



THE COMMUNITY AND ECONOMIC DEVELOPMENT ASSOCIATION OF COOK COUNTY, INC.

TERMS AND CONDITIONS

Invitation for RFQ Specification No. RFQ07212022

2023 Weatherization Single Family General Contractors

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PART A GENERAL CONDITIONS

ARTICLE 1: CONTRACT AND CONTRACT CONDITIONS

The Plans, Specifications and Addenda, hereinafter enumerated in Paragraph 1 of the Supplemental General Conditions shall form part of this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were herein fully set forth. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents is solely to facilitate reference to various provisions of the Contract Documents and in no way affect, limit or cast light on the interpretation of the provisions to which they refer.

ARTICLE 2: DEFINITIONS

- A. **RFQ** means a response to an REQUEST FOR QUALIFICATIONS containing all RFQ Documents and any other documents or information the RFQ is required to provide.
- B. **RESPONDENT(S)** means any person who submits a RFQ.
- C. **CEDA** means the Community and Economic Development Association of Cook CEDA, Inc. (hereinafter referred to as "CEDA.")
- D. **CEO** means the President and chief executive officer representative. Also referred to as President and CEO of CEDA or his/her duly authorized
- E. **CONTRACT** means the agreement between CEDA and the Contractor as set forth in the Contract Documents.
- F. **CONTRACT DOCUMENTS** means collectively the Advertisement for RFQ; Request for Qualifications and Execution Documents; Terms and Conditions; Labor and Rate Survey; Technical Specifications; Addenda, if any; Illinois Home Weatherization Assistance Program Field Standards (most current version); and all Requests for Price Proposals, Detailed Scopes of Work, Work Order, Plans and Drawings, Site Inspection Certificate, etc. issued pursuant to the Contract. The above documents shall be considered as one integrated document setting forth the obligations of the parties.
- G. **CONTRACTOR** means the Respondent who submitted the successful RFQ and it is the entity awarded the Contract.
- H. **IHWAP OR WEATHERWORKS CATALOG** The IHWAP Catalog is a comprehensive listing of construction related tasks together with a specific unit of measure and a published Unit Price.
- I. **DETAILED SCOPE OF WORK** means a document setting forth the work the Contractor is obligated to complete for a particular Work Order.
- J. **DAYS** mean calendar days unless otherwise specified in specific sections of the Contract Documents.
- K. **ESTIMATED ANNUAL VALUE** means an estimate of the value of each Contract issued in accordance with the Contract Documents.
- L. **JOINT SCOPE MEETING** means a meeting to discuss the work before the Detailed Scope of Work on an as needed basis is finalized.
- M. **LARGE CAPACITY** defines the contractors ability to complete a minimum of 6 single family projects a week or 30 a month

- N. **MINIMUM CONTRACT VALUE** means the minimum value of Work orders that the Contractor is guaranteed to receive under this Contract.
- O. **NON-PRE-PRICED TASK** means an item of work required by the Detailed Scope of Work but not included in the IHWAP catalog.
- P. **NORMAL WORKING HOURS** means the hours from 7:00 a.m. to 4:00 p.m. Monday through Friday, except for CEDA holidays.
- Q. **OPTION TERM** means an additional period of time beyond the Contract Term which extends the termination date of the Contract.
- R. **OTHER THAN NORMAL WORKING HOURS** means shall mean the Work that is to take place between the hours of 4:01 p.m. to 6:59 a.m. weekdays and all-day Saturday, Sunday, and Holidays.
- S. **PERCENTAGE RATE** means a competitively RFQ percentage adjustment to be applied to the Unit Price Market Analysis listed in the IHWAP Catalog.
- T. **PRE-PRICED TASK** means an item of work included in the IHWAP Catalog for which a Unit Price is given.
- U. **PRESIDENT** means the chief executive officer of CEDA or his/her duly authorized representative. Also referred to as President and CEO.
- V. **PROJECT** means, collectively, the improvements to be constructed by the Contractor pursuant to a Work Order, or a series of related Work Orders.
- W. **SCHEDULE** means the schedule submitted establishing time frames for the performance of components of the Work.
- X. **SITE** means the location(s) within which the Work will be performed under the Contract Documents.
- Y. **SMALL CAPACITY** defines the contractor's ability to complete a minimum of 2 single family projects a week or 10 a month
- Z. **SUBCONTRACTOR** means a person, firm or corporation supplying labor and materials or only labor for work at the site of the project for, and under separate contract or agreement with the Contractor.
- AA. **TECHNICAL SPECIFICATIONS** means the Technical Specifications contain written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.
- BB. **UNIT PRICE MARKET ANALYSIS** a calculated average of fair market cost of labor and material related to specific region
- CC. **WORK ORDER** means a written document requiring the Contractor to complete the Detailed Scope of Work within the work order Completion Time for the price, issued by CEDA.
- DD. **WORK ORDER COMPLETION TIME** means the time within which the Contractor must complete the Work order.

ARTICLE 3: ESTIMATED AMOUNT OF WORK

Whenever the Estimated Annual Value of labor and materials to be furnished under this contract to be shown in any of the documents including the proposal, they are given for use in comparing RFQs and the right is especially reserved except as herein otherwise specifically limited to increase or diminish it as may be deemed reasonably necessary or desirable by CEDA to complete the work contemplated by this

contract, and such increase or diminution shall in no way violate this contract, nor shall any such increase or diminution give cause for claims or liability for damages.

ARTICLE 4: CONTRACTOR'S OBLIGATIONS

A. The Contractor shall and will, in good workmanlike manner, do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this contract, within the time herein specified in accordance with the provisions of this contract and said specifications and in accordance with the plans and drawings covered by this contract any and all supplemental plans and drawings, and in accordance with the directions of CEDA as given from time to time during the progress of the work. He shall furnish, erect, maintain, and remove such construction plant and such temporary works as may be required.

B. Any Work performed on mobile homes must be performed by a Contractor or Subcontractor who is, in the sole opinion of CEDA, qualified to do the Work and has previous experience weatherizing mobile homes.

ARTICLE 5: RESPONSIBILITIES OF CONTRACTOR

A. Contractor shall provide services in accordance with the Scope of Work and Technical Specifications included in the Contract Documents. The Contractor must perform everything required to be performed and provide all of the labor, necessary tools, machinery, materials, schedules and other documents and all facilities for the construction of the Project as described herein and other work necessary to perform and complete in a workmanlike manner, and within the specified time, all of the Work in strict accordance with the Contract Documents. Contractor is solely responsible for selecting the means, methods, techniques, sequences, and procedures used in performing the Work in accordance with the IHWAP field standards.

B. The Contractor must contact the client within five (5) days after receipt of the work order. In addition, upon receipt of the work order, the Contractor must properly manage the project during the term of the Contract and any extension of it. Adequate, competent personnel who are fully equipped, licensed as appropriate, available as needed, and qualified to perform the Work.

C. The Contractor shall populate the allocated SharePoint calendar with the following dates; all client contact, walkthrough, architectural work start/finish, mechanical start/finish and rework call backs.

D. The Contractor is responsible for obtaining enough licenses or subscriptions to a construction management software or technology specified by CEDA for their field staff managing CEDA projects.

E. The Contractor is responsible for the coordination of the various parts of the Work so that no part is left in an unfinished or incomplete condition owing to any disagreement between the various Subcontractors or any of the Subcontractors and the Contractor. The Contractor must require each Subcontractor to become familiar with all provisions of the Contract Documents that may affect Subcontractor's work.

F. The Contractor shall at all times be responsible for the performance of the Work by its Subcontractors. The Contractor will manage and coordinate the Work of Subcontractors such that the Work progresses in an efficient, orderly and timely manner. In the event of any claim or dispute between Subcontractors, or any Subcontractor and Contractor, Contractor shall manage the resolution of any such claim or dispute. The Contractor shall at all times deal with its Subcontractors in good faith, and use all reasonable efforts to resolve claims or disputes in a prompt, cost-effective manner.

G. Contractor shall at all times be responsible for compliance with Enhanced Health and Safety Protocols.

ARTICLE 6: NON-DISCRIMINATION

Contractor shall not (1) fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his or her compensation , or the term, conditions, or privileges of his employment because of such individual race, color, religion, sex, age, handicap or national origin, and (2) limit segregate, or classify employees or applicants for employment in any way which deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individuals, race, color, religion, sex, age handicap or national origin.

ARTICLE 7: SUPERINTENDENCE BY CONTRACTOR

At the site of the work the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor by being able to communicate with ethnicity of the homeowner or legal representative of said property. It is understood that such representative shall be acceptable to CEDA and shall be one who can be continued in the capacity for the particular job involved unless he ceases to be on the job.

ARTICLE 8: SUBCONTRACTING

- A. The Contractor shall meet or exceed the self-performance requirements set forth in this IFB.
- B. The Contractor may utilize the services of specialty subcontractors on those parts of the work which, under normal contracting practices, are performed by specialty subcontractors.
- C. The Contractor shall not award any work to any subcontractor without prior written approval of CEDA. Approval will not be given until the Contractor submits to CEDA a written statement concerning the proposed award to the Subcontractor, which statement shall contain such information as CEDA may require.
- D. The Contractor shall be as fully responsible to CEDA for the acts and omissions of his Subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him
- E. The Contractor shall cause appropriate provisions to be inserted in all Subcontract relative to the work to bind Subcontractors to the Contractor by the terms of the General Conditions and other contract documents in so far as applicable to the work of Subcontractors to give the Contractor the same power in regards to terminating any Subcontract that CEDA may exercise over the Contractor under any provision of the contract documents.
- F. Nothing contained in this contract shall create any contractual relation between any Subcontractor and CEDA.
- G. New subcontractors must be approved by WX and Procurement. (Reference: Exhibit C Proposed Subcontractor: Adding and Removal).
- H. Subcontractors are required to have an active SAMs, DUNS number and all required licenses.
- I. Any Contractor choosing to 1099 any of their workers will subject those 1099 individuals to all sub-contractor compliance.

ARTICLE 9: PROPERTY OWNER AND/OR TENANT

CEDA is contracting for weatherization work to be performed on property owned by income eligible persons who have agreed to have the work performed, and in some cases, the property will be occupied by a tenant of the property owner. The Contractor agrees that he will indemnify and save the property owner and/or tenant or property upon which work is performed harmless from any and all parties including the Contractor himself, his employees, Subcontractors, and material suppliers.

ARTICLE 10: TIME IS OF THE ESSENCE

Contractor hereby acknowledge that time is of the essence in the performance of the services required under this Contract. Contractor agrees to perform the services with sufficient resources so as to perform the services without undue delay. Further, it agrees to aRFQe by time schedules agreed to in this or as a result of this Contract and throughout the implementation of the program.

ARTICLE 11: TIME FOR COMPLETION AND LIQUIDATED DAMAGES

- A. It is hereby understood and mutually agreed, by and between the Contractor and CEDA that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are ESSENTIAL CONDITIONS of this contract; and it is further mutually understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the "Notice to Proceed."
- B. The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof with the time specified. It is expressly understood and agreed, by and between the Contractor and CEDA that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.
- C. If the said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by CEDA, then the Contractor does hereby agree, as a part consideration for the awarding of this contract, to pay to CEDA the amount specified in the contract, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the contract for completion the work.
- D. The said amount is fixed and agreed upon by and between the Contractor and CEDA because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages CEDA would in such event sustain, and said amount is agreed to be the amount of damages which CEDA would sustain and said amount shall be retained from time to time by CEDA from current periodical estimates.
- E. It is further agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided, that the Contractor shall not be charged with liquidated damages or any excess cost when CEDA determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to CEDA. Provided, further, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:
 1. To any preference, priority or allocation order duly issued by the Government.

2. To unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, or of the public enemy, acts of CEDA, acts of another Contractor in the performance of a contract with CEDA, fires, flood, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather; and
 3. To any delays of Subcontractors or suppliers occasioned by any of the caused specified in subsections (a) and (b) of this article.
- F. Provided, further, that the Contractor shall, within ten (10) days from the beginning of such delay, unless CEDA shall grant a further period of time prior to the date of final settlement of the contract, notify CEDA in writing, of the causes of the delay and CEDA will notify the Contractor within a reasonable time of its decision in the matter.

ARTICLE 12: COMPLETION SCHEDULE

- A. Due to program completion requirements, contractors have a period of thirty (30) working days to complete all work associated with a Work Order, or as noted in the Notice to Proceed. Failure to complete projects within the time as indicated on the Notice to Proceed may result in removal from the Weatherization program. The liquidated damages for not completing the home on time are \$100 per day. The occurrence of five (5) job delay incidences will result in termination of the weatherization contract. Contractors must certify the receipt of this information in Form P. Upon completion, the Contractor must submit all documents mention is Exhibit H Contracting Invoicing Checklist.
- B. Deficiencies identified during final inspection must be corrected within **2 business** days of notification/receipt of deficiency.
- C. All work must be guaranteed for a period of one (1) year. The contractor must replace, without charge, any defective part or defect in workmanship within the warranty period. All invoices and proposals must list materials and labor costs separately.
- D. CEDA shall evaluate the progress of the work under the Agreement and if at the discretion of CEDA the work is not being performed action will be taken in accordance with Article 41 of the General Conditions: Right of CEDA to Terminate Contract.

ARTICLE 13: CONTRACTOR'S SCHEDULE

A. Schedule Overview

1. It is understood and agreed that TIME IS OF THE ESSENCE. When CEDA issues a Work Order, the Contractor agrees to begin Work and complete the Detailed Scope of Work in conformity with the provisions set forth herein and to execute the same with all due diligence, so as to complete the entire Detailed Scope of Work within the Work Order Completion Time. If the Contractor must use double shift, overtime or holiday time to maintain the approved schedule, the Contractor shall do so at no additional cost to CEDA.
2. As requested in a Work Order, the Contractor shall submit to CEDA for approval, a SCHEDULE to a shared calendar, for performing operations which will insure the satisfactory completion of the entire Detailed Scope of Work within the Work Order Timeline When approved and accepted by CEDA, the Contractor shall execute the Work within the Work Order Timeline.
3. If the rate of progress is such that the total amount of work accomplished by the Contractor within any time mentioned in such approved TIME SCHEDULE is less than the amount therein specified to be completed within such time, then CEDA may require the Contractor to provide a plan for completing the remaining Detailed Scope of Work within the remaining Work order timeline

B. Schedule Detailed Deliverable:

1. The Construction Schedule shall be a detailed form and shall (i) provide graphic representation of all activities and events that will occur during the performance of the Work; (ii) identify each phase of construction and occupancy; and (iii) show critical Milestone Dates. Upon approval by CEDA, the Construction Schedule shall be deemed a Contract Document. If not approved, the General Contractor shall promptly revise the Construction Schedule in accordance with the requirements of IHWAP and resubmit for approval. The General Contractor shall monitor the progress of its Work for conformance with the Construction Schedule and promptly submit to CEDA a written progress report of any delays or potential delays. Compliance with the Construction Schedule is a condition precedent to receiving payment or additional work orders. The Construction Schedule shall be updated to reflect actual conditions or as requested by CEDA. If any report indicates delays or potential delays, the General Contractor shall propose a plan to correct the delay, including overtime and/or additional labor. A progress report shall not constitute an adjustment in the Work Order Completion Time or any Milestone Date(s).
2. If CEDA determines that (i) the Work has failed to progress or reach the level of completion required by the Contract Documents, and (ii) such failure is the fault of the Contractor, CEDA may, at no cost to the agency, order the Contractor to take necessary corrective action to expedite the progress of the Work including without limitation (1) additional shifts or overtime; (2) additional manpower, equipment and facilities; and (3) similar measures. If so ordered, such measures shall continue until the Work is in conformance with the requirements of the Detailed Scope of Work and approved schedule. Contractor shall not be entitled to an adjustment of the Work Order Price for the cost of such corrective action.

ARTICLE 14: CORRECTION OF WORK

All work, all materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the inspection by CEDA who shall be the final judge of the quality and suitability of the work, materials, processes of manufacture, and methods of construction for the purposes for which they are used. Should they fail to meet this approval they shall be forthwith reconstructed, made good, replaced and/or corrected, as the case may be, by the Contractor at his own expense. Rejected material shall immediately be removed from the site. If, in the option of CEDA, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as in the judgment of CEDA shall be equitable.

ARTICLE 15: CHANGES IN THE WORK

- A. No changes in the Work covered by the approved Contract Documents shall be made without having prior approval of CEDA. Additional payment, charges, or credits for the work covered by the approved change shall be determined by One or more or a combination of the following methods:
 - a. Unit proposal prices previously approved
 - b. An agreed upon lump sum
- B. The policy for controlling change orders mandates that anytime a deviation is required on the work order, either omitting or adding material and/or labor to the job, the contractor must submit a request for the change to the Contractor Relations department for Mechanical Change Orders and Architectural Change Orders. If the Quality Control Inspector initiates a change order as the results of a failed final

inspection, a new run of the work order and the SIR screen reflecting the changes must be made and include a formal change order page.

- C. Change Orders must be approved by CEDA Contractor Relations Department before said changes can be made (this will hold for deletions as well as additions). The Change Order form will be filled out in its entirety and will be submitted to the agency for approval.

ARTICLE 16: EXTRAS

Without invalidation of the contract, CEDA may order extra work or make changes by altering, adding to, or deducting from the work, the contract sum being adjusted accordingly, and the consent of the surety being first obtained where necessary or desirable. All the Work of the kind proposal upon shall be paid for at the price stipulated in the proposal and no claims for extra work or materials shall be allowed without prior approval by CEDA.

ARTICLE 17: PROTECTION OF WORK AND PROPERTY EMERGENCY

- A. The Contractor shall at all times safely guard the property owner's property from injury of loss in connection with this contract. He shall at all times safely guard and protect his own work, and adjacent property. He shall replace or make good any damage, loss or injury unless such be caused by the property owner or occupier of the property.
- B. In case of an emergency which threatens loss or injury of property, and/or safety of life, the Contractor will be allowed to act, without previous instructions from CEDA in a diligent manner. He shall notify CEDA immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to CEDA for approval.
- C. Where the Contractor has not taken action but has notified CEDA of an emergency threatening injury to persons or damage to the work or any adjoining property, he shall act as instructed or authorized by CEDA.
- D. The amount of reimbursement claimed by the Contractor on account of an emergency action shall be determined in the manner provided in Article 15 of the Terms and Conditions.
- E. In case of an emergency which threatens loss or injury of property; and/or safety of life and the Contractor is unavailable or otherwise unable or unwilling to act, CEDA may act and deduct the cost of the action from the amount due to the Contractor.
- F. All Contractors must provide a 24-hour Emergency contact number to CEDA.

ARTICLE 18: PAYMENT TO CONTRACTOR

- A. Upon the completion of the Work Order, the Contractor shall submit to CEDA a request for final payment for the work. CEDA shall make final inspections of all work under the Contract and after determination that the work has been satisfactorily completed, shall authorize payment based upon the Work Order Amount and any written changes in work.
- B. Lien Waiver and Affidavit: By agreeing to perform weatherization work the contractor agrees to the following terms and agrees to pass along the following requirements to their sub-contractors and vendors:
 - 1. The contractor agrees that they will not, under any circumstances, seek payment from the owner or occupant of the premises improved.

2. The contractor shall not file, suffer or permit any lien or other encumbrance of record as a claim against any site of a weatherization project in recognition that the only recourse for payment is from CEDA.
 3. Signed master release of lien is required for all parties providing labor under a weatherization contract. The contractor agrees to inform any sub-contractor providing labor to a weatherization property, prior to engaging such sub-contractors, that releases of lien waivers are required in order for the contractor to invoice CEDA for weatherization services completed.
- C. Contractors will submit invoices and supporting documents prior to final inspections. See Exhibit H Contractor Invoicing Checklist should be submitted to:

CEDA Weatherization Department
567 W. Lake Street Suite 1200
Chicago, IL 60661

- D. Once the invoice(s) are approved by the Department it will be forwarded to Accounts Payable (AP). CEDA will process payment within forty-five (45) days after AP receives the invoices and any supporting documents necessary to verify cost. Unacceptable work resulting in call-backs to the home will can slow final payment for services rendered. Payment could also be delayed if CEDA's funding source is delayed.
- E. CEDA Right to Withhold Certain Amounts and Make Application Thereof: The Contractor agrees that he will indemnify and save CEDA harmless from all claims growing out of the lawful demands of contractors, labors, workmen, mechanic, material, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this contract. The Contractor shall, at CEDA request, furnish satisfactory evidence that all obligations of the nature herein above designed have been paid, discharged, or waived. If the Contractor fails to do so, then CEDA may, after having served written notice on the said Contractor, either pay unpaid bills, of which CEDA has written notice, direct, or withhold form the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged where-upon payment to the Contractor shall be resumed, in accordance with the terms of this contract, but in no event shall the provisions of the sentence be constructed to impose any obligations upon CEDA to either the Contractor or his Surety. In paying any unpaid bills of the Contractor, CEDA shall be deemed the agent of the Contractor, and any payment so made by CEDA shall be considered as a payment made under the contract by CEDA to the Contractor and CEDA shall not be liable to the Contractor for any such payments made in good faith.

ARTICLE 19: ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

The acceptance by the Contractor of final payment shall be and shall operate as a release to CEDA all claims and liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of CEDA and others relating to or arising out of this work. No payment, however, final or otherwise, shall operate to release the Contractor or his sureties from any obligation under this contract or the Payment and Performance Bond.

ARTICLE 20: USE OF PREMISES AND REMOVAL OF DEBRIS

- A. The Contractor expressly undertakes at his own expense:
1. to take every precaution against injuries to persons or damage to property:

2. to store his apparatus, supplies and equipment in such orderly fashion at the site of the work as will not duly interfere with the progress of his work or the work of any other contractors
3. to place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work
4. to clean up frequently all refuse, rubbish, scrap materials, and debris caused by his operations to the end that at all times the site of the work shall present a neat, orderly and workman-like appearance
5. before final payment to remove all surplus material, false-work, temporary structures, including foundations thereof, and debris of every nature resulting from his operations, and to put the site in a neat, orderly condition
6. to effect all cutting, fitting or patching of his work required to make the same to conform to the plans and specifications, and except with the consent of CEDA not to cut or otherwise alter the work of any other Contractor.

ARTICLE 21: GENERAL GUARRANTY

Neither the final certificate of payment nor any provision in the Contract Documents, nor partial or entire occupancy of the premises by the property owner and/or tenant, shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility of faulty materials or workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting from, which shall appear within a period of one year from the date of final acceptance of the work unless a longer period is specified. CEDA will give notice of observed defects with reasonable promptness.

ARTICLE 22: INSPECTION

The authorized representatives and agents of the State of Illinois Department of Commerce and Economic Opportunity (DCEO) shall be permitted to inspect all work, materials, and other relevant data and records.

ARTICLE 23: CONTRACTOR EVALUATION AND DISCIPLINARY GUIDELINES

Contractors will be evaluated by CEDA for adherence to standards at a minimum of once a year and more frequently as required at CEDA's discretion. Contractors are subject to disciplinary action including suspension and dismissal for failure to perform as specified in this contract and for quality lapses as determined by CEDA, and DCEO.

ARTICLE 24: WEATHER CONDITIONS

In the event of temporary suspension of work, or during inclement weather, or whenever CEDA shall direct, the Contractor will, and will cause his Subcontractors to protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of CEDA, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of his Subcontractors so to protect his work, such materials shall be removed and replaced at the expense of the Contractor.

ARTICLE 25: SUBSURFACE CONDITIONS FOUND DIFFERENT

Should the Contractor encounter subsurface and/or latent conditions at the site materially differing from those shown on the Plans or indicated in the Specifications, he shall immediately give notice to CEDA of such conditions before they are disturbed. CEDA will thereupon promptly investigate the conditions and if

they find that they materially differ from those shown on the Plans or indicated in the Specifications, they will at once make such changes in the Plans and/or Specifications as they may find necessary, and increase or decrease the cost resulting from such changes to be adjusted in the manner provided in Article 15 of the Terms and Conditions.

ARTICLE 26: CONFLICTING CONDITIONS

Any provisions in any of the Contract Documents which may be in conflict or inconsistent with any of the paragraphs in these General Conditions shall be void to the extent of such conflict or inconsistency.

ARTICLE 27: REPORTS, RECORDS, AND DATA

The Contractor shall submit to CEDA such schedule of quantities and costs, progress schedules, payrolls, reports, estimated, records, and other data as CEDA may request concerning work performed or to be performed under this contract.

ARTICLE 28: ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

The Contractor will be furnished additional instructions and detailed drawings as necessary to carry out the work included in the contract. The additional drawings and instructions thus supplied to the Contractor will coordinate with the contract documents and will be so prepared that they can be reasonably interpreted as part thereof. The Contractor shall carry out the work in accordance with the additional detailed drawings, and instructions. The Contractor and CEDA will prepare jointly (a) a schedule, fixing the dates at which special detailed drawings will be required, such drawings, if any, to be furnished by CEDA in accordance with said schedule, and (b) a schedule fixing the respective dates for the submission of shop drawings, the beginning of manufacture, testing and installation of materials, supplies and equipment, and the completion of the various parts of the work; each such schedule to be subject to change from time to time in accordance with the progress of the work.

ARTICLE 29: MATERIALS, SERVICES, AND FACILITIES

- A. It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintending, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the work within the specified time.
- B. Any work necessary to be performed after regular working hours, on Sundays or Legal Holidays, shall be performed without additional expenses to CEDA.

ARTICLE 30: CONTRACTOR'S TITLE TO MATERIALS

No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The contractor warrants that he has good title to all materials and supplies used by him in the work, free from all liens, claims or encumbrances.

ARTICLE 31: INSPECTION AND TESTING OF MATERIALS

- A. All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by CEDA. The Contractor will pay for all laboratory inspection service direct and not as a part of the contract.

- B. Materials of construction, particularly those upon which the strength and durability of the structure depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.

ARTICLE 32: PRODUCT SPECIFICATIONS

- A. When specific manufacturer and model numbers are used, they are to establish a design, type of construction, quality, functional capability and/or performance level desired. When alternates are RFQ, they must be identified by manufacturer, stock number, and such other information necessary to establish equivalency. RFQders/Responders are cautioned to avoid RFQing alternates to the specifications that may result in rejection of their RFQ/proposal.
- B. **Standards for Weatherization Material:** Each product listed must meet the specifications set by CEDA and in compliance with 10 CFR 440 Standards for Weatherization Materials issued by the Department of Energy. These standards are included as Appendix C of this document. Any products offered by individuals that do not meet those specifications will be rejected. Selected Responders may submit a product exceeding such specifications. If the selected Responders do not submit the documentation, such superiority will not be given special consideration during the evaluation.
- C. **Product Standards:** The materials that Suppliers will supply, must meet or exceed all standards established by the federal government or by CEDA if such requirements exceed minimum federal standards. The minimum standards established by the federal government are presented in the Department of Energy's 10 CFR 440, Standards for Weatherization Materials (Appendix C). Specific standards as established by CEDA are incorporated in the list of materials to be procured as presented in the RFQ Forms.
 - 1. **Energy Saving Windows:** Replacement windows shall have a window unit U-value of 0.32 or less as rated by the National Fenestration Rating Council (NFRC). U-Value shall be window unit and not center of glass U-value.
 - 2. **Foam Application:** It is required that two-part foam or one-part foam applied with a gun be used instead of canned foam for air-sealing work. This results in a faster application, better seal, and greater energy savings.
- D. **Use of Name Brand:** A brand name, which may be mentioned in specifications, does not indicate a preference and is used only as a reference to the type of materials desired. If such references are made, the specific features of the named brand, which must be met, will also be stated. CEDA reserves the right to determine whether brands other than the named brands are within the intent of the specifications and will reasonably meet service requirements. If necessary, the RFQder may be required to submit technical data to determine conformance with the specific features that must be met.
- E. **Quality:** Unless otherwise indicated in the request, all material shall be of first quality. Items which are used, demonstrators, obsolete, seconds or which have been discontinued are unacceptable without prior written approval from the Agency.
- F. **Safety Data Sheets:** Suppliers must supply CEDA with Safety Data Sheets (SDS) for all materials. If recycled cellulose insulation is used, vendors must sign a certificate stating same. If any item(s) on an order(s) resulting from this award is a hazardous chemical, as defined under 29CFR 1910.1200, provide one copy of a Safety Data Sheet for each item with the shipped container(s) and one copy with the invoice(s).
- G. **Appliances:** The Contractor or suppliers of any appliances are required to deliver purchases to the weatherization job site. It is the General Contractors responsibility to schedule such delivery and to

ensure that the appliance is delivered within the terms and conditions agreed upon. Suppliers will receive notification for delivery including location, contact name and phone number for the delivery. It is the Labor Contractors responsibility to ensure delivery is received. Verification of delivery must be provided to the Labor Contractor at the time of delivery. Applies to any appliance using a refrigerant.

CEDA Weatherization contractors must submit a documentation confirming decommission/removal of said appliance with Contractor paperwork at time of job completion. At a minimum, the certificate must include the address of the unit removed, the device manufacturer, model number, year, serial number and proof of decommission.

1. Appliance Service Requirement: Deliveries must include complete installation into home, including leveling of new appliance. All refuse related to delivery, including appliance packing materials, must be removed at the time of installation.
 - (a) **“Lemon Law”**. If the unit fails three times for the same problem that originates from the manufacturer and/or repair, the vendor must replace the appliance at no cost to the customer. (Note: this is different from requiring a replacement if the customer calls to complain three times)
 - (b) **Recall**. The Labor Contractor MUST notify CEDA once they have been made aware of a manufacturing defect. The manufacturer is required to fix the defect BEFORE the unit fails rather than just fixing the units as they fail.
 - (c) **Manufacturing Defects**. If refrigerator or freezer fails due to manufacturing defects during the time of warranty, customer must be reimbursed for cost of food spoilage due to appliance failure.
 - (d) **Pre-testing**. Installers are to make sure that all units are operational before the delivery crew leaves the home.
 - (e) **Consumer protection**. Customer rights and protections are only good if the customer is aware that they exist. The customer must receive the appliance manual, all warrantee information and contact information for both the manufacturer and installer.
 - (f) **Repairs**. The installer is responsible to make repairs or provide financial compensation within seven (7) working days for any damage done to either the appliance or the home.
 - (g) **Wait time for repairs**. If the customer has to wait more than three days for a repair part, the supplier must provide a loaner to the family.
 - (h) **Customer courtesy**. Customers must be treated as if they bought the appliance themselves and not intimidated in any way. Foul language will not be tolerated. The customer is to be given a reasonable time frame for their delivery, and a courtesy phone call must be made if they are running very late.
 - (i) **Appliance Removals**. The appliances must be disposed of according to the environmental standards in the Clean Air Act (1990), Section 608, as amended by Final Rule, 40 CFR 82, May 14, 1993, USC Title 42, Section 7671g. The entity recovering the refrigerant must possess an EPA-approved Section 608 Type I license or an approved universal certification. The old appliance(s) must be rendered inoperable through recycling and may not be resold, rented, or reused in any fashion. This Act makes it unlawful for any person to dispose of refrigerants in a manner in which they will be allowed to enter the environment. All appliances removed from clients' homes must be taken to a recycling facility. **The serial number for the removed unit must be indicated on the receipt or certificate**. Contractors must obtain a certificate or receipt indicating the appliance has been accepted by the recycling facility. Appliances removed from clients' homes may not be sold, given away or returned to service in any manner.

CEDA Weatherization Contractors must submit demanufacturing/decommission certificate or receipt from the EPA facility within thirty (30) days of job completion. At a minimum, the certificate must include the address of the unit removed, the device manufacturer, model number, year, serial number and proof of demanufacturing.

- H. **Inspection:** Materials purchased can be inspected by CEDA to determine conformity with the quality requirements of the call for RFQs. When deemed necessary, CEDA may require documentation (i.e. product literature prepared by the manufacturer) detailing the product specifications for the purposes of determining whether the material conforms, in all aspects, to the required specifications as set forth herein. In cases where the documentation indicates the material does not meet the specifications, the successful vendor must remedy the deficiency or the balance of the order thereof may be canceled by CEDA.
- I. **Warranty:** Unless otherwise specifically stated by the CEDA, the following Contractor warrants that the products will be new and not refurbished. The Contractor warrants that the products will be free from defects and will meet the product specifications stated.
1. **Equipment** – purchased as a result of this RFQ shall be warranted for a minimum of one (1) year from the date of Final Inspection Pass. The equipment manufacturer's standard warranty shall apply as a minimum and must be honored by the vendor for that period.
 2. **Product** – requires a warranty of at least one year.

ARTICLE 33: "OR EQUAL" CLAUSE

Whenever a material, article or piece of equipment is identified on the plans or in the specifications by reference to manufactures' or vendor's names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and, any material, article, or equipment of other manufactures and vendors, which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed, is, in the opinion of CEDA of equal substance and function. It shall not be purchased or installed by the contractor without CEDA's written approval.

ARTICLE 34: PATENTS

- A. The Contractor shall hold and save CEDA and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expense for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract, including its use by CEDA unless otherwise specifically stipulated in the contract Documents.
- B. License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by CEDA of the project must be reasonable, and paid to the holder of the patent, or his authorized licensee, by CEDA and not by or through the Contractor.
- C. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with CEDA of such patented or copyright design, device, or material. It is mutually agreed and understood, that, without exception, the contract price shall include all royalties or costs arising from the use of such design, device, or materials, in any way involved in the work. The Contractor and/or his Sureties shall indemnify and save harmless CEDA of the project from any and all claims for infringement by reasons of the use of such patented or copyrighted design, device, or materials, or any trademark or copyright in connection with work agreed to be performed under this contract, and shall indemnify CEDA for any cost, expense, or damage which it may be

obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

ARTICLE 35: CLAIMS FOR EXTRA COST

No claim for extra work or cost shall be allowed unless the same was done in pursuance of a written order as approved by CEDA, as aforesaid, and the claim presented with the first estimate after the changed or extra work is done. When changes in the work are performed under, the Contractor shall furnish satisfactory bills, payrolls, and vouchers covering all items of cost and when requested by CEDA access to accounts relating there to.

ARTICLE 36: CLAIMS AND DISPUTES

A. **Claims:** If the Contractor has a claim regarding a question of fact arising under this Contract, the Delegate may submit a request for resolution to the CEDA Program Director. The request must be in writing and must include the specific issue(s) that are in question, the relevant facts and documentation, and whether the Contractor wishes to meet informally with the CEDA Program Director regarding the claim. The CEDA Program Director shall contact the Delegate regarding the date, time, and place for the informal meeting. Within thirty (30) days from receipt of the request for resolution or the informal meeting, whichever is later, the CEDA Program Director or his/her duly authorized representative shall issue a written decision and mail or otherwise furnish the decision to the Contractor. The decision of the CEDA Program Director or his/her duly authorized representative shall be final unless the Contractor mails or otherwise furnishes a written request for dispute resolution to the CEDA Chief Executive Officer (CEO) within fifteen (15) days from the date the Contractor received the decision from the CEDA Program Director or his/her duly authorized representative.

B. **Disputes:**

1. The Contractor's written dispute resolution request must include the issues the Contractor disputes from the decision from the CEDA Program Director or his/her duly authorized representative, the relevant facts and documentation, and whether the Contractor wishes to meet informally with the CEDA CEO regarding the appeal. The CEO may appoint the Director of Procurement to review the dispute. The CEDA CEO or authorized designee will contact the Contractor regarding the date, time, and place for the informal meeting. Within thirty (30) days from the receipt of the appeal or the informal meeting, whichever is later, the CEDA CEO or his/her duly authorized representative shall issue a written decision and mail or otherwise furnish it to the Contractor. The decision of the CEDA CEO shall be final and conclusive unless otherwise determined by a court of competent jurisdiction.
2. The Contractor shall proceed diligently with the performance of the Contract in accordance with the CEDA Program Director's decision pending a final decision from the CEDA CEO.
3. This Disputes Section does not preclude consideration of law questions in connection with decisions provided for in this paragraph, provided that nothing in this Contract shall be construed as making final the decision of any administrative official representative, or board on question of law.

ARTICLE 37: EVENTS OF DEFAULT

The Contractor's failure to perform any of its obligations under the Contract, including but not limited to the following, are events of default:

1. failure to begin the Services at the time specified;

2. failure to perform the Services in accordance with the Contract;
3. failure to perform the Services with sufficient personnel, equipment, or materials to ensure the compliance with program requirements;
4. persistent or repeated refusal or failure (except in cases for which extension of time is provided) to supply adequate trained personnel or proper materials;
5. unauthorized discontinuance of the Services;
6. failure to make prompt payment to authorized Subcontractors, if any;
7. failure to submit all documents required by the Contract or CEDA, including but not limited to timely submission of payment requests;
8. failure to perform the Services in a manner acceptable to CEDA or in a manner that does not comply with all laws applicable to the Services.
9. persistently disregarding laws, ordinances, or instructions of CEDA, or,
10. failure to comply with any other term of the Contract that states an event of default or otherwise engages in a substantial violation of any provision of the Contract.
11. interruption or delay of Services for reasons within the Contractor's control;
12. failure to comply with federal, state, or local safety requirements;
13. the Contractor's default on a Contract with CEDA or its funding agencies;
14. the Contractor's failure to be licensed as required;
15. Contractor becomes insolvent or bankrupt, attempts assignment of all or any part of the proceeds of this Contract makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of insolvency any of which negatively impacts Contractor's ability to pay Subcontractor or perform the Services;
16. failure to perform on any CEDA Contract;
17. failure to maintain all applicable licenses for performance under this Contract and/or failure of Subcontractors performing the Work to not have the applicable license;
18. failure to obtain all applicable permits prior to performing permit-related work;
19. failure to meet or exceed the performance standards set forth in the Terms and Conditions;
20. failure to comply with SAMS and DUNS requirements.

ARTICLE 38: RIGHT OF CEDA TO TERMINATE CONTRACT

In the event that any of the provisions of the contract are violated by the Contractor, or by any of his subcontractors, CEDA may serve written notice upon the Contractor and the Surety of its intention to terminate the contract, such notices to contain the reasons for such intention to terminate the contract, and unless within ten (10) days after the serving of such notice upon the Contractor, such violation or delay shall cease and satisfactory arrangement of correction be made, the contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, CEDA shall immediately serve notice thereof upon the Surety and the Contractor and the Surety shall have the right to take over and perform the contract; Provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of mailing to such Surety of notice of termination, CEDA may take over the work and prosecute the same to completion by contract or by force account for the account and at the

expense of the Contractor and the Contractor and his Surety shall be liable to CEDA for any excess cost occasioned CEDA hereby, and in such event CEDA may take possession of and utilize in completing the work, such materials, appliances, and plans as may be on the site of the work and necessary therefore.

ARTICLE 39: TERMINATION

Either party may terminate this Contract upon giving the other parties thirty (30) days written notice of its intent to terminate the Contract. Written notice shall be effective when received by the non-terminating parties either by way of facsimile transmission, by messenger delivery or through the United States mail. In the event that any party gives notice of the termination pursuant to this paragraph, the parties shall continue to render their services until the date of termination and shall be paid their regular compensation up to the date of termination. Should this happen, all parties will provide all reasonable efforts to mitigate damages and prevent unnecessary expenditure of funds.

- A. **Termination for Cause.** Without limiting the generality of the foregoing, CEDA may terminate contract immediately upon giving written notice of default to Contractor pursuant to the paragraph above if any of the events of default listed above occur. Notwithstanding anything to the contrary, CEDA may terminate this Contract, immediately without giving any notice to Contractor for the following:
 - 1. Conditions caused by Contractor exist that are detrimental to the health and safety of CEDA clients or staff at the site being served.
 - 2. Contractor files for bankruptcy or voluntary or involuntary dissolution.
- B. **Termination for Convenience.** In addition to any other rights of termination or other remedies available to CEDA under the Contract, at law, or in equity, CEDA may, by written notice, terminate this Contract in whole or in part at any time, for the convenience of CEDA or the Federal Government. Upon Contractor's receipt of such notice, Contractor will immediately cease to perform Services (unless otherwise directed in the notice) and deliver to CEDA all materials, equipment, and supplies as may have been accumulated in the performance of this Contract, whether completed or in process. The Contractor will be paid an equitable portion of the Contract price for Services performed prior to the effective date of termination, but no amount will be allowed for anticipated profit on unperformed Services. If this Contract has been terminated for Contractor's default and it is determined that the Contractor did not default, the termination will be deemed to have been effected hereunder.
- C. **Compensation upon Termination:** CEDA will compensate Contractor for services satisfactorily performed prior to the effective date of termination. Contractor shall, within 60 days of the termination effective date, submit a final invoice with appropriate supporting documentation.

ARTICLE 40: OTHER REMEDIES

In the event that Contractor breaches this CONTRACT, CEDA shall have all remedies available to it under Illinois law.

- A. **Notice to Cure.** The President & CEO may provide the Contractor the opportunity to cure the default. The Contractor must cure the default within 10 Days of receipt of the Notice from the President & CEO, or authorized designee, or such time period stated in the Notice to Cure. If the President & CEO does not receive written acknowledgement from the Contractor that it will cure the default within the stated cure period or if the Contractor does not act to cure the default, the President & CEO may terminate the Contract upon consultation with the Program Director, in which event the termination of the Contract is final and effective.

- B. Performance & Compensation Remedies:** In the event of a default by Delegate, CEDA, in its sole discretion, may send the Contractor notice of CEDA's intent to exercise any or all of the remedies below.
1. The right of set-off against any payments due or to become due to the Contractor.
 2. The right to take over and complete the Services, or any part thereof, either directly or through others, and to hold the Contractor liable for any amounts paid for such Services above those amounts CEDA would have paid the Contractor for that same Services
 3. CEDA may use the Contractor's Subcontractors, if any, materials, and equipment to complete the Services. Upon CEDA's notification to the Contractor invoking this remedy, any and all rights the Contractor may have in or under its sub-Contracts are assigned to CEDA. The Contractor must promptly deliver such documents upon CEDA's request. In case of any sub-Contract so assigned and accepted by CEDA, the Contractor remains liable to the Subcontractor for any payment already invoiced to and paid by CEDA, and for any claim, suit, or cause of action based on or resulting from any error, omission, negligence, fraud, willful or intentionally tortious conduct, or any other act or omission, or breach of Contract, by the Contractor, its officers, employees, agents, and other Subcontractors, arising prior to the date of assignment to CEDA, when such claim, suit, or cause of action has not been discharged, disposed of, or otherwise resolved as of that date. The Contractor must notify its Subcontractors of these requirements.
 4. The right to terminate the Contract as to any or all of the Services yet to be performed.
 5. The right of specific performance, an injunction, or any other appropriate equitable remedy as may be applicable.
 6. The right of money damages, including, but not limited to all expert witness or other consultant fees, court costs, and attorney's fees which CEDA may incur in connection with any claim, suit, or action based upon, related to, or arising from, directly or indirectly, an event of default hereunder.
 7. The right to withhold all or any part of the Contractor's compensation yet to be paid by CEDA.
 8. The right to terminate any or all other Contracts that Delegate may have with CEDA.
 9. The right to deem the Contractor non-responsible in future Contracts to be awarded by CEDA.
- C. Non-exclusivity of Remedies.** The remedies under the terms of this Contract are not intended to be exclusive of any other remedies, but each and every remedy is cumulative and is in addition to any other remedies, existing now or hereafter, at law or in equity. No delay or omission to exercise any right or power accruing upon any event of default impairs any such right or power, nor do they waive any event of default or acquiesce thereto, and every such right and power may be exercised by CEDA from time to time and as often as may be deemed appropriate.
- D. Suspension of the Work.** CEDA has authority to suspend the Services, wholly or in part, for such period of time as CEDA may deem necessary due to conditions unfavorable for the satisfactory prosecution of the Services, or conditions which, in CEDA's opinion, warrant such actions; or for such time as is necessary to carry out directions given by CEDA Representative; or to perform any or all provisions of the Contract. The Contractor will not receive compensation for suspension of part of the Services, except of unavoidable expenses agreed to by CEDA. The Contractor must not suspend Services without written consent from CEDA.
- E. Court Adjudication of Termination.** If the Contract is terminated by CEDA for cause and it is subsequently determined by a court of competent jurisdiction that such termination, an early termination, was without cause, such termination will thereupon be deemed under "Termination for

Convenience,” and the provisions of that Section apply. The parties agree that any suit stemming from this Contract shall be initiated in the Circuit Court of Cook County, 50 West Washington Street, Chicago, Illinois 60601.

ARTICLE 41: NOTICES

Any notice or other written submission required or permitted shall be directed to the specific person designated below: Communications that are not properly directed to the persons designated shall not be binding. The individuals designated below shall be the only individuals eligible to receive any and all written notices under this CONTRACT.

IF TO CEDA: WITH COPIES TO:

CEDA

John Pady
Director of Weatherization
567 W. Lake Street Suite 1200
Chicago, IL 60661

Harold Rice
President/Chief Executive Officer
567 W. Lake Street Suite 1200
Chicago, IL 60661

And

Procurement
567 W. Lake Street Suite 1200
Chicago, IL 60661

CONTRACTOR

ARTICLE 42: ADDITIONAL OR SUBSTITUTE BOND

If at any time CEDA for justifiable cause shall be or become dissatisfied with any surety or sureties, then upon the Payment and Performance Bond, the Contractor shall within five (5) days after notice from CEDA to do so, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to CEDA. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished such an acceptable bond to CEDA.

ARTICLE 43: ASSIGNMENTS

The Contractor shall not assign the whole or any part of this contract or any moneys due or to become due hereunder without written consent of CEDA. In case the Contractor assigns all or any part of any moneys due or to become due under this contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any moneys due to or become due to the Contractor shall be subject to prior claims of all persons, firms and corporations of services rendered or materials supplied for the performance of the work called for in this contract.

ARTICLE 44: MUTUAL RESPONSIBILITY OF CONTRACTORS

If, though acts of neglect on the part of the Contractor, any other Contractor or any Subcontractor shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractor or Subcontractor by agreement or arbitration if such other Contractor or Subcontractor will so settle. If such other Contractor or Subcontractor shall assert any claim against CEDA on account of any damage alleged to have been sustained, CEDA shall notify the Contractor, who shall indemnify and save harmless CEDA against any such claim.

ARTICLE 45: SEPARATE CONTRACT

The Contractor shall coordinate his operations with those of other Contractors. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the work. The Contractor, including his subcontractors and shall keep informed of the progress and the detail work of other Contractors and shall notify CEDA immediately of lack of progress or defective workmanship on the part of other Contractors. Failure of a Contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by him of the status of the work being satisfactory for proper coordination with his work.

ARTICLE 46: CEDA AUTHORITY

- A. CEDA shall give all orders and directions contemplated under this contract and specifications, relative to the execution of the work. CEDA shall determine the amount, quality, acceptability, and fitness of the several kinds of work and materials which are to be paid for under this contract and shall decide all questions which may arise in relation to said work and the construction thereof. CEDA's estimates and decisions shall be final and conclusive, except as herein otherwise expressly provided. In case any questions shall arise between the parties hereto relative to said contract or specifications, the determination or decision of CEDA shall be a condition precedent to the right of the Contractor to receive any money or payment for work under this contract affected in any manner or to any extent by such question.
- B. CEDA shall decide the meaning and intent of any portion of the specifications and of any plans or drawings where the same may be found obscure or be in dispute. Any differences or conflicts in regard to their work which may arise between the Contractor under this contract and other Contractors performing work for CEDA shall be adjusted and determined by CEDA.

ARTICLE 47: NOTICE AND SERVICE THEREOF

Any notice to any Contractor from CEDA relative to any part of this contract shall be in writing and considered delivered and the service thereof completed, when said notice is posted, be certified or registered mail, to the said Contractor at his last given address, or delivered in person to the said Contractor or his authorized representative on the worksite.

ARTICLE 48: PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

ARTICLE 49: PROTECTION OF LIVES AND HEALTH

"The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36 No. 75, Saturday, April 17, 1971. Title 29 -LABOR, shall be observed and the Contractor shall take or cause to be taken, such additional safety and health measures as the Contracting Authority may determine to be reasonably necessary."

ARTICLE 50: GIFTS TO CEDA STAFF AND BOARD MEMBERS

The Contractor is strictly prohibited from giving or offering gifts or any form of compensation to CEDA staff and Board Members. Contractors found in violation of this condition will be released from the Weatherization Program.

ARTICLE 51: PUBLIC RECORDS ACCESS

- A. Due to the use of State and Federal Grant Funds, it is the intention of the CEDA to maintain an open and public process in the solicitation, submission, review and approval of procurement activities.
- B. Records may not be available for public inspection prior to the issuance of the notice of intent to award or the award of the contract.

ARTICLE 52: RULES AND REGULATIONS GOVERNING THIS AGREEMENT

The approved Contractor shall aRFQe by the following acts, Regulations, Handbooks, and Agency instructions and policy letters, which are available on request, as all of the foregoing may from time to time may be amended or modified:

- A. CEDA policies, processes, technical service bulletins and rules
- B. Department of Commerce and Economic Opportunity-WX State Plan
- C. Department of Commerce and Economic Opportunity-WX Procedure and T/A Letters
- D. Illinois Administrative Code-Standard Grant Administrative Rules
- E. Programmatic and Administrative Manual Procurement Standards
- F. Civil Rights Act Changes to the terms of the contract shall be made in the form of an amendment by mutual Contract of the parties. CEDA may issue unilateral time extensions to allow for continuation or completion of the services.

ARTICLE 53: DEEMED INCLUSION

Provisions required by law, ordinances, rules, regulations, or executive orders to be inserted in this Contract are deemed inserted in the Contract whether or not they appear in this Contract, or, upon application by either party, this Contract will be amended to make the insertion; however, in no event will the failure to insert the provisions before or after this Contract is signed prevent its enforcement.

ARTICLE 54: INSURANCE

Contractor agrees to maintain the types of insurance coverage and the limits set forth in instructions.

ARTICLE 55: INDEMNITY

- A. Contractor shall indemnify, keep and save harmless CEDA, its agents, representatives, officials and employees, against all physical injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses (collectively “Liabilities”), which may arise against CEDA to the extent such Liabilities result from the negligence, intentional conduct, or willful misconduct of the company , its employees, agents, representatives, subcontractors or respective employees, agents, or representatives.
- B. Contractor shall, at their own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising from their indemnification obligations hereunder, and, if any judgment shall be rendered against CEDA in any such action, “Contractor” shall, at his own expense, satisfy and discharge the same.
- C. Contractor expressly understands and agrees that any payment and performance bond or insurance protection required by this Contract or otherwise provided by “Contractor” shall in no way limit the responsibility to indemnify, keep and save harmless and defend CEDA as herein provided.

ARTICLE 56: GUARANTEES AND WARRANTIES

A. Contractor’s Guarantee

- 1. Unless stated otherwise in the Technical Specifications, the Contractor guarantees all of the Work and each and every part thereof, including, by way of illustration and not limitation, all workmanship, materials, equipment, supplies, services, and facilities that are furnished, produced, fabricated, installed, constructed, or built pursuant to the Contract Documents for the respective periods of time called for by the respective requirements of the Contract Documents, and, if no period is specified, the Guarantee will be for a period of one (1) year, against defects which result from the use of defective or inferior materials, equipment, supplies, services, facilities or workmanship or from Work not in compliance with or not performed in accordance with the Drawings or specifications. Year from date of successful QCI inspection.
- 2. The Contractor agrees as part of this guarantee to repair or remove and replace as directed by CEDA and, at no cost to CEDA, all the Work, materials, equipment, supplies, services, and facilities which prove defective during the applicable guarantee period or which fail to conform to the Contract Documents. The Contractor agrees to repair, remove and replace, or pay for as directed by CEDA, at no cost to CEDA, all damaged portions of the Project and the contents and equipment thereof, resulting from or which are incidental to such defects or failure to conform to the Contract Documents. All repairs, removals and replacements must be commenced within 10 Days of written notice from CEDA, and sufficient labor and materials sufficient must be furnished to ensure prompt completion thereof. Should the Contractor fail to proceed in accordance with the above, CEDA, without further notice to the Contractor, may furnish all labor and material necessary for repairs, or removals and replacements, and the Contractor agrees to pay CEDA all such costs incurred.

B. Manufacturer’s Warranties

- 1. Contractor will ensure that all required Manufacturer’s Warranties are assignable, and assigned, to CEDA and/or client, as appropriate.

ARTICLE 57: ENTIRE CONTRACT

This CONTRACT contains the entire Contract between the parties hereto and the terms of this CONTRACT are contractual and not a mere recital. This Contract may not be changed orally.

ARTICLE 58: GOVERNING LAW

This CONTRACT is made and entered into in the State of Illinois, and shall in all respects be interpreted, enforced and governed under the laws of the State of Illinois.

ARTICLE 59: BINDING NATURE

The provisions of this Contract shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

ARTICLE 60: SEVERABILITY

If any provision of this Contract is determined to be invalid, illegal or unenforceable, the remaining provisions of this CONTRACT shall remain in full force and effect provided that the economic and legal substance of the transactions contemplated are not affected in any manner materially adverse to any party. In the event of any such adverse determination, the parties hereto agree to negotiate in good faith to modify this CONTRACT to fulfill as closely as possible the original intent and purposes hereof.

ARTICLE 61: CONFIDENTIALITY

Contractor agrees to keep the information related to all CEDA work in strict confidence. Contractor agrees not to publish, reproduce or otherwise divulge such information in whole or in part, in any manner or form or authorize or permit others to do so, taking such reasonable measures as are necessary to restrict access to the information in the selected Contractor's possession, to those employees on Contractor's staff who must have the information on a "need-to-know" basis. Contractor agrees to immediately notify, in writing, CEDA's authorized representative in the event Contractor determines or has reason to suspect a breach of this requirement.

ARTICLE 62 COMPLIANCE WITH EPA RRP PROTOCOLS

Presence of lead-based paint in pre-1978 homes will be assumed unless testing confirms otherwise EPA's RRP Program Rule (40 CFR Part 745) in pre-1978 homes and proposed changes to this rule (Federal Register/Vol. 75, No. 87/ May 6, 2010) will be complied with, to be superseded by any subsequent final rulemaking or any more stringent state or federal standards. EPA RRP protocols must be followed during all installations.

PART B SUPPLEMENTAL GENERAL CONDITIONS

ARTICLE 1: AGREEMENT

The Contractor agrees to comply with the following Supplemental General Conditions:

ARTICLE 2: CIVIL RIGHTS ACT OF 1964

Under Title VI of the Civil Right Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

ARTICLE 3: SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

No person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

ARTICLE 4: "SECTION 3" COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT, AND BUSINESS OPPORTUNITIES

- A. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701U Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties of this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice in advising the said labor organization or worker's representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- D. The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract,

shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

ARTICLE 5: EQUAL EMPLOYMENT OPPORTUNITY: E.D. 11246

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to insure that without regard to their race, color, creed, or national origin, such action shall include, but is not limited to, the following: employment, upgrading, demotion, 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 by the Village 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 consideration for employment without regard to race, creed, color, 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 by the Department's contracting officer, advising the labor union or worker's representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, 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 Department of the Secretary of Labor for purpose of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the Contractor's noncompliance with the non-discrimination clauses of this contract or with any of such 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 in accordance with procedure authorized 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, whenever the contract amount exceeds \$10,000.
- (7) The Contractor will include 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 Department may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the Department, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 6: SECTION 504 HANDICAPPED (I.E., \$2,500 OR OVER) AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS

- (a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- (b) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- (c) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- (d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligations under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- (e) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of section 504 of the Rehabilitation Act, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- (f) The Contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 504 of the Act, 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 Director of the Office of Federal Compliance Programs, may direct to enforce such provisions, including action for noncompliance.

ARTICLE 7: TAX EXEMPT MATERIALS PROCUREMENT

CEDA reserves the right to modify this contract as needed to comply with the Department of Revenue's ruling on "Tax Exempt Materials Purchasing.

PART C ADDITIONAL FEDERAL CONDITIONS

ARTICLE 1: INTEREST OF MEMBERS OF OR DELEGATES TO THE UNITED STATES CONGRESS

In accordance with 41 U.S.C. § 22, the Contractor agrees that it will not admit any member of or delegate to the United States Congress to any share or part of the Contract or any benefit derived therefrom.

ARTICLE 2: FALSE OR FRAUDULENT STATEMENTS AND CLAIMS

- A. The Contractor recognizes that the requirements of the Program Fraud Civil Remedies Act of 1986, as amended, 49 U.S.C. §§ 3081 et seq and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to the Contract. Accordingly, by signing the Contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, or it may make pertaining to the Contract, including without limitation any invoice for its services. In addition to other penalties that may be applicable, the Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Contractor to the extent the Federal Government deems appropriate.
- B. The Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to CEDA or Federal Government in connection with an urbanized area formula project financed with Federal assistance authorized by 49 U.S.C. § 5307, the Government reserves the right to impose on the Contractor the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1), to the extent the Federal Government deems appropriate.

ARTICLE 3: FEDERAL INTEREST IN PATENTS

- A. General. If any invention, improvement, or discovery of the Contractor is conceived or first actually reduced to practice in the course of or under the Contract, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Contractor agrees to notify CEDA immediately and provide a detailed report.
- B. Federal Rights. Unless the Federal Government later makes a contrary determination in writing, the rights and responsibilities of the County, Contractor, and the Federal Government pertaining to that invention, improvement, or discovery will be determined in accordance with applicable Federal laws and regulations, including any waiver thereof. Unless the Federal Government later makes a contrary determination in writing, the Contractor agrees that, irrespective of its status or the status of any subcontractor at any tier (e.g., a large business, small business, non-profit organization, institution of higher education, individual), the Contractor agrees it will transmit to the Federal Government those rights due the Federal Government in any invention resulting from the contract.

ARTICLE 4: FEDERAL INTEREST IN DATA AND COPYRIGHTS

- A. Definition. The term "subject data" used in this section means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Contract. Examples include, but are not limited, to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to Contract administration.

- B. Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of the Contract. Except as provided in the Contract and except for its own internal use, the Contractor may not publish or publicly reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of CEDA and the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public.
- C. Federal Rights in Data and Copyrights. In accordance with subparts 34 and 36 of the Common Rule, CEDA and the Federal Government reserve a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for CEDA or Federal Government purposes, the types of subject data described below. Without the copyright owner's consent, CEDA and Federal Government may not extend their license to other parties.
 - (1) Any subject data developed under the contract or sub-agreement financed by a federal Grant Agreement or Cooperative Agreement, whether or not a copyright has been obtained; and
 - (2) Any rights of copyright which the Contractor purchases ownership with Federal assistance.
- D. Special Federal Rights for Planning Research and Development Projects. When the Federal Government provides financial assistance for a planning, research, development, or demonstration project, its general intention is to increase public knowledge, rather than limit the benefits of the project to participants in the project. Therefore, unless the Federal Government determines otherwise, the Contractor on a planning, research, development, or demonstration project agrees that, in addition to the rights in data and copyrights set forth above, CEDA or Federal Government may make available to any third party either a license in the copyright to the subject data or a copy of the subject data. If the project is not completed for any reason whatsoever, all data developed under the project will become subject data and will be delivered as CEDA or Federal Government may direct. This subsection, however, does not apply to adaptations of automatic data processing equipment or previously existing software programs for the County's use whose costs are financed with Federal transportation funds for capital projects.
- E. Hold Harmless. Unless prohibited by state law, upon request by CEDA or the Federal Government, the Contractor agrees to indemnify, save, and hold harmless CEDA and the Federal Government and their officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Contract. The Contractor will not be required to indemnify CEDA or Federal Government for any such liability arising out of the wrongful acts of employees or agents of CEDA or Federal Government.
- F. Restrictions on Access to Patent Rights. Nothing contained in this section on rights in data will imply a license to CEDA or Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to CEDA or Federal Government under any patent.

ARTICLE 5: RECORDS AND AUDITS

- A. Contractor will deliver or cause to be delivered all documents (including but not limited to all Deliverables and supporting data, records, graphs, charts and notes) prepared by or for CEDA under the terms of this Contract to CEDA promptly in accordance with the time limits prescribed in this Contract, and if no time limit is specified, then upon reasonable demand therefor or upon termination or completion of the Services hereunder. In the event of the failure by the Contractor to make such

delivery, then and in that event, the Contractor will pay to CEDA reasonable damages CEDA may sustain by reason thereof.

- B. CEDA and the Federal Government will have the right to audit all payments made to the Contractor under this Contract. Any payments to the Contractor which exceed the amount to which the Contractor is entitled under the terms of this Contract will be subject to set-off.
- C. The Contractor will keep and retain records relating to this Contract and will make such records available to representatives of CEDA and the Federal Government, including without limitation the sponsoring federal agency, other participating agencies, and the Comptroller General of the United States, at reasonable times during the performance of this Contract and for at least five years after termination of this Contract for purposes of audit, inspection, copying, transcribing and abstracting.
- D. No provision in this Contract granting CEDA or the Federal Government a right of access to records is intended to impair, limit or affect any right of access to such records which CEDA or the Federal Government would have had in the absence of such provisions.

ARTICLE 6: ENVIRONMENTAL REQUIREMENTS

- A. The Contractor recognizes that many Federal and state laws imposing environmental and resource conservation requirements may apply to the Contract. Some, but not all, of the major Federal Laws that may affect the Contract include: the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 et seq.; the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. and scattered sections of 29 U.S.C.; the Clean Water Act, as amended, scattered sections of 33 U.S.C. and 12 U.S.C.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq.; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601 et seq. The Contractor also recognizes that U.S. EPA, U.S. DOT and other agencies of the Federal Government have issued and are expected in the future to issue regulations, guidelines, standards, orders, directives, or other requirements that may affect the Contract. Thus, the Contractor agrees to adhere to, and impose on its subcontractors, any such Federal requirements as the Federal Government may now or in the future promulgate. Listed below are requirements of particular concern. The Contractor acknowledges that this list does not constitute the Contractor's entire obligation to meet all Federal environmental and resource conservation requirements. The Contractor will include these provisions in all subcontracts.
 - 1. Environmental Protection. The Contractor agrees to comply with the applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 et seq. in accordance with Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 59 Fed. Reg. 7629, Feb. 16, 1994; U.S. DOT statutory requirements on environmental matters at 49 U.S.C. § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 40 C.F.R. Part 1500 et seq.; and U.S. DOT regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622.
 - 2. Air Quality. 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. §§ 7401 et seq. Specifically, the Contractor agrees to comply with applicable requirements of U.S. EPA regulations, "Conformity to State of Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act," 40 C.F.R. Part 51, Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93. The Contractor further agrees to report and require each subcontractor

at any tier to report any violation of these requirements resulting from any Contract implementation activity to CEDA and the appropriate U.S. EPA Regional Office.

3. Clean Water. 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. §§ 1251 et seq. The Contractor further agrees to report and require each subcontractor at any tier to report any violation of these requirements resulting from any Contract implementation activity to CEDA and the appropriate U.S. EPA Regional Office.
4. List of Violating Facilities. The Contractor agrees that any facility to be used in the performance of the Contract or to benefit from the Contract will not be listed on the U.S. EPA List of Violating Facilities ("List"), and the Contractor will promptly notify CEDA if the Contractor receives any communication from the U.S. EPA that such a facility is under consideration for inclusion on the List.
5. Preference for Recycled Products. To the extent practicable and economically feasible and to the extent that it does not reduce or impair the quality of the work, the Contractor agrees to use recycled products in performance of the Contract pursuant to U.S. Environment Protection Agency (U.S. EPA) guidelines at 40 C.F.R. Parts 247-253, which implement section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962.

ARTICLE 7: NO EXCLUSIONARY OR DISCRIMINATORY SPECIFICATIONS

Apart from inconsistent requirements imposed by Federal statute or regulations, the Contractor agrees that it will comply with the requirements of 49 U.S.C. § 5323(h)(2) by refraining from using any Federal assistance to support subcontracts procured using exclusionary or discriminatory specifications.

ARTICLE 8: NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

The Contractor agrees that, absent the Federal Government's express written consent, the Federal Government will not be subject to any obligations or liabilities to any contractor or any other person not a party to the Grant Contract or Cooperative Contract between CEDA and the Federal Government which is a source of funds for this Contract. Notwithstanding any concurrence provided by the Federal Government in or approval of any solicitation, Contract, or contract, the Federal Government continues to have no obligations or liabilities to any party, including the Contractor.

ARTICLE 9: ALLOWABLE COSTS

Notwithstanding any compensation provision to the contrary, the Contractor's compensation under this Contract will be limited to those amounts which are allowable and allocable to the Contract in accordance with OMB Circular A-87 and the regulations in 49 C.F.R. Part 18. To the extent that an audit reveals that the Contractor has received payment in excess of such amounts, CEDA may offset such excess payments against any future payments due to the Contractor and, if no future payments are due or if future payments are less than such excess, the Contractor will promptly refund the amount of the excess payments to CEDA.

ARTICLE 10: TRADE RESTRICTIONS

A. Contractor certifies that neither it nor any Subcontractor:

1. is owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);

2. has knowingly entered into any contract or subcontract with a person that is a citizen or national of a foreign country on said list, nor is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
 3. will procure, subcontract for, or recommend any product that is produced in a foreign country on said list.
- B. Further, Contractor agrees that it will incorporate this provision for certification without modification in each subcontract. Contractor may rely on the certification of a prospective Subcontractor unless it has knowledge that the certification is erroneous. Contractor will provide immediate written notice to CEDA if it learns that its certification or that of a Subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. Each Subcontractor must agree to provide written notice to Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances. Nothing contained in the foregoing will be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of the Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- C. This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

ARTICLE 11: CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- A. If applicable according to their terms, the Contractor agrees to comply and assures compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 327 through 333, and implementing U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5; and U.S. DOL regulations, "Safety and Health Regulations for Construction," 29 C.F.R. Part 1926. In addition to other requirements that may apply:
1. In accordance with section of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 327 through 332, the Contractor agrees and assures that, for the Contract, the wages of every mechanic and laborer will be computed on the basis of a standard work week of 40 hours, and that each worker will be compensated for work exceeding the standard work week at a rate of not less than 1.5 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The Contractor agrees that determinations pertaining to these requirements will be made in accordance with applicable U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-Construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5.
 2. In accordance with section 107 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 333, the contractor agrees and assures that no laborer or mechanic working on a construction contract will be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to his or her health and safety, as determined in accordance with U.S. DOL regulations, "Safety and Health Regulations for Construction," 29 C.F.R. Part 1926.

ARTICLE 12: VETERAN'S PREFERENCE

In the employment of labor (except in executive, administrative, and supervisory positions), preference will be given to Vietnam-era veterans and disabled veterans. However, this preference may be given only where individuals are available and qualified to perform the work to which employment relates.

ARTICLE 13: ACCESSIBILITY COMPLIANCE

If this Contract involves design for construction, the Consultant warrants that all design documents produced or utilized under this Contract and all construction or alterations undertaken under this Contract will comply with all federal, state and local laws and regulations regarding accessibility standards for persons with disabilities or environmentally limited persons including, but not limited to, the following: the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. and the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities ("ADAAG"); the Architectural Barriers Act, Pub. L. 90-480 (1968), and the Uniform Federal Accessibility Standards ("UFAS"); and the Illinois Environmental Barriers Act, 410 ILCS 25/1 et seq., and all regulations promulgated thereunder, see Illinois Administrative Code, Title 71, Chapter 1, Section 400.110. If the above standards are inconsistent, the Consultant must comply with the standard providing the greatest accessibility. Also, the Consultant must, prior to construction, review the plans and specifications to insure compliance with the above referenced standards. If the Consultant fails to comply with the foregoing standards, the Consultant must perform again, at no expense, all services required to be re-performed as a direct or indirect result of such failure.

ARTICLE 14: VISUAL RIGHTS ACT WAIVER

The Consultant/Contractor waives any and all rights that may be granted or conferred under Section 106A and Section 113 of the United States Copyright Act, (17 U.S.C. § 101 et seq.) (the "Copyright Act") in any work of visual art that may be provided pursuant to this Contract. Also, the Consultant/Contractor represents and warrants that the Consultant/Contractor has obtained a waiver of Section 106A and Section 113 of the Copyright Act as necessary from any employees and subcontractors, if any.

ARTICLE 15: EQUAL EMPLOYMENT OPPORTUNITY

All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

ARTICLE 16: COPELAND "ANTI-KICKBACK" ACT (18 U.S.C. 874 AND 40 U.S.C. 276C)

All contracts and sub-grants in excess of \$2000 for construction or repair awarded by recipients and sub-recipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or sub-recipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

ARTICLE 17: CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 327-333)

Where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ••• times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

ARTICLE 18: RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR CONTRACT

Contracts or Contracts for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Contracts," and any implementing regulations issued by the awarding agency.

ARTICLE 19: CLEAN AIR ACT (42 U.S.C. 7401 ET SEQ.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251 ET SEQ.), AS AMENDED

Contracts and sub-grants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

ARTICLE 20: BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352)

Contractors who apply or RFQ for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

ARTICLE 21: DEBARMENT AND SUSPENSION (E.O.S 12549 AND 12689)

No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non procurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

ARTICLE 22: LABOR STANDARDS CONTRACT STIPULATIONS

(29 CFR 5.5, also reiterated at 48 CFR 52.222-6 through 52.222-15) Definition 29 CFR 5.2(f)

The term “labor standards” means the requirements of:

- The Contract Work Hours and Safety Standards Act
- The Copeland Act
- The prevailing wage provisions of the Davis-Bacon related Acts. The Davis-Bacon and Related Acts, apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Davis-Bacon Act directs the Department of Labor to determine such locally prevailing wage rates. The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or District of Columbia contracts. The Davis-Bacon Act prevailing wage provisions apply to the “Related Acts,” under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 in a workweek. The overtime provisions of the Fair Labor Standards Act may also apply to DBA-covered contracts.

- Regulations, 29 CFR 1, 3 and 5, which govern the administration and enforcement of the DBA and DBRA

29 CFR 5 requires contracting agencies to include in any DBA/DBRA covered construction contract the specified labor standards requirements. Normally these requirements are found in the contract under the heading “**labor standards**” or “**prevailing wage requirements**” or “**federal requirements**” and include:

1. **Minimum wages** - All laborers and mechanics employed or working upon the site of work must be paid at least the applicable prevailing wage rate for the classification of work performed as listed in the applicable wage determination or a rate approved in accordance with the “conformance process” set forth at 29 CFR 5.5(a)(1). The laborers and mechanics working on the site of work must be **paid weekly**.
2. **Withholding** -The federal agency or the loan or grant recipient shall upon its own action or upon written request of an authorized representative of the DOL withhold or cause to be withheld from the contractor under this contract or any other federal contract with the same prime contractor, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay the full amount of wages required by the contract. (The processing of monies so withheld is discussed further in the “Withholding” section of this book.)
3. **Payroll Records**
 - a. Maintaining basic payroll records - The contractor must maintain basic payroll records during the course of the work and preserve them for three years. Such records shall contain:
 - i. Name of each worker
 - ii. Address

- iii. Social security number
 - iv. His or her correct classification
 - v. Hourly rates of wages paid
 - vi. Daily and weekly number of hours worked
 - vii. Deductions made and actual wages paid
 - viii. Contractors employing apprentices or trainees under approved programs must have written evidence of the registration of the apprenticeship program and certification of the trainee program, copies of the individual registration forms of the apprentices and trainees, and written evidence of the applicable ratios and wage rates.
- b. Submission of certified payroll records -The contractor must submit weekly a copy of all payrolls to the contracting agency. The payrolls submitted must set out accurately and completely all of the basic payroll information listed above.
- i. The payroll information may be submitted in any form desired. Optional payroll form WH-347 is available (from the Government Printing Office, (202) 512-1800, and at 48 CFR 53.303-WH-347).
 - ii. The prime contractor is responsible for the submission of the certified payrolls to the contracting agency (including all subcontractors of any tier on the project).
 - iii. Each payroll submitted must be accompanied by a "Statement of Compliance" as required by the Copeland Act and 29 CFR Part 3. (A form for this purpose is available on the reverse of Optional form WH- 347.)
 - iv. The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution. Thus, the contractor is put on notice in the contract itself that criminal prosecution could result if falsified payrolls are submitted to the government.
 - v. The contractor or subcontractor must make the payroll records available for inspection, copying, or transcription by authorized representatives of the contracting agency or the DOL, and must permit such representatives to interview employees during working hours on the job.
 - vi. If the contractor or subcontractor fails to submit the required records or to make them available, the federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds.
 - vii. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action.

4. Apprentices and Trainees

- a. **Apprentices** - Apprentices are permitted to work at less than the predetermined rate only when all of the following conditions are met:
- i. Employed pursuant to and **individually registered** in a bona fide apprenticeship program registered with the U.S. DOL, Bureau of Apprenticeship and Training (BAT), or with a state apprenticeship agency recognized by BAT. **(Note – the program itself must be registered and the apprentice must be individually registered in the program).**

- ii. 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 contractor as to the entire work force under the registered program.
 - iii. Labor standards for apprentices also have requirements for how to pay fringe benefits and provide for portability of apprenticeship programs.
 - iv. The labor standards specify that if a contractor violates any of the provisions, then the person considered to be an apprentice must receive the full amount of the applicable prevailing wage rate for the classification of work performed.
- b. **Trainees** - Trainees are permitted to work at less than the predetermined rate only when all of the following conditions are met.
 - i. 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, Bureau of Apprenticeship and Training (BAT). **(Note: State agency approval of trainee programs is not recognized for DBRA purposes.)**
 - ii. 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.
 - iii. Labor standards for trainees also have requirements for how to pay fringe benefits.
 - iv. There is no portability of a trainee program from one locality to another.
- 5. **Copeland requirements** - All contractors must comply with the Copeland Act requirements and the requirements in 29 CFR Part 3, which prohibits kick-backs and sets forth rules concerning deductions from employees' wages.
- 6. **Subcontracts** - The labor standards provisions require the contractor to insert the labor standards clauses in any subcontract. This clause further stipulates that the prime contractor shall be responsible for compliance by any subcontractor with the labor standards requirements in the contract. In effect, the prime contractor is ultimately responsible for the payment of the back wages. Note: A definition for subcontractor is not found in the regulations. A subcontractor is any person (other than an employee) or firm who has agreed, either verbally or in writing, to perform any of the work required under the contract.
- 7. **Contract termination and debarment** - Debarment means that a firm and its responsible officers, and firms in which they have an interest (or substantial interest for related Act cases) are not permitted to work on covered contracts for three years. If a contractor violates any of the labor standards requirements, the contractor may be terminated from the contract and/or debarred.
- 8. **All rulings and interpretations** of the DBRA issued in 29 CFR Parts 1, 3 & 5 are incorporated by reference in the contract.
- 9. **Disputes** under the contract relating to the Davis-Bacon labor standards requirements must be submitted to the DOL for resolution pursuant to the Secretary of Labor's authority under Reorganization Plan No. 14 of 1950, and 29 CFR Parts 5, 6 and 7.
- 10. **Certification of eligibility** - By entering into the contract, the contractor certifies that no person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded government contracts, i.e., not debarred.
 - a. This labor standards clause further stipulates that no part of the contract shall be subcontracted to any person or firm debarred.

- b. The penalty for making false statements about eligibility for government contract work can be criminal prosecution.

PART D PROGRAM CONDITIONS

ARTICLE I: SCOPE OF WORK

1. This is an indefinite quantity Contract for the supplies or services specified, and effective for the period stated in the Contract Documents.
2. Work or performance shall be made only as authorized by CEDA Weatherworks Work Orders
3. All Work shall conform to and comply with any applicable standards, including those specified in the following documents:
 - a. IHWAP Weatherization Field Standards Manual Agreement
 - b. IHWAP Standards For Weatherization Materials
 - c. CEDA Weatherization standard work specifications.
 - d. DOE CR440 material specifications.

A. Procedure for Issuance of Work

1. Detail Scope of Work: CEDA will perform an assessment on eligible homes and will develop the Detail Scope of Work referencing any assessment, sketches, drawings, photographs, and specifications required to document accurately the work to be accomplished. The Contractor shall review the Detailed Scope of Work and request any required changes or modifications.
2. At the discretion of CEDA, Non Pre-Priced Tasks as well as other tasks may be added to the Weatherworks catalog during the course of the Contract. Upon mutual agreement between the parties, Unit Prices will be established based on actual quotes from material suppliers and installers and fixed as a permanent Pre-Priced Task in Weatherworks catalog.
3. Contractor shall make the necessary arrangements for and obtain all filings and permits required for the Work, including the preparation of all drawings, sketches, calculations and other documents and information that may be required therefor. If the Contractor is required to pay an application fee for filing a project, a fee to obtain a building permit, or any other permit fee to the City, State or some other governmental or regulatory agency, then the amount of such fee paid by the Contractor shall be treated as a reimbursable to be paid without mark-up (i.e. no adjustment).
4. As requested by CEDA, the following must be completed:
 - 1 Construction Schedule;
 - 2 Calculations, specifications, and other technical data as required;

C. Changes in the Work

1. CEDA, without invalidating the Work Order, may order changes in the Work by altering, adding to or deducting from the Work, by issuing a Change Order.
2. No changes shall be made without the issuance of an approved Change Order by Contractor Relations.

ARTICLE 2: PERSONNEL

A. General

1. The Contractor shall, immediately upon receiving a fully executed copy of this Contract, assign and maintain during the term of this Contract and any extension of it, an adequate staff of competent personnel who are fully equipped, licensed as appropriate, qualified and assigned exclusively to perform the Work. The Contractor shall provide CEDA with the qualifications and names of the individuals who will serve as the Project Manager and the Superintendent(s). If CEDA determines that the Contractor's staffing level will require that staffing adjustments are made satisfactory to CEDA prior to the issuance of additional work Orders.
2. The Contractor shall assign a full-time person as its representative for this Contract. This person shall be acceptable to CEDA and shall have a cell phone at which he or she can be reached at all times. If the named representative is not available because of illness or vacation or the like, the Contractor shall notify CEDA of a substitute representative.
3. The Contractor shall also have at all times an Office Manager and a Superintendent assigned to this Contract. Additional staff will be provided depending on the volume of work. For each Work Order issued, the Contractor shall identify the Superintendent responsible for all work issued to their firm. The Superintendent shall be reachable 24 hours a day, seven days a week. If the named Superintendent is not available because of illness or vacation or the like, the Contractor shall notify CEDA of a substitute Superintendent. On average, depending on the complexity and location of the work orders, the Contractor shall provide at least one Superintendent for every four work Orders. Whenever, in the sole discretion of CEDA, the Contractor is not providing a sufficient level of supervision, CEDA may direct the Contractor to increase the level of supervision for any or all work orders, including but not limited to the right to direct the Contractor to assign a full time, dedicated Superintendent for any project; submit daily management, inspection, activity, and planning reports; substitute subcontractors; submit daily photographs of the work in place and the work areas prepared for the next day's work; and develop a site specific quality control program, all at no cost to CEDA. In the event CEDA's personnel are required to provide direction or supervision of the work in the field because the Contractor has not provided sufficient supervision, the Contractor shall reimburse CEDA for such effort.

B. Substitutions

1. If any key personnel furnished by the Contractor should be unable to continue in the performance of assigned duties for reasons due to death, disability, or termination, the Contractor shall promptly notify CEDA explaining the circumstances. Changes in assignment of key personnel due to commitments not related to this Contract are prohibited without prior CEDA approval.
2. The Contractor shall furnish to CEDA within seven (7) working days the name of the person substituting for the individual unable to continue, together with any information CEDA may require to judge the experience and competence of the proposed substitute. Upon approval by CEDA, the proposed substitute shall be assigned to this Contract. If CEDA rejects the substitute, the Contractor shall have seven (7) days thereafter to submit a second proposed substitute. Such process shall be repeated for a reasonable period until a proposed replacement has been approved by CEDA.
3. In the event that, in the opinion of CEDA, the performance of personnel of the Contractor assigned to this Contract is at an unacceptable level, such personnel shall cease to be assigned to this Contract and shall return to the Contractor, and the Contractor shall provide a substitute to CEDA, in accordance with the previous paragraph. Absence of acceptable Key Personnel for the Work shall constitute an event of default.

4. If the Contractor is unable to provide an adequate substitute in accordance with the previous paragraphs, CEDA reserves the right to terminate the Contract.

ARTICLE 3: STANDARDS OF PERFORMANCE

- A. Use of Subcontractors:** The Contractor shall make best efforts to utilize as many different subcontractors as possible, including M/W/D/S/VBE subcontractors. To the maximum extent possible, the Contractor shall make a strong effort to develop relationships with a large number of subcontractors and provide those subcontractors the opportunity to submit a quote. Failure to utilize a large number of different subcontractors may be considered an event of non-performance.
- B. Quality of Construction:** The Contractor shall perform the construction work in accordance with the Contract Documents. The Contractor is expected to mobilize construction operations on or before the agreed upon start date, complete the work in a timely manner, use high quality subcontractors, superintend the project to ensure construction is being completed in accordance with the work order, and submit all required close-out documentation. Failure of the Contractor to perform the construction work in accordance with this article will be considered an event of non-performance.
- C. Achievement of Self-Performance Requirement:** The Contractor is expected to achieve at least 50% of the work with its own forces. As requested by CEDA, the Contractor shall report accumulative self-performance for the entire Contract. Failure of the Contractor to meet the required goals will be considered an event of non-performance.