



## Call for NC Housing Tax Credit Developers and Preliminary Schedule

The City of Greenville is seeking to increase the supply of affordable rental housing for low- to moderate-income residents. The City will, through a competitive process, accept applications from qualified developers approved by the NC Housing Finance Agency for the production of new Affordable Rental Housing that serve families and individuals with incomes between 55-60% of the area median income, adjusted by family size and as defined by the U.S. Department of Urban Development for 2021. Anticipated funds to be awarded to the successful development will be up to approximately \$500,000. The successful applicant will submit a development packet that can be obtained from the Planning and Development Services Department Housing Division.

City staff is currently investigating use of other funds that might be offered through Federal and State Recovery efforts and that might be applied to the project. This might include funding for a project that includes a set aside of at least 10% of units and supportive services for residents that are considered homeless or face other barriers to housing. The City of Greenville will place a specific award emphasis on projects that accommodate this criterion. Anticipated funds to be awarded may be up to an additional \$500,000. The total funds available may be up to \$1,000,000 for a successful project.

Awarded projects must meet the income guidelines and other requirement of the U.S. Department of Housing and Urban Development.

Key features of the developer proposal submittal shall consist of but not be limited to the following elements:

- A. Experience of the Development Organization with Key personnel
- B. Financial Feasibility, Leveraging, and Development
- C. Preliminary Site Development along with an executed Option to Purchase contract if ownership is not controlled at the time of the submittal showing site control
- D. Preliminary Design of the facility, units, with common areas and features.
- E. Proximity to Community Features such as schools, bus stops, health care services, grocery stores, drug stores and the like
- F. Inclusion of supportive services
- G. Project readiness

The City of Greenville will review all applications based upon an internal point system used to rank received proposals in connection with project criteria determined by the City to address needs of affordability, high-quality design, convenience, sustainability, walkability, and other factors.

The proposals will be received and evaluated by the City of Greenville Housing Division. A hearing will be established for presentations of received proposals in front of the Affordable Housing Loan Committee. The recommendation of the Affordable Housing Loan Committee will be forwarded to City Council for the final award. The award by City Council is contingent upon the successful award of Tax Credits to the applicant’s proposed development and the City’s receipt of funds from the US Department of Housing and Urban Development.

A preliminary schedule for review of submitted proposals is identified below:

<b>Timeline</b>	<b>Action</b>
August 25, 2021	Issue Call for Developers
September 30, 2021	Proposals received from developers
Nov-21	AHLC review of proposals for recommended award. (Developers will be asked to present a summary of their proposal to the Affordable Housing Loan Committee at the regularly scheduled meeting.)
Dec-21	AHLC recommendation of funding award to the Greenville City Council for final award approval and authorizing the issuance of a letter of support or award pending project readiness
Jan-22	NCHFA Preliminary Application deadline
Mar-22	Notification of site score
Apr-22	Project revisions due to NCHFA
May-22	Full application due to NCHFA
Aug-22	Notification of awards

For more information please contact Tiana Berryman, Housing Administrator, at 252-329-4518 or [tberryman@greenvillenc.gov](mailto:tberryman@greenvillenc.gov).

\*\*The City of Greenville reserves the right to amend its award considerations based upon the determinations of any submittals that do not meet the submission criteria as outlined or due to changes in anticipated funding from outside funding sources identified for this activity.

## NC Housing Tax Credit Supplemental Funding Loan Terms

The terms of the City funds will be negotiated consistent with the following guidelines:

- A. Construction-to-permanent financing
- B. Term: 20 years, or as long as affordability is maintained
- C. Repayment: Deferred
- D. Lien: Second with conditions and may consider subordination to third
- E. Right of First Refusal

### Evaluation Criteria

The following criteria will be used to evaluate development proposals. The capability and financial strength of the developer, location of the site, quality of proposed improvements, the population being served, ability to repay the loan, and likelihood of and timeline for project completion are important criteria and should be demonstrated in the application.

- A. Experience of the Development Organization with Key personnel (15 points)
  - a. Capacity and experience of the development team with comparable size and type projects on time and within budget
  - b. Developers with prior experience with the City of Greenville will be evaluated on those experiences. Developers without previous experience with the City will be asked to provide references from other government agencies.
  - c. Capacity and experience of the property management company with comparable size and type of projects evidenced by occupancy levels, maintenance and repair of existing rental units, compliance with federal requirements and record keeping and reporting.
- B. Financial Feasibility, Leveraging, and Development (15 points)
  - a. Project is financially feasible with a high probability of moving forward (commitments from other funding sources, appropriate debt coverage ratio, affordable rents, income clientele, etc)
  - b. Project costs per square foot (excluding land) in addition to costs per bedroom are reasonable, as compared to similar projects
  - c. Amount of City subsidy per unit, as compared to similar projects funded by the City
- C. Preliminary Site Development (15 points)
  - a. Demonstrated site control or an executed Option to Purchase contract if ownership is not controlled at the time of the submittal
- D. Preliminary Design of the facility, units, with common areas and features. (15 points)

- a. The building design and use are compatible with the surrounding environment and existing neighborhood with appropriate vehicular and pedestrian connections to nearby amenities
- b. The overall building design is aesthetically pleasing and well thought out and is characterized as possessing “architectural appeal” with material selections that are of good quality, designed for normal maintenance and can be expected to perform well over the long term.
- c. The site is suitable for the proposed development without additional major geotechnical, environmental, or utility infrastructure expenditures
- E. Proximity to community features such as schools, bus stops, health care services, grocery stores, drug stores and the like (20 points)
- F. Inclusion of supportive services appropriate for clientele ( 10 points)
- G. Project readiness (10 points)

### **Evaluation of Proposals**

Applications will be reviewed for completeness and eligibility. All eligible proposals will be ranked according to the criteria state in this Request for Proposals. All source of financing must be secured before closing. Commitment will be valid for 12 months.

### **Right to Reject Proposals**

The City of Greenville reserves the right to reject any and all proposals received as a result of the Request for Proposals or to negotiate on the terms of the funds to best serve the interests of the City of Greenville.

## 2021-2022 Multi-Family Rental Housing Application Checklist

**Applicant:**

**Development Name:**

A complete application will include the following items and must be presented in the following sequence:

- \_\_\_\_\_ Application Checklist (signed at the bottom)
- \_\_\_\_\_ Cover Letter
- \_\_\_\_\_ Title Page
- \_\_\_\_\_ Table of Contents
- \_\_\_\_\_ Summary
- \_\_\_\_\_ Signed copy of NCHFA pre-application
- \_\_\_\_\_ Part I-Project Schedule (project construction beginning within 12 months of issuing the final commitment letter and complete within 4 years)
- \_\_\_\_\_ Part II- Survey
- \_\_\_\_\_ Part III- Site Plan
- \_\_\_\_\_ Part IV- Evidence of Site Control (deed, contract of sale, option to purchase)
- \_\_\_\_\_ Part V- Compliance with Comprehensive Plan and Zoning
- \_\_\_\_\_ Part VI- Uniform Relocation Plan
- \_\_\_\_\_ Part VII- Geotechnical Reports Addressing Soil/Flood Concerns
- \_\_\_\_\_ Part VIII- Partnership Agreements
- \_\_\_\_\_ Part IX- Infrastructure Availability
- \_\_\_\_\_ Part X- Applicant and Development Team, Development History and Repayment of Loans
- \_\_\_\_\_ Part XI- Development (outline plans and specifications, including elevation, floor plans, materials, etc)
- \_\_\_\_\_ Part XII-Financial Project Proforma (identifying project costs and requested loan amount)
- \_\_\_\_\_ Part XIV- Affirmative Marketing Statement
- \_\_\_\_\_ Part XV- Developer Certification
- \_\_\_\_\_ Part XVI- Detailed Description of Supportive Services
- \_\_\_\_\_ Part XVII- Detailed Description of How Developer Intends to Recruit/Use MWBE firms

\_\_\_\_\_  
Signed By

\_\_\_\_\_  
Submitting Official Title

To be considered for funding, all 9% and 4% applications must be received by 5:00pm on September 21, 2021. Original applications and one electronic copy saved to a flash drive should be forwarded to the following:

Tiana Berryman, Housing Administrator  
City of Greenville Planning and Development Services Department  
201 W. Fifth Street  
Greenville, NC 27834  
[tberryman@greenvillenc.gov](mailto:tberryman@greenvillenc.gov)  
252-329-4518

## GENERAL TERMS AND CONDITIONS

1. **NON-DISCRIMINATION**: The City of Greenville does not discriminate on the basis of race, color, sex, national origin, religion, age or disability. Any contractors or vendors who provide services, programs or goods to the City are expected to fully comply with the City's non-discrimination policy.
2. **NON-COLLUSION**: Respondents, by submitting a signed proposal, certify that the accompanying submission is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or commerce, or any other fraudulent act punishable under North Carolina or United States law.
3. **PAYMENT TERMS**: The City agrees to pay all approved invoices Net Thirty (30) days from the date received and approved. The City does not agree to the payment of late charges or finance charges assessed by the seller or vendor for any reason. Invoices are payable in U.S.funds.
4. **GOVERNING LAW**: Any agreement, contract or purchase order resulting from this invitation to bid, request for proposals or request for qualifications or quotes, shall be governed by the laws of the State of North Carolina.
5. **ACCEPTANCE/REJECTION OF PROPOSALS**: The City of Greenville reserves the right to award to the Firm who will best serve the interests of the City. The City also reserves the right to waive minor variations in the specifications and in the bidding process, as well as to accept in whole or in part such proposal(s) where it deems it advisable in protection of the best interests of the City. The City further reserves the right to accept or reject any or all bids/proposals, and to award or not award a contract based on this proposal.
6. **E-VERIFY COMPLIANCE**: The Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if the Contractor utilizes a Subcontractor, the Contractor shall require the Subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. By submitting a proposal, the Proposer represents that their firm and its Subcontractors are in compliance with the requirements of Article 2 Chapter 64 of the North Carolina General Statutes.
7. **CONFLICT OF INTEREST**: Each proposer shall affirm that no official or employee of the City of Greenville is directly or indirectly interested in this proposal for any reason of personal gain.

8. **EQUAL EMPLOYMENT OPPORTUNITY CLAUSE**: The City of Greenville has adopted an Equal Employment Opportunity Clause, which is incorporated into all specifications, purchase orders and contracts, whereby a vendor agrees not to discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or ancestry. A copy of this clause may be obtained at the City Clerk's Office, located in City Hall-200 W. Fifth Street Greenville, NC. By submitting a proposal, the firm is attesting that they are an Equal Opportunity Employer.

9. **MWBE PROGRAM: Minority and/or Women Business Enterprise (MWBE) Program**

It is the policy of the City of Greenville to provide minorities and women equal opportunity for participating in all aspects of the City's contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchase, and professional and personal service contracts. In accordance with this policy, the City has adopted a Minority and Women Business Enterprise (M/WBE) Plan and subsequent program, outlining verifiable goals.

**The City has established a 10% Minority Business Enterprise (MBE) and 6% Women Business Enterprise (WBE) goal** for the participation of M/WBE firms in supplying goods and services for the completion of this project. All firms submitting bids agree to utilize minority and women-owned suppliers and service providers whenever possible.

Questions regarding the City's M/WBE Program should be directed to the M/WBE Office at (252) 329-4862.

10. **FEDERAL LAW** : Federal law (Rehabilitation Act and ADA) prohibits handicapped discrimination by all governmental units. By submitting a proposal, the vendor is attesting to its policy of nondiscrimination regarding the handicapped.

11. **TAXES**: Sales taxes may be listed on the proposal, but as a separate item. No charge will be allowed for Federal Excise and Transportation tax from which the City is exempt.

12. **WITHDRAWAL OF PROPOSALS**: No bid/proposal may be changed or withdrawn after the stated time and date for submittal. Bids/proposals submitted shall be binding for ninety (90) days after the date of submittal.

13. **SERVICES PERFORMED**: All services rendered under this agreement will be performed at the Seller's own risk and the Seller expressly agrees to indemnify



and hold harmless The City of Greenville, its officers, agents, and employees from any and all liability, loss or damage that they may suffer as a result of claims, demands, actions, damages or injuries of any kind or nature whatsoever by or to any and all persons or property.

14. **INDEPENDENT CONTRACTOR**: It is mutually understood and agreed the Seller is an independent contractor and not an agent of the City of Greenville, and as such, Seller, his or her agents and employees shall not be entitled to any City employment benefits, such as but not limited to vacation, sick leave, insurance, workers's compensation, pension or retirement benefits.
15. **VERBAL AGREEMENT**: The City will not be bound by any verbal agreements.
16. **INSURANCE REQUIREMENTS**: Contractor shall maintain at its own expense
  - (a) **Commercial General Liability** Insurance in an amount not less than \$1,000,000 per occurrence for bodily injury or property damage; City of Greenville, 200 W. Fifth St. Greenville, NC 27834 shall be named as additional insured.
  - (b) **Professional Liability** insurance in an amount not less than \$1,000,000 per occurrence-if providing professional services;
  - (c) **Workers Compensation Insurance** as required by the general statutes of the State of North Carolina and Employer's Liability Insurance not less than \$500,000 each accident for bodily injury by accident, \$500,000 each employee for bodily injury by disease, and \$500,000 policy limit;
  - (d) **Commercial Automobile Insurance** applicable to bodily injury and property damage, covering all owned, non-owned, and hired vehicles, in an amount not less than \$1,000,000 per occurrence as applicable. Certificates of Insurance shall be furnished prior to the commencement of Services.
17. **IRAN DIVESTMENT ACT**: Vendor certifies that; (i) it is not identified on the Final Divestment List or any other list of prohibited investments created by the NC State Treasurer pursuant to N.C.G.S. 143-6A-4; (ii) it will not take any actions causing it to appear on any such list during the terms of this contract, and (iii) it will not utilize any subcontractor to provide goods and services hereunder that is identified on any list.

## **Federal Contracting Requirements**

This Contract will be funded in whole or in part with federal funding. As such, federal laws, regulations, policies and related administrative practices apply to this Contract. The most recent of such federal requirements, including any amendments made after the execution of this Contract shall govern the Contract, unless the federal government determines otherwise. This section identifies the federal requirements that may be applicable to this contract. The Vendor is responsible for complying with all applicable provisions, updates or modifications that occur in the future relating to these clauses.

To the extent possible, the federal requirements contained in the most recent version of the Uniform Administrative Requirements for federal awards (Uniform Rules) codified at 2.C.F.R., Part 200, including any certifications and contractual provisions required by any federal statutes or regulation referenced therein to be included in this contract are deemed incorporated into this contract by reference and shall be incorporated into any sub-agreement or subcontract executed by the Vendor pursuant to its obligations under this Contract. The Vendor and its sub-contractors, if any, hereby represent and covenant that they are have complied and shall comply in the future with the applicable provisions of the original contract then in effect and with all applicable federal, state, and local laws, regulations, and rules and local policies and procedures, as amended from time to time, relating to Work to be performed under this contract.

### **No Obligation by Federal Government**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

### **Program Fraud and False or Fraudulent Statements or Related Acts**

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

### **Access to Records**

The following access to records requirements apply to this contract:

(1) The contractor agrees to provide the City of Greenville, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide City access to construction or other work sites pertaining to the work being completed under the contract.

#### **Termination for Convenience (General Provision)**

The City may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the City to be paid the Contractor. If the Contractor has any property in its possession belonging to the City, the Contractor will account for the same, and dispose of it in the manner the City directs.

#### **Termination for Default [Breach or Cause] (General Provision)**

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the City may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the City that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the City, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

#### **Opportunity to Cure (General Provision)**

The City in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) calendar days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to the City's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) calendar after receipt by Contractor of written notice from the City setting forth the nature of said breach or

default, the City shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude the City from also pursuing all available remedies against Contractor and its sureties for said breach or default.

### **Breaches and Dispute Resolution**

**Performance During Dispute** - Unless otherwise directed by City of Greenville, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

**Claims for Damages** - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

**Remedies** - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the City of Greenville and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the City of Greenville is located.

**Rights and Remedies** - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City of Greenville or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

### **Changes**

Any change in the contract cost, modification, change order, or constructive change must be allowable, allocable, within the scope of its funding, grant or cooperative agreement, and reasonable for the completion of project scope. All changes and/or amendments to the contract will be outlined in detail, formalized in writing, and signed by the authorized representative of each party. A Contractor's failure to do so shall constitute a material breach of the contract.

### **Waiver of Remedies for any Breach**

In the event that the City elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by the City shall not limit the City's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

### **Equal Opportunity**

"During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, 3 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be

canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law. (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through

(7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States."

### **Clean Air Act**

- (1) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Sect. 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal Assistance.

### **Clean Water**

- (1) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Sect. 1251 et seq. The Contractor agrees to report each violation as required.

- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

### **Procurement of Recovered Materials**

Vendor and subcontractor must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Vendor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

1. The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or
2. The Vendor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

Section 6002(c) establishes exceptions to the preferences for recovery EPA-Designed products if the Vendor can demonstrate the item is:

- Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- Fails to meet reasonable contract performance requirements; or
- Is only available at an unreasonable price.

Information about this requirement, along with the list of EPA- designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>."

### **Suspension and Debarment**

This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the City. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any Contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

### **Energy Conservation**

The Vendor and subcontractors agrees to comply with the 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, 42 U.S.C. § 6321, et seq.

### **Davis-Bacon Requirements**

If applicable to this contract, the Vendor agrees to comply with all provisions of the Davis Bacon Act as amended (40 U.S.C. 3141-348).

#### **1. *Minimum Wages.***

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Vendor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.



Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Vendor and its sub-contractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Vendor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Vendor, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Vendor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Vendor does not make payments to a trustee or other third person, the Vendor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program: *Provided* that the Secretary of Labor has found, upon the written request of the Vendor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Vendor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## **2. *Withholding.***

The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Vendor under this contract or any other Federal contract with the same prime Vendor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Vendor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Vendor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Sponsor may, after written notice to the Vendor, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## **3. *Payrolls and Basic Records.***

(i) Payrolls and basic records relating thereto shall be maintained by the Vendor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the

Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Vendor shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and that show the costs anticipated or the actual costs incurred in providing such benefits. Vendors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Vendor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Sponsor if the agency is a party to the contract, but if the agency is not such a party, the Vendor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Sponsor. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at [www.dol.gov/whd/forms/wh347instr.htm](http://www.dol.gov/whd/forms/wh347instr.htm) or its successor site. The prime Vendor is responsible for the submission of copies of payrolls by all subcontractors. Vendors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Sponsor if the agency is a party to the contract, but if the agency is not such a party, the Vendor will submit them to the applicant, sponsor, or Owner, as the case may be, for transmission to the Sponsor, the Vendor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Vendor to require a subcontractor to provide addresses and social security numbers to the prime Vendor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Vendor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) The payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) Each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;

(3) Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Vendor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Vendor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the sponsor, the Sponsor, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Vendor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Vendor, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **4. *Apprentices and Trainees.***

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Vendor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than

the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Vendor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Vendor's or sub-Vendor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Vendor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Vendor will no longer be

permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal Employment Opportunity.** The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. *Compliance with Copeland Act Requirements.***

The Vendor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

**6. *Subcontracts.***

The Vendor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Sponsor may by appropriate instructions require, and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime Vendor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

**7. *Contract Termination: Debarment.***

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a Vendor and a subcontractor as provided in 29 CFR 5.12.

**8. *Compliance with Davis-Bacon and Related Act Requirements.***

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. *Disputes Concerning Labor Standards.***

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Vendor

(or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

#### **10. Certification of Eligibility.**

(i) By entering into this contract, the Vendor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Vendor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001.

#### **Copeland "Anti-Kickback" Act**

*Vendor.* The Vendor must comply with the requirements of the Copeland "Anti-Kickback" Act (18 U.S.C. § 874 and 40 U.S.C. § 3145) and the requirements of 29 C.F.R. Part 3 as *may be applicable*, which are incorporated by reference into this contract.

Vendor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Vendor and each subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week

*Subcontracts.* The Vendor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Vendor shall be responsible for the compliance by any subcontractor or lower tier subcontractors with all of these contract clauses.

*Breach.* A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Vendor and sub-Vendor as provided in 29 C.F.R. § 5.12."

#### **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)**

Where applicable, all contracts awarded in excess of \$100,000 that involve the employment of mechanics or laborers must be in compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5).

1. Overtime requirements. No Vendor or subcontractor contracting for any part of the

contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Vendor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Vendor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
3. Withholding for unpaid wages and liquidated damages. The Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Vendor or subcontractor under any such contract or any other Federal contract with the same prime Vendor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Vendor, such sums as may be determined to be necessary to satisfy any liabilities of such Vendor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. Subcontractors. The Vendor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Vendor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

### **CERTIFICATION REGARDING LOBBYING**

*(must be submitted with bid if \$100K or more)*

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

- (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 grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal Contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any 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 undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subContracts, subgrants, and Contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

**BUY AMERICA REQUIREMENTS**

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in federally funded projects are produced in the United States, unless a waiver has been granted or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7 and include microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content. (Braun's conversion processes have been determined to constitute final assembly for minivans converted for wheelchair access. EIDorado's conversion processes have been determined to constitute final assembly for minivans converted for wheelchair access.)

A bidder or offeror must submit to the City of Greenville the appropriate Buy America certification (below) with all bids or offers, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

**Certification requirement for procurement of steel, iron, or manufactured products.**

*Certificate of Compliance with 49 U.S.C. 5323(j)(1)*

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 C.F.R. Part 661.5.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

*Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_