

**HOUSING AUTHORITY OF THE CITY OF MCKINNEY, TEXAS  
REQUEST FOR PROPOSALS  
FOR  
REAL ESTATE DEVELOPMENT  
LEGAL SERVICES**

**Proposals will be received until:  
10:00A.M. on November 29, 2021  
Housing Authority of the City of McKinney, Texas  
603 N. Tennessee St, McKinney, TX 75069**

**HOUSING AUTHORITY OF THE CITY OF MCKINNEY, TEXAS  
REQUEST FOR PROPOSALS (RFP)  
REAL ESTATE DEVELOPMENT LEGAL SERVICES**

**INTRODUCTION**

The Housing Authority of the City of McKinney (“MHA”) is the Public Housing Authority serving residents of the City of McKinney, Texas. The Housing Authority's mission is to serve the housing needs of low to moderate income families in the authority's jurisdiction in order to 1) increase the availability of decent, safe and affordable housing in its communities; 2) ensure equal opportunity in housing; 3) enhance self-sufficiency; 4) promote community quality of life and 5) economic viability.

MHA is the statutory manager for two (2) developments and one single family house totaling 51 units.

A five (6) person Board of Commissioners (“Board”), authorized by State Law, is responsible for the development of housing policy and the authorization of expenditures. Operations and recommendations regarding planning strategies made to the Board are the responsibility of the Executive Director of MHA. MHA is a Local Government under Texas law and is subject to all U.S. Housing & Urban Development (“HUD”) regulations.

This contract is to be awarded through the Housing Authority of the City of McKinney. The Executive Director will be the key contact once the contract(s) is (are) awarded.

**1. SCOPE OF WORK REQUIRED**

**1.01. Purpose**

MHA has identified a need for real estate development legal services to implement its development and redevelopment efforts. The real estate development legal counsel will be a direct advisor to MHA throughout the implementation process.

The purpose of this RFP is to allow MHA to solicit meaningful, technical, competitive proposals so it may select, from among a range of proposals, the attorneys or law firms(s) (“Firm”) that best meet its needs and requirements in providing real estate development and redevelopment legal services. Prior to submitting a proposal, Proposers, at their own expense, must secure any personnel required to perform the required Services.

**1.02. Request for Proposals**

Pursuant to the Code of Federal Regulations (“CFR”), all procurement transactions will be conducted in a manner providing full and open competition. Consistent with the standards of 24 CFR 85.36, THA is seeking competitive proposals to engage a qualified law firm(s) to represent its interests in the real estate development area.

**1.03. Term of Engagement**

The term of the contract will be two (2) consecutive one (1) year terms with three (3) one (1) year renewal options. The options may be exercised within the sole discretion of MHA. If MHA decides to exercise the options to renew, it shall notify the successful proposer(s) within sixty

(60) days prior to the expiration of the initial or extended term of the contract. The maximum length of the contract shall not exceed five (5) years.

#### **1.04. Nature of Contract**

MHA intends to award a fee for service contract for the legal services requested by this RFP. MHA's goal is to procure the best legal services available. This does not preclude procuring other cost-effective legal services.

#### **1.05. Contact Person**

Questions concerning this RFP should be submitted, in writing to: Roslyn Miller, MHA Executive Director, 603 N. Tennessee St., McKinney, TX 75069.

The Project Manager shall serve as the primary contact for contract administration purposes.

#### **1.06. Required Qualifications**

1. Proposer must possess all licenses and registrations necessary to practice law in the State of Texas.
2. Proposer must have prior experience and references in the subject matter of the proposal.
3. Proposer must assign key staff to the contract who have prior experience in the areas covered by the proposal and identify those individuals as part of the proposal submission.
4. Proposer must have and maintain all necessary professional licenses and insurance to cover general / professional liability, error's & omissions, automobile and workers' compensation and submit proof of it with the proposal submission.

#### **1.07. Statement of Work**

The Firm(s) selected to provide the legal services described in this RFP (the "Services") shall provide legal services on behalf of MHA, or any subsidiaries created for MHA's mixed finance transactions, Rental Assistance Demonstration ("RAD") transactions, and other real estate development and/or redevelopment-related work (the "Projects") including but not limited to the following:

- ☑ Legal services involving the negotiation, preparation and review of all contracts, agreements, evidentiaries, opinions, documents and other writings necessary to implement development-related work. Examples of such materials include documents such as ground leases, regulatory and operating agreements, declarations of trust and restrictive covenants, management agreements, development agreements, mixed finance amendments to the ACC, program income agreements, loan documents, and documents utilized and required in connection with RAD transactions.
- ☑ Draft and/or review organizational documents as required for the reorganization and/or formation of

any MHA subsidiary or entity to act as an ownership, development or lending entity, relative to development projects. The services may also include, but not be limited to, legal assistance with tax matters for the entity.

☐ Identify regulatory, statutory and other legal concerns or issues that must be addressed with regard to the development projects and all real estate related activities.

☐ Prepare and implement any alternative funding proposals or agreements, including but not limited to, one or more Low-Income Housing Tax Credit (LIHTC) proposals and tax-exempt bond funding.

☐ Negotiate agreements, draft contracts and/or review agreements related to any non-residential development on-site or off-site in the development projects' impact areas.

☐ Assist with real estate acquisition and real estate disposition matters involving public and private real estate opportunities and other property related issues, i.e., title clearance, condemnation, environmental mitigation, etc.

☐ Assist with residential real estate mortgage loan closings and in legal matters involving HUD, OHFA

and other alternative funding agencies' regulations, rules, and procedures including, but not limited to, LIHTC and all relevant HUD funded programs.

☐ Draft and/or review development incentives program applications for development tax credits, loan, grant programs, and New Markets Tax Credits.

☐ Represent MHA before federal, state and local administrative agencies and departments regarding funding applications, zoning, obtaining licenses and permits, and other matters related to development and redevelopment.

☐ Assist in the preparation of documents related to RAD conversions including the RAD Conversion Commitment, RAD Use Agreement, Housing Assistance Payment Contract and RAD riders to applicable documents.

☐ Provide all other legal services necessary for MHA real estate development that may not be contained in this RFP, specifically excluding litigation. The selected Firm(s) will be required to work with all person's necessary for successful completion of assigned tasks to complete the development or redevelopment work. The scope of the development and redevelopment legal services

required is based upon the following information:

During the course of the revitalization effort there will be a need for the provision of legal services related to the development of a mixed income housing component as well as nonresidential components of the project.

### **1.08. Tasks and Deliverables**

Services will be requested of the selected Firm(s) by MHA on a Task Order basis. Task Orders are specific work assignments performed by the selected Firms(s) awarded a contract based on this RFP. The work assignments will cover one or more areas as outlined under Section II Scope of Work Required.

THA may use information available on hand or, alternatively, request the successful proposer to submit streamlined proposals for a given Task Order. MHA, in consultation with the client department, will determine whether to request streamlined proposals.

MHA may request that the successful proposer and MHA agree on a defined Scope of Work, a schedule, and an estimate of legal fees and expenses anticipated to be incurred in connection with particular assignments. MHA may require the Firm to perform certain work on the basis of such Scopes of Work, schedules, and estimates, and to seek MHA approval to perform work beyond such estimates based upon adequate justification. In appropriate circumstances, MHA may request a written

strategic proposal. Such proposals may include a description of the options and alternatives with an assessment of their worth, the major steps likely to be involved, their timing and sequence, and the projected costs associated with each step.

Once proposals are agreed upon by MHA and the Firm, any material variance from the estimate or proposal must be approved in advance by MHA.

All Task Orders are subject to the terms and conditions of the resultant contract. In the event of a conflict between a Task Order and the contract, the contract shall prevail.

## **2. PROPOSAL REQUIREMENTS**

### **2.01. General Requirements and Information**

The following material must be received by **Monday November 29, at 10:00 a.m.** for a proposal to be considered:

1. An original (so marked) of the Proposal and three (6) copies to include the following:

(a) Title Page showing the RFP subject and RFP number; the Firm's name; the name, address and telephone number of a contact person; and the date of the proposal.

(b) Table of Contents.

(c) A letter of transmittal on the Firm's letterhead referencing the subject and RFP number to which the Firm is responding. The letter shall state the proposer's understanding of the work to be done as stated in the Scope of Services; a statement that any and all addenda were received, the commitment to

perform the work within the time period indicated in this RFP; a statement indicating why the Firm

believes itself to be best qualified to perform the engagement; and a statement that the proposal is a

firm and irrevocable offer for 90 days. This letter must be signed by a representative of the Firm authorized to make such statements and offers.

(d) Detailed proposal addressing the requirements set forth in Section 1.07 and 2.02.

(e) Contractor forms, Authorizations and Certifications attached at Attachment II.

(f) Proof of Insurance.

## **2.02 Proposal Format**

A detailed proposal must be submitted together with all required forms. Proposers are urged to keep all proposals focused and as brief as possible while providing enough detail to enable an informed review of the Services offered. All identified elements must be included for the proposal to be considered complete.

Proposers must complete and submit all required forms, authorizations, certifications and documentation required by this RFP and attached at Attachment II.

Proposals must be organized in the following order and include the following information:

### ***1. Plan of Action for the Accomplishment of Services***

A statement of the Services to be provided, a proposed method for responding to the various tasks which might be encompassed within the Scope of Work required and a description of the Firm's organization and approach to THA initiated Task Orders are to be provided in response to this section.

If the Firm plans to use subcontractors, its proposal must identify the names of the subcontractors and the portions of the work the subcontractors will perform, specifically:

Complete name of the proposed subcontractor(s);

Complete address of proposed subcontractor(s);

Type of work the proposed subcontractor(s) will be performing;

Percentage of work the proposed subcontractor will be providing;

Evidence, as set out in the relevant section of this RFP, that the proposed subcontractor(s) is authorized to perform the required Services; A written statement, signed by each proposed subcontractor, that clearly verifies that the proposed subcontractor is committed to render the required Services.

A proposer's failure to provide this information may cause MHA to consider the proposer's proposal non-responsive and reject the proposal. Substitution of one subcontractor for another may only be made at the discretion of the MHA. The Firm shall be responsible for management, direction, scheduling, control, review and approval of all subcontracted work. Also, the Firm shall be responsible for assuring that all subcontracted work is performed in conformity with MHA's policies, standards and criteria. All subcontracts will be subject to the review and approval of MHA. Subcontracts will include all relevant provisions contained in the agreement between MHA and the Firm.

## **2. Qualifications/Experience**

Proposers shall provide experienced, qualified and capable personnel to perform the functions and responsibilities outlined in Section 1.07, Statement of Work. The Statement of Qualifications/Experience must clearly demonstrate the Proposer's knowledge and experience in providing the requested Services.

All proposers shall provide a Statement of Qualifications/Experience that addresses the following:

- a. A statement of qualifications that clearly demonstrates the Firm's knowledge and experience relative to the requested Services. b. Resumes that succinctly summarize the experience and qualifications of the principal(s) and all members of the Firm that will actually perform the work, including number of years licensed to practice law, type of practice in which engaged, and references for each similar task these professionals have performed.
- b. A statement indicating sufficient staff capacity to complete assignments in a timely fashion, to engage in multiple projects simultaneously, to respond to emergencies when needed, and to otherwise provide competent, efficient representation to MHA.
- c. Experience in residential real estate mortgage loan closings.
- d. Extensive experience in dealing with Texas Department of Housing and Community Affairs (TDHCA) and other alternative funding agencies' rules, regulations, procedures and transactions, including but not limited to LIHTC and HUD funded HOME programs.
- e Familiarity with Texas law, local law and HUD procurement requirements set forth in 24 CFR Part 85.36, Development regulations set forth in 24CFR Part 941 Development, Section 8 Project-Based Certificate Program set forth in 24CFR Part 983 and HUD's Procurement Handbook for Public Housing Agencies, 7460.8 Rev-1.

## **3. SBE/WBE/MBE/DBE Goals**

MHA encourages its contractors to understand, endorse and fully implement the policies and programs associated with expanding the business potential for small (SBE), women-owned (WBE), minority-owned (MBE) and/or disadvantaged business enterprises (DBE). Each proposer must provide its policy statement on these matters, as well as its plan for meeting and fostering these objectives in terms of its own team and project expenditures. This should include a specific list of intended and/or potential consultants and/or sub-consultants for each category referenced above, and the percentage value of work that will be performed by each consultant and/or sub-consultant. The submission should also include documentation or other certification which verifies the designation for category(s) indicated.

#### *4. Compliance with Section 3 of the Housing & Urban Development Act of 1968*

The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall to the greatest extent feasible, be directed to low- and very-low income persons, particularly persons who are recipients of HUD assistance for housing.

Each proposer **must** provide its policy statement on these matters, as well as its plan for meeting and fostering these objectives in terms of its own team and project expenditures, as well as similar activities associated with low- and very-low income persons, notably those living in public housing.

#### *5. Fees/Costs*

Proposers shall complete the Fee Proposal forms included in this solicitation at Attachment I indicating its proposed fees for the initial term. The fees proposed for the initial term shall be valid for ninety (90) days from the date proposals are due.

In the Fee Proposal, the hourly rate must be “fully loaded” (i.e. inclusive of all clerical support, reports, materials and supplies that are necessary for performing services under this RFP). These rates shall include any overhead and/or profit. MHA, at its sole option, may require proposers to provide a breakdown of overhead and/or profit by title. If there are reimbursable costs associated with providing the Services under this RFP, they are to be identified.

The award of a contract under this RFP will not be based primarily on the fee. The Fee Proposal will be used to determine if a proposer, otherwise deemed to be qualified, is considered to be within the competitive range for the Services to be provided. The Fee Proposal shall be submitted in accordance with Section 2.02.

#### **2.03 Confidential Materials**

Any materials submitted by the firm which are to be considered confidential must be clearly marked as such; **provided however, any such materials are subject to disclosure pursuant to an appropriate Freedom of Information Act request made in accordance with applicable state or federal law.**

### **3. EVALUATION**

#### **3.01 Evaluation Criteria**

All proposals will be evaluated individually on their technical merit prior to examining cost. The technical evaluation will consist of a qualitative review of the proposal specifications. Upon completion of the technical evaluations for all proposers, the price proposals will be analyzed.

The proposals which have a reasonable chance of being selected for award will be considered to be in the competitive range. These Firms may be asked to participate in interviews or negotiations to discuss technical and price factors so as to ensure a mutual understanding of both the MHA’s requirements and the Firm’s proposals. MHA reserves the right to determine

that there is no need to hold interviews or negotiations and make an award based on initial proposals received.

At the conclusion of interviews/negotiations, proposers may be given an opportunity to submit revised proposals (including changes to technical approach and price) before final evaluation. The Review Committee shall recommend what tradeoff between technical merit and cost promises the greatest value to the MHA, price and other factors considered. The contract will be awarded to the responsible firm whose proposal is most advantageous, with price and other factors considered. Award will not necessarily be made to the lowest proposer. MHA also reserves the right to negotiate and award any element of this RFP, make multiple awards, reject any or all proposals or waive any minor irregularities or technicalities in proposals received as the best interest of MHA may require.

The proposed final contract will be negotiated by the MHA Executive Director.

Proposals will be evaluated by MHA against the following criteria:

1. Quality of plan of action for the accomplishment of services, as addressed in Sec. 2.02 0 – 25 points
2. Qualifications / Experience as addressed in Sec. 2.02 0 – 45 points
3. Plan for meeting or fostering MBE/WBE/SBE/DBE Objectives as addressed in Sec. 2.02 0 – 15 points
4. Plan for meeting or fostering Section 3 objectives as addressed In Sec. 2.02 0 – 15 points
5. Cost / Fee Schedule as addressed in Sec. 2.02 0 – 25 points

**TOTAL: 125 POINTS**

### **3.02 Process for Award**

MHA shall open the proposals following the proposal deadline date. Without limitation and at its sole option, MHA reserves the right to accept or reject any or all proposals, to take exception to these RFP specifications, to negotiate with finalists, or to waive any irregularities. Firms may be excluded from further consideration for failure to fully comply with the specifications of this RFP. MHA may decide to reject all proposals and/or to reissue this RFP with modifications.

MHA shall reject the proposal of any proposer who has been barred from working on HUD projects. MHA also reserves the right to reject the proposal of any proposer who has previously failed to perform properly, or to complete on time, contracts of a similar nature.

## **4. PROCUREMENT PROCESS**

### **4.01 Availability of RFP Package**

The RFP package may be obtained in person from MHA's Administrative Office at 603 N. Tennessee St. McKinney, TX 75069, via our web page at [www.mckinneyha.org](http://www.mckinneyha.org) or via e-mail at [info@mckinneyha.org](mailto:info@mckinneyha.org)

Upon request, RFP packages may be mailed via United States Postal Service Priority Mail. RFP packages may be shipped by other means provided the requester is willing to bear the cost of postage. All RFP package shipments must be pre-paid by the requester.

The MHA will not honor requests for COD shipments or facsimile transmission of the package.

#### **4.02 Submission Place**

Proposals shall be submitted to: **Housing Authority of the City of McKinney, Texas**  
**Attention: Roslyn Miller**  
**603 N. Tennessee St.**  
**McKinney, TX 75069**

#### **4.03 Submission Date and Time**

Proposals must be received by MHA's office by no later than **10:00 a.m. Monday November 29, 2021**. They will not be opened publicly. It is the Firm's responsibility to ensure that its proposal is delivered at the proper time and place. Proposals which, for any reason, are not timely delivered will not be considered and will be returned unopened. Proposals sent by overnight delivery service will be considered timely filed if date stamped by at least one (1) day before the date set for receipt of proposals and time stamped at a time that they should have, pursuant to the express policy of the delivery service used, permitted delivery at the date, time and place set for receipt of proposals. The burden of proof to establish timely filing of a proposal by overnight delivery service shall be solely upon the entity or person submitting the proposal. Offers by telegram, facsimile or telephone are not acceptable.

MHA staff designated to receive proposals will determine when the deadline for receipt of proposals has expired. No responsibility will attach to an officer, employee or agent of MHA for not recognizing or receiving a proposal which is not properly marked, addressed or delivered to the submission place, in the submission method, **by the submission date and time**.

#### **4.04 Questions and Interpretations**

All inquiries to this RFP must be submitted in writing to the address noted in Section 4.02 or the e-mail address noted in Section 4.01.

Inquiries should be made no later than seven (7) business days prior to the submission date and time. Inquiries should make reference to specific article numbers of this RFP and, where appropriate, page numbers and section numbers. MHA may, at its option, elect to respond in writing to inquiries. Copies of any such written communication shall be made available to all prospective bidders. No interpretation shall be considered binding unless provided in writing by the MHA. Inquiries received within seven (7) days prior to the submission date shall not be answered.

#### **4.05 Withdrawal of Proposals**

Proposals may be withdrawn by written, certified mail to MHA at the above listed address prior to the proposal deadline date. Negligence on the part of the Firm in preparing the proposal confers no right of withdrawal or modification of the

proposal after the proposal deadline has elapsed.

#### **4.06 Price and Scope of Work Changes**

All proposals should be firm and not subject to change by the Firm for a period of ninety days (90) from the proposal deadline date. Note, however, that THA reserves the option to negotiate prices downward and to negotiate additional scope of work and cost changes based on final negotiations with the selected proposer.

#### **4.07 Mistakes in Proposals**

If a mistake in a proposal is suspected or alleged, the proposal may be corrected or withdrawn during any negotiations that are held. If negotiations are not held, or if best and final offers have been received, the Firm may be permitted to correct a mistake in its proposal and the intended correct offer may be considered based on the following:

- ☐ The mistake and the intended correct offer are clearly evident on the face of the proposal.
- ☐ The Firm submits written evidence which clearly and convincingly demonstrates both the existing offer and such correction would not be contrary to the fair and equal treatment of other Firms.

Mistakes discovered after award shall not be corrected unless the MHA makes a written determination that it would be disadvantageous to MHA not to allow the mistake to be corrected. The approval or disapproval of requests of this nature shall be in writing by MHA's Executive Director.

#### **4.08 Execution of Proposals**

The original proposal must contain a manual signature of an authorized representative of the Firm. The proposal must be typed or printed in ink. Use of erasable ink is not permitted. All corrections made on the proposal sheets must be initialed by the authorized representative. The Firm name must appear on each sheet. The proposal must include all documents, materials and information required by this solicitation.

#### **4.09 Cost of Proposal**

Proposers are responsible for all their costs associated with the preparation of proposals, the demonstration and interview process and the contract negotiation process. All costs incurred, directly or indirectly, associated with the preparation of proposals shall be the sole responsibility of and shall be borne by the proposers.

#### **4.10 Proposal Notification**

After the award is made, a list of Firms submitting proposals will be posted for review by interested parties. The list will be furnished upon written request only and will not be provided by telephone. A self-addressed, stamped envelope must be included with the written request. Each unsuccessful proposer will be notified in writing promptly upon award. The notice shall identify the successful Firm.

#### **4.11 Addenda**

MHA reserves the right to modify this RFP as it deems appropriate. Any addenda issued shall be sent to each Firm on MHA's list of recipients of this RFP. Any addenda issued become a part of this RFP.

## **5. MHA AND HUD GENERAL CONDITIONS**

### **5.01 Form of Purchase**

The acceptance of the proposed Firm's offer for the Services specified herein will be made by issuance of a duly authorized contract prepared by MHA. Proposers are cautioned to make no assumptions or accept any representations by any employee, member, officer or representative of MHA concerning the award until a contract is executed.

### **5.02 Government Restrictions**

In the event any governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship or performance of the goods or services offered, it shall be the responsibility of the successful Firm to immediately notify the MHA in writing specifying the regulation which requires alteration. MHA reserves the right to accept any such alteration, including any reasonable price adjustments occasioned thereby, or to cancel the contract at no expense to the MHA.

### **5.03 Freedom of Information Act Requests**

To ensure that a competitive process is maintained throughout the process of evaluating proposals, any proposer who makes a request for a copy of the proposals of other proposers before MHA awards the contract shall be deemed ineligible for further consideration for award under this RFP.

### **5.04 Insurance**

The contractor and any subcontractors will be required to furnish at the time of contract signing proof of professional liability insurance minimum coverage of \$1,000,000 per occurrence and worker's compensation coverage in accordance with state law requirements. MHA is to be named as additional insured. Coverage must be kept current and MHA notified immediately of any changes.

### **5.05 Contract Approval**

The contract to be awarded under this solicitation may be subject to the approval of MHA's Board.

### **5.06 HUD Requirements**

HUD Forms 5369 and 5370-C are attached to and incorporated into this solicitation. Each proposer shall carefully review these requirements to ensure ability to comply with them as they shall become a part of any contract resulting from this solicitation.

### **5.07 Funding Availability**

MHA will not be bound to any contract if funding has been disallowed by HUD.



**ATTACHMENT I  
FEE PROPOSAL FORM  
RATES FOR INITIAL TERM**

Contractor, \_\_\_\_\_, agrees to perform the Services requested in this RFP in accordance with the Statement of Work for the following:

**INITIAL TERM:** \_\_\_\_\_ YEAR(S)

<b>NO. COST ELEMENTS</b>	<b>COST</b>
1. Hourly rate for partner	\$ _____
2. Hourly rate for senior attorney	\$ _____
3. Hourly rate for associate	\$ _____
4. Hourly rate for paralegal	\$ _____
5. Hourly rate for other(s)	\$ _____

Expenses:

State what expenses, if any, will be billed and the billable rate:

Contractors shall break down all elements of cost in such a manner that MHA will have an opportunity to fully understand the make-up of the Total Cost. Profit and overhead shall be stated as separate cost elements.

**ATTACHMENT II**  
**CONTRACTOR FORMS, AUTHORIZATIONS AND CERTIFICATIONS**

**A. HUD FORMS ATTACHED**

HUD Form 5369 – Instructions to Bidders

HUD Forms 5369 A – Representations and Certifications

HUD Form 5369 B – Instructions to Offerors Non-Construction

HUD Form 5370, Section I & II – General Conditions

HUD Form 50071 – Certification of Payments to Influence Federal Transactions

**B. CONTRACTOR AUTHORIZATIONS**

**1. CONTRACTOR AUTHORIZATION**

Contractor shall not assign any contract or any monies due therefrom without prior approval of the McKinney Housing Authority.

Unsigned proposals cannot be considered

CONTRACTOR IS SUBMITTING PROPOSAL UNDER THE NAME OF:

\_\_\_\_\_  
(Print Full Legal Name)

*(Contract will be issued and payment will be made only in the name above)*

ADDRESS: \_\_\_\_\_

CITY, STATE ZIP: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

TITLE: \_\_\_\_\_

PAYMENT ADDRESS: (If different from above address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FEIN: \_\_\_\_\_

**CONTRACTOR AUTHORITY**

I, \_\_\_\_\_ on behalf of (Print Name) (Name of Contractor)

DO HEREBY CERTIFY that I am authorized to execute and deliver, in the name and on behalf of the Contractor any agreement, or other instrument or document, in connection with any matter or transaction, the execution and delivery of any agreement, document or other instrument.

IN WITNESS THEREOF, I have set my hand this day of 2021.

Contractor Name:

STATE OF \_\_

COUNTY OF

The foregoing instrument was acknowledged before me this day of , 2021,

By \_\_\_\_\_ to me to be the person described in and who executed the foregoing instrument and acknowledge that he/she executed the same as his/her free and voluntary act of deed.

Notary Public

My Commission Expires:

---

## **C. CONTRACTOR CERTIFICATIONS**

### **1. CONTRACTOR'S ANTI-COLLUSIVE AFFIDAVIT**

A. The Contractor or any subcontractor to be used in the performance of this contract, or any affiliated entity of the Contractor or any such subcontractor, or any responsible official thereof, or any other official, agent or employee of the Contractor, any such subcontractor or any such affiliated entity, acting pursuant to the direction or authorization of a responsible official thereof has not, during a period of three (3) years prior to the date of execution of this Contractor's Affidavit or if a subcontractor or subcontractor's affiliated entity during a period of three (3) years prior to the date of award of the subcontract:

1. Violated any of the provisions of 18 U.S.C. §666 (a)(2).
2. Bribed or attempted to bribe, or been convicted of bribery or attempting to bribe a public officer or employee of MHA of the State of Texas, any agency of the federal government or any state or local government in the United States (if an officer or employee, in that officer's or employee's official capacity); or
3. Agreed or colluded, or been convicted of an agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
4. Made an admission of guilt of such conduct described in 1(a) and (b) above which is a matter of record but has not been prosecuted for such conduct.

B. The Contractor or any agent, partner, employee or officer of the Contractor is not barred from contracting with any unit of Federal, state or local government as a result of engaging in or being convicted of bid-rigging during a period of five (5) years prior to the date of submittal of this bid, proposal or response.

C. The Contractor or any agent, partner, employee, or officer of the Contractor is not barred from contracting with any unit of state or local government as a result of engaging in or being convicted of bid-rotating or any similar offense of any state of the United States which contains the same elements as the offense of bid-rotating.

D. Additionally, that the undersigned is the party making the foregoing proposal or bid, that such bid or proposal is genuine and not collusive, and that said bidder/proposer has not colluded, conspired, connived or agreed, directly or indirectly with any proposer or person, to put in a sham proposal or to refrain from proposing, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the proposal price of affiant or of any other proposer, to fix overhead, profit or cost element of said proposal price, or that of any other proposer and has not secured any advantage against the THA or any person interested in the proposed contract, nor has said proposer participated with any person or business entity in any collusive scheme to rotate proposals, provide any bribes, kickbacks to MHA employees in violation of any of the provisions of 18 U.S.C.

§666 (a)(1); or engage in bid rigging; that proposer is not barred from bidding on the subject contract as a result of applicable state law; and that all statements on said proposal are true. Under penalties of perjury as provided by law, the undersigned certifies that the statements set forth in this Contractor's Affidavit are true and correct.

E. The Contractor, its agent, officers or employees have not directly or indirectly solicited nonpublic information from a MHA officer or employee; entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal in violation of the law. Failure to submit this

statement as part of the bid/proposal will make the bid non-responsive and not eligible for award consideration.

**SUBCONTRACTOR'S ANTI-COLLUSION AFFIDAVIT**

A. The Contractor has obtained from all subcontractors to be used in performance of this contract, known by the Contractor at this time, certifications in form and substance equal to Sub-Section A of Section II of this affidavit.

B. The Contractor will, prior to using any subcontractor(s), obtain from such all subcontractor(s) to be used in the performance of this contract, but not yet known by the Contractor at this time certifications in form and substance equal to the certification Subsection A of Section II of this Affidavit. The Contractor shall not, without the prior written permission of the MHA, use any of such subcontractors in the performance of this contract if the Contractor, based on such certifications or any other information known or obtained by Contractor, becomes aware of such subcontractor, subcontractor's affiliated entity or any agent, employee or officer of such subcontractor or subcontractor's affiliated entity having engaged in or been convicted of any of the conduct described in Section II (A) hereof.

C. The Contractor will maintain on file for the duration of the contract all certifications required by Section II for any subcontractors to be used in the performance of this contract and will make such certifications promptly available to the THA upon request.

D. The Contractor will not, without the prior written consent of the MHA, use as subcontractors any individual, firm, partnership, corporation, joint venture or other entity from whom the Contractor is unable to obtain a certification in form and substance equal to the certification.

E. Contractor hereby agrees, if the MHA so demands, to terminate its subcontract with any subcontractor, if such Contractor or subcontractor was ineligible at the time that the subcontract was entered into for award of such subcontract. The Contractor shall insert adequate provisions in all subcontracts to allow it to terminate such subcontracts as required by this Section II.

## **CERTIFICATION REGARDING SUSPENSION AND DISBARMENT**

A. The Contractor certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal, state or local government or agency;

2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for: the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, Local) transaction or contract under a public transaction; a violation of Federal or State antitrust statutes; or the commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offense enumerated in Section II (A) (1) above; and

4. Have not within a three-year period preceding this Agreement had one or more public transactions (Federal, State or Local) terminated for cause or default.

B. If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall attach a detailed factual explanation to this certification.

C. If any subcontractors are to be used in the performance of this Contract, the Contractor shall cause such subcontractors to certify as to paragraph of this Certification. In the event that any subcontractor is unable to certify to any of the statements in this certification, such subcontractor shall attach a detailed factual explanation to this certification.

#### **4. CERTIFICATION OF RESTRICTION ON LOBBYING**

THE CONTRACTOR CERTIFIES THAT:

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

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of 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.

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

D. This certification is a material representation of fact upon which reliance is 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. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 or more than \$100,000 for each such failure.

## **EQUAL EMPLOYMENT OPPORTUNITY**

The Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR Part 60) require that each prospective contractor or proposed subcontractor submit the following information with his bid, or at the outset of negotiations.

A. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

YES NO

B. If answer to 1 is yes, have you filed with the Joint Reporting Committee, the Director of TDHCA, any Federal agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements of these organizations?

YES NO

## **6. DAVIS - BACON CERTIFICATION**

A. By the submission of this Affidavit, the Contractor hereby certifies that neither it nor any person or firm who has an interest in the

Contractor's firm is a person or firm ineligible to be awarded contracts by the United States Government or the MHA by virtue of Section 3(a) of the Davis-Bacon Act (29 CFR 5.12 (a) (1)).

B. No part of the Contract resulting from this solicitation shall be subcontracted to any person or firm ineligible to be awarded Contracts by the United States Government or the MHA by virtue of Section 3 (a) of the Davis-Bacon Act (29 CFR 5.12 (A) (1)).

C. Furthermore, the Contractor hereby certifies that the information contained in this Affidavit and representation, are accurate, complete and current. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

#### **7. SECTION 3 CERTIFICATION**

To the extent that the contract to be awarded to the Contractor involves construction and/or is a labor related contract (Section 3 contract pursuant to 24 CFR §135.1 et seq.), the Contractor hereby certifies that said Contractor will comply with all Section 3 regulations and any applicable MHA Board Resolution(s).

#### **8. INCORPORATION INTO CONTRACT AND COMPLIANCE**

The above certifications set forth in this Contractor's Affidavit shall become part of Contract this Proposal and incorporated by reference as if fully set forth therein. Further, the Contractor shall comply with these certifications during the term of the Contract.

**VERIFICATION**

Under penalty of perjury, I certify that I am authorized to execute this Contractor's Affidavit on behalf of the Contractor set forth on page 1, that I have personal knowledge of all the certifications made herein and that the same are true.

\_\_\_\_\_  
Signature of Authorized Officer

\_\_\_\_\_  
Name of Authorized Officer

STATE OF \_\_\_\_  
COUNTY OF

\_\_\_\_\_

The foregoing instrument was acknowledged before me this day of , 2021, by to me to be the person described in and who executed the foregoing instrument and acknowledge that he/she executed the same as his/her free and voluntary act of deed.

Notary Public  
My Commission Expires:

\_\_\_\_\_