY separable part of the work) that has been delayed. CONTRACTOR'S refusal or failure to prosecute the work may include but is not limited to:
  - a. Not starting work or ordering materials within the time specified in Article XXVII.
  - b. Not completing the work within the time agreed to in Article XXVII.
  - c. Not performing the work in accordance with this Contract.
  - d. Suspending work without order or approval of the OWNER.

2. In such an event, the OWNER may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, equipment, and plant on the work site necessary for completing the work. The CONTRACTOR and its sureties shall be liable for any damage to the OWNER resulting from the CONTRACTOR's refusal or failure to complete the work within the specified time, whether or not the CONTRACTOR's right to proceed with the work is terminated. This liability includes any increased costs incurred by the OWNER in completing the work. The OWNER will attempt to obtain competitive bids for the remainder of the incomplete work when possible.
3. The CONTRACTOR's right to proceed shall not be terminated or the CONTRACTOR charged with damages under this clause if:
  - a. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR; and
  - b. The CONTRACTOR, within 10 days from the beginning of such delay, notifies the OWNER in writing of the causes of delay. The OWNER shall ascertain the facts and the extent of the delay. If, in the judgment of the OWNER, the findings of fact warrant such action, time for completing the work shall be extended by written modification to the Contract. The findings of the OWNER shall be reduced to a written decision that shall be subject to the provisions of the Disputes clause of this Contract.
4. If, after termination of the CONTRACTOR's right to proceed, it is determined that the CONTRACTOR was not in default, or that the delay was excusable, the rights and obligation of the parties will be the same as if the termination had been for convenience of the OWNER.

**B. FOR CONVENIENCE:**

1. The OWNER may terminate this Contract in whole, or in part, whenever the OWNER determines that such termination is in the best interest of the OWNER. Any such termination shall be effected by delivery to the CONTRACTOR of a Notice of Termination specifying the extent to which the performance of the work under the Contract is terminated, and the date upon which such termination becomes effective.
2. If the performance of the work is terminated, either in whole or in part, the OWNER shall be liable to the CONTRACTOR for reasonable and proper costs resulting from such termination upon the receipt by the OWNER of a properly presented claim setting out in detail:
  - a. the total cost of the work performed to date of termination less the total amount of contract payments made to the CONTRACTOR;
  - b. the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, payment for which has not been made by the OWNER to the CONTRACTOR or by the CONTRACTOR to the subcontractor or supplier;
  - c. the cost of preserving and protecting the work already performed until the OWNER or assignee takes possession thereof or assumes responsibility therefore;
  - d. the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the OWNER; and
  - e. an amount constituting a reasonable profit on the value of the work performed by the CONTRACTOR.
3. The OWNER will act on the CONTRACTOR's claim within days (60 days unless otherwise indicated) of receipt of the CONTRACTOR's claim.
4. Any disputes with regard to this clause are expressly made subject to the provisions of the Disputes clause of this Contract.

**ARTICLE XV. WARRANTY**

All work performed under this Contract shall be guaranteed for a period of one (1) year from the date of acceptance of all work by the OWNER unless a longer period is required by the Scope of Work, Specifications, or Drawings. The CONTRACTOR shall also furnish the OWNER all manufacturers' and suppliers' written guarantees and warranties covering materials and equipment furnished under this Contract.

**XVI. PERMITS, LICENSES, SUBCONTRACTORS**

The CONTRACTOR shall:

- A. Obtain and pay for all permits and licenses required to complete this Contract. No work shall commence until proper licenses and permits have been secured. These permits and licenses must be kept current and in force during the term of the Contract and warranty period.
- B. List, by separate written attachment, all subcontractors and material suppliers to be used on this project. Changes to the attachment must be accepted in writing by the OWNER. All subcontractors must obtain and pay for any required licenses.

- C. Ensure that CONTRACTOR and all subcontractors do not use lead-based paint or asbestos-containing materials in or on the property.

**ARTICLE XVII. NO COLLUSIVE ARRANGEMENTS**

The CONTRACTOR certifies that all statements in its bid are true and that its bid is genuine and not collusive or sham, and that the CONTRACTOR has not colluded, conspired, connived, or agreed directly or indirectly with any other bidder or other person to put in a sham bid or to refrain from bidding. The CONTRACTOR further agrees that it has not in any manner, directly or indirectly, sought by agreement or collusion with any bidder or other person to fix its bid price or that of any other bidder or to fix any overhead or profit, or that of any other person, or to secure advantage against the OWNER or against any person interested in this proposed Contract. CONTRACTOR further certifies that there have been no fraudulent or deceitful arrangements between the CONTRACTOR and subcontractors, and between CONTRACTOR and OWNER.

**ARTICLE XVIII. INDEMNIFICATION**

CONTRACTOR agrees that it will indemnify, save and hold harmless the OWNER and the City of Milwaukee, its officers, employees, or agents, from and against all claims, demands, actions, damages, loss, costs, liabilities, expenses, judgments, and litigation costs, including reasonable attorneys’ fees, photocopying expenses and expert witness fees, recovered from or asserted against the OWNER on account of injury or damage to person or property, or otherwise, to the extent that such damage, injury, or other loss may be incident to, arising out of, or be caused, either directly or proximately, wholly or in part, by an act or omission, negligence or misconduct on the part of the CONTRACTOR or any of its agents, servants, employees or subcontractors.

The OWNER shall tender the defense of any claim or action at law or in equity, arising out of or otherwise related to an act or omission, negligence, or misconduct on the part of the CONTRACTOR or any of its agents, servants, employees or subcontractors, to the CONTRACTOR or its insurer and, upon such tender, it shall be the duty of the CONTRACTOR and its insurer to defend such claim or action without cost or expense to the OWNER.

**ARTICLE XIX. COMPLIANCE WITH LAWS**

- A. **FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS:** The OWNER and CONTRACTOR agree that all of the conditions required hereunder shall be rendered, and all determinations made, and all recommendations extended, strictly in accordance with, and taking into consideration, all applicable federal, state and local rules, regulations, laws, ordinances, and codes including OWNER goals and requirements.
- B. **CIVIL RIGHTS ACT:** OWNER and CONTRACTOR agree to comply with all requirements with respect to Title VI of the Civil Rights Act of 1964, which relates to nondiscrimination and abides by the provision of Executive order 11246 concerning equal employment opportunity.
- C. **LEAD-BASED PAINT:** The OWNER and CONTRACTOR agree not to use lead-based paint in or on the structure(s) being improved under this Contract and to comply with the elimination of lead-based paint hazards in accordance with the HUD Lead-Based Paint Regulations, 24 C.F.R. Part 35.
- D. **PUBLIC RECORDS LAW:** CONTRACTOR understands that the OWNER is bound by the Wisconsin Public Records Law, and as such, all the terms of this Contract are subject to and conditioned on the provisions of Wis. Statute 19.21, et seq. CONTRACTOR acknowledges that it is obligated to assist the OWNER in retaining and producing records that are subject to Wisconsin Public Records Law, and the failure to do so shall constitute a material breach of this Contract and that the CONTRACTOR must defend and hold the OWNER harmless from liability under that law. Except as otherwise authorized, those records shall be maintained for a period of seven years after receipt of final payment under this Contract.

**ARTICLE XX. WRITTEN NOTICES**

All written notices, demands, requests, instructions, approvals, proposals, and claims of either party shall be addressed as follows:

| OWNER  | CONTRACTOR   |
|--|--|
| <b>Housing Authority of the City of Milwaukee</b><br><b>5125 West Lisbon Avenue</b><br><b>Milwaukee, WI 53202</b><br><b>Contact Person:</b><br><b>414-286-xxxx</b><br><b>email</b> | <b>name</b><br><b>address</b><br><b>city/state/ZIP</b><br><b>Contact Person:</b><br><b>telephone</b><br><b>email</b> |



## **ARTICLE XXI. NON-INTEREST**

No public official, employee, board member, or commission member of the Housing Authority of the City of Milwaukee or the City of Milwaukee shall have any interest, direct or indirect, in this Contract or receive any premium, commission, fee, or other thing of value, in connection with this Contract.

## **ARTICLE XXII. SPECIAL CONDITIONS, INCLUSIONS/EXCLUSIONS**

CONTRACTOR shall provide product information, product specifications, color selections, etc. to OWNER prior to contract acceptance. New products as outlined in the Scope of Work may include roofing, siding, paint, windows, furnaces, water heaters, plumbing fixtures, electrical fixtures, cabinets, countertops, flooring coverings, etc.

## **ARTICLE XXIII. SEVERABILITY OF PROVISIONS**

It is agreed that in the event any of the terms and provisions contained herein shall be declared to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions and conditions of this Contract or the application of such to persons or circumstances other than those to which it is declared invalid or unenforceable shall not be affected thereby, and shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.

## **ARTICLE XXIV. CAPTIONS**

The captions in this Contract are inserted only as matters of convenience and for reference and in no way define nor limit the scope or intent of the various provisions, terms or conditions hereof.

## **ARTICLE XXV. ENFORCEMENT OF CONTRACT**

The laws of the State of Wisconsin shall govern the validity, performance, and enforcement of this Contract.

## **ARTICLE XXVI. ENTIRE CONTRACT/BINDING EFFECT**

This writing constitutes the entire Contract between the parties hereto and may not be amended or altered in any matter except in writing signed by both parties. This Contract expresses all agreements between the parties concerning the subject matter hereof and supersedes all previous understanding thereto, whether oral or written, and shall be binding upon and shall insure to the benefit of the parties hereto, and their respective successors. This Contract cannot be assigned without the prior written consent of the other party.

## **ARTICLE XXVII. CONTRACT PERIOD AND COMPLETION OF WORK**

- A. CONTRACT PERIOD:** CONTRACTOR agrees to commence work on the site upon receipt of a Notice to Proceed as issued by the OWNER. Said work shall be completed in accordance with the Bid Documents and in a good workmanlike manner in quality equal to the standards of the industry and consistent with the Bid Documents within ONE HUNDRED TWENTY (120) calendar days of the start date indicated in the Notice to Proceed, except for any work described on Attachment A, Weather-Related Repairs.
- B. PRE-CONSTRUCTION MEETING:** CONTRACTOR shall attend a pre-construction meeting prior to commencement of work.
- C. WORK ON SITE:** On-site work shall be conducted Monday through Friday only (except for OWNER-recognized holidays) from 8:00 AM to 4:30 PM, unless otherwise allowed by the OWNER in advance and in writing. Holidays observed by the OWNER include but are not limited to the following:
- New Year's Day (January 1)
  - Martin Luther King, Jr. Day (third Monday in January)
  - Good Friday (Friday before Easter Sunday)
  - Memorial Day (last Monday in May)
  - Independence Day (July 4)
  - Labor Day (first Monday in September)
  - Thanksgiving Day (fourth Thursday in November)
  - Day after Thanksgiving Day (fourth Friday in November)
  - Last Normal Work Day Before Christmas Day
  - Christmas Day (December 25)
  - Last Normal Workday Before New Year's Day

N.B. Whenever Independence Day (July 4) falls on a Saturday, it is observed on the preceding Friday; whenever it falls on a Sunday, it is observed on the following Monday. Whenever New Year's Day (January 1) or Christmas Day (December 25) fall on a Saturday or a Sunday, they are observed the following Monday.

- D. TIME IS OF THE ESSENCE:** In the event of failure on the part of the CONTRACTOR to complete the work under this Contract within the designated time period, the OWNER may withhold payments to the CONTRACTOR until work is completed. The OWNER may choose to terminate the Contract in accordance with Article XIV, Termination of Contract.

**ARTICLE XXVIII. LIEN NOTICE/S PER WISCONSIN LAW**

As required by the Wisconsin Construction Lien Law, CONTRACTOR hereby notifies OWNER that persons or companies furnishing labor or materials for the construction on OWNER's land may have lien rights on OWNER's land and buildings if not paid. Those entitled to lien rights in addition to the undersigned CONTRACTOR, are those who contract directly with the OWNER or those who give the OWNER notice within sixty (60) days after they first furnish labor or materials for the project. Accordingly, OWNER probably will receive notices from those who furnish labor or materials for the project and should give a copy of each notice received to OWNER's mortgage lender, if any. CONTRACTOR agrees to cooperate with the OWNER and OWNER's lender, if any, to see that all potential lien claimants are duly paid.

**ARTICLE XXIX. DISCLOSURE OF PARTICIPATION IN OR PROFITS DERIVED FROM SLAVERY BY CONTRACTOR**

If the CONTRACTOR was in existence during or prior to the slavery era (i.e. before 1865), then the CONTRACTOR shall complete an Affidavit Of Compliance For Disclosure Of Participation In Or Profits Derived From Slavery By Contractors affidavit in accordance with Milwaukee Code of Ordinance 310-14 before a purchase order or contract can be executed (unless such an affidavit has already been submitted and it is on file with the Business Operations Division of the City of Milwaukee). For details on this requirement, see the following website: <http://city.milwaukee.gov/Directory/Procurement/Forms.htm#.U4oSpKMo71I>

**ARTICLE XXX. SMALL BUSINESS ENTERPRISES**

- A.** CONTRACTOR will use best efforts to have **40%** of the contracted work performed by City of Milwaukee Small Business Enterprises as defined in Milwaukee Code of Ordinances, Chapter 370.
- B.** CONTRACTOR shall comply with policies, procedures, and reporting forms for Small Business Enterprises (SBEs) as administered by the Office of Small Business Development of the City of Milwaukee.

**ARTICLE XXXI. CONTRACT AMOUNT**

TOTAL AMOUNT OF CONTRACT:

\$ \_\_\_\_\_

\_\_\_\_\_ AND \_\_\_\_\_/100 DOLLARS

PER CONTRACTOR'S QUOTE OR PROPOSAL (ATTACHED)

IN WITNESS WHEREOF, the OWNER and CONTRACTOR have caused this Contract to be executed as of the date set forth in Article 1.A.

| OWNER   | CONTRACTOR  |
|---|---|
| <p>HOUSING AUTHORITY OF THE CITY OF MILWAUKEE</p> <p>by: _____<br/>print name</p> <p>_____ date<br/>signature</p> | <p>COMPANY NAME</p> <p>SSN or FEIN _____</p> <p>City License # _____</p> <p>by: _____<br/>print name</p> <p>_____ date<br/>signature</p>  |
| <p>Witness/Attestation</p> <p>by: _____<br/>print name</p> <p>_____ date<br/>signature</p>                        | <p>Witness/Attestation</p> <p>by: _____<br/>print name</p> <p>_____ date<br/>signature</p>  |
|   | <p>CERTIFICATION OF INCORPORATED CONTRACTOR<br/>(if applicable):</p> <p>I, _____,</p> <p>certify that I am the _____,<br/>(Official Title) of the above CONTRACTOR herein:</p> <p>that _____,</p> <p>who executed this CONTRACT on behalf of CONTRACTOR</p> <p>was then _____<br/>(Official Capacity of Signatory) of said corporation, and in said capacity, duly signed said CONTRACT for and on behalf of said corporation, being duly authorized to do so under its bylaws or is authorized to do so by action of its duly constituted board, all of which is within the scope of its corporate powers.</p> <p>this _____ day of _____, _____.</p> <p>Dated at _____<br/>Signature and/or Seal<br/>(Signature MUST accompany if seal is used)</p> |