



CITY OF DETROIT
OFFICE OF CONTRACTING & PROCUREMENT
REQUEST FOR PROPOSALS
Long-Term Affordability Model Feasibility Study and Plan

RFP NO. 18EJ1961

ADVERTISE DATE	Wednesday, May 30, 2018
QUESTION DEADLINE	Friday, June 8, 2018 by 4:00 p.m. EST Submitted via BidSync (www.BidSync.com)
PRE PROPOSAL MEETING AND TELE-CONFERENCE 866-434-5269 Conference Line 3964948 Access Code	MANDATORY Tuesday, June 12, 2018 at 1:30 p.m. EST Office of Contracting & Procurement Suite 1008, Coleman A. Young Municipal Center Two Woodward Avenue Detroit, Michigan 48226 (Conference Line available for participants unable to attend Pre-Proposal Meeting in person. Role Call of Attendees taken during beginning of Pre-Proposal Meeting and Tele-Conference.)
PROPOSAL INTERVIEWS	Oral Interviews may be required and scheduled upon request. The City anticipates presentations to take place Monday, July 9, 2018 and Tuesday, July 10, 2018 (subject to change)
PROPOSAL DUE DATE	Friday, June 29, 2018 9:00 a.m. EST Submitted via Periscope Holdings BidSync (www.BidSync.com)
PUBLIC RECORDING	Friday, June 29, 2018 10:00 a.m. EST Office of Contracting & Procurement Suite 1008, Coleman A. Young Municipal Center Two Woodward Avenue Detroit, Michigan, 48226 <i>Submit Proposals <u>via Bid Sync</u> on, or prior to the exact date and time indicated above. Late proposals shall not be accepted.</i>

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1. INTRODUCTION

The City of Detroit is interested in exploring land trusts as a disposition or management approach to encourage long term affordability in housing and commercial space; as well as a method of managing land for open space and green storm water infrastructure. Due to the unique conditions present in Detroit, a vendor should expect to evaluate how these elements could be operated or managed by a land trust organization, or a more traditional developer through this scope.

Land trusts and community land trusts (CLTs) have been used to varying degrees of success to provide long term affordability. For purposes of this document, land trust and CLT are used interchangeably. Successful land trust models deployed in other central cities commonly vary in at least governance structure, development methods, property management, and services offered to residents.

Key deliverables: Feasibility study based on the models described in this RFP, a business planning phase and RFP process leading to an incorporated organization with a five-year operating plan for the successful respondent, program design and implementation planning for the new organization, and AHLF financial products to support long-term affordability.

2. MINIMUM QUALIFICATIONS

Proposals will only be accepted from those firms demonstrating a minimum of five (5) years of experience providing the services requested in this RFP. References that will verify project experience should be provided.

Successful respondents to this RFP must present a team of individuals with the diversity of skill sets necessary to complete all tasks required by this scope of work. Multidisciplinary firms who are able to meet all of the requirements of this RFP will be considered, as will responses from qualified teams comprised of more than one firm. If the lead applicant is not based in Detroit, the City strongly encourages respondents to consider inclusion of team members that are Detroit-based, minority led, and/ or otherwise have a substantive body of knowledge or experience with Detroit. The following is a detailed list of qualifications that the consultant team should provide, organized by area of expertise:

- Be led by a consultant with experience leading multidisciplinary vendor teams for municipal government clients
- Conduct real estate market analysis as part of core business
- Have experience evaluating the feasibility and structure of housing development and preservation deals
- Have planned and designed community land trusts or land trusts that have been implemented and are currently operating
- Regularly design, lead, and implement stakeholder and community engagement plans
- Have evaluated financial performance of open space land uses
- Be practicing attorney(s) at law with experience providing legal analysis associated with the structure of Community Land Trusts and incorporating

such entities, and familiarity with State of Michigan laws and regulations is required.

If a contract is awarded as a result of this RFP, it will be a contract which is negotiated with the awardee based on the professional services contract, a copy of which is attached via BidSync. If any respondent requires modification(s) to the terms of the City's professional services contract, a statement of such required modification shall be included as an exhibit with your sealed proposal. This statement will be reviewed as part of the evaluation process and may have an effect on the scoring of the proposal.

All respondents are required to submit clearance applications, affidavits and insurance documents with the response to the proposal. At the time The City of Detroit Office of Procurement submits the supplier recommendation to City Council, approved clearances by the Income Tax and Revenue departments are required of the successful respondent.

The City expressly reserves the right to modify, add, or delete, any item(s) from the proposal it deems necessary prior to the issuance of an award.

3. ADHERENCE TO TERMS OF PROPOSALS

A proposal once accepted by the City of Detroit, may become a binding contractual obligation of the respondent. The failure of a successful respondent to accept this obligation and to adhere to the terms of the respondent's proposal may result in rejection of the proposal and the cancellation of any provisional award to the respondent.

4. REJECTION OF PROPOSALS

The City of Detroit expressly reserves the right to reject any and all proposals, waive any non-conformity, re-advertise for proposals, to withhold the award for any reason the City determines and/or to take any other appropriate action that is in the best interest of the City.

5. BACKGROUND/DESCRIPTION OF ENVIRONMENT

In March 2018, the City of Detroit released its Multifamily Affordable Housing Strategy (the "Strategy"). The Strategy outlines two goals and a number of initiatives to encourage preservation and development of affordable housing in Detroit.

To carry out the strategy, the City will identify and utilize publicly owned land, as well as City and privately owned vacant multifamily buildings, to encourage the production of affordable housing. The City of Detroit and its agencies own more than 13,700 acres of non-recreational land in the city. Much of this land is vacant or underutilized and includes vacant single family and multifamily structures.

As the Planning and Development Department and HRD conduct neighborhood plans, sites for affordable or mixed-income multifamily preservation and development will be identified. The current practice is for the City to sell such sites to developers for the imminent development of the land. In addition to this practice, the City is interested in developing additional models for encouraging long-term affordability of housing, commercial properties, and land, that are financially viable and promote economically sustainable mixed-income neighborhoods.

The City is currently exploring models to do so based on its existing disposition practices. The Fitz Forward development in the Fitzgerald neighborhood in northwest Detroit is the City's first such project. In 2016, the City issued an RFP searching for a development team to redevelop 104 homes and 269 vacant lots. This project will result in 12 units of for-sale homes that will remain affordable for at least five years. While an important step in the redevelopment of a single family neighborhood, the City is interested in development models that will guarantee longer periods of affordability in a financially sustainable way. A vendor team must help the City identify that model(s) through this scope of work.

Performance of the scope of work associated with this RFP should result in strategies to preserve or develop mixed-income or affordable housing. The City is establishing the \$250 million Detroit Affordable Housing Leverage Fund (AHLF) to facilitate increased financing of preservation and development deals. A portion of AHLF will be made available to further the implementation of any housing-centered plan resulting from this scope of work. As part of this RFP, analysis is needed to develop lending products that will be offered by AHLF to support long-term affordable housing.

The City is also investing in green stormwater infrastructure to reduce stress on aging stormwater management infrastructure and reduce the likelihood of flooding during major storm events. Through 2020 the City, through the Department of Water and Sewage, will invest more than \$50 million in green stormwater infrastructure throughout Detroit.

6. AWARD CLAUSE INCLUDING RENEWAL OPTIONS

If a contract is awarded as a result of this RFP it will be a City of Detroit Professional Services Contract (sample attached). The term of the contract will be for two **year(s)** with one (1) one-year renewal options. Any renewal option exercised under this contract is effective only after the approval of the Detroit City Council. The City anticipates **one award** as a result of the RFP, but may make more than one award depending on the composition of responding teams.

7. OPERATIONAL INFORMATION

Project Lead:
Julie Schneider
Housing and Revitalization Department
City of Detroit
2 Woodward Avenue
Detroit, MI 48226

The awarded respondent is expected to provide service in accordance with the terms of the executed contract and under the rules, regulations, and supervision of the City.

8. SCOPE OF WORK

The City of Detroit is interested in exploring development models and financial tools to leverage public land for long term housing-focused affordability. Specifically, the City would like to develop and implement a land disposition or management model to facilitate long-term affordability in Detroit neighborhoods, this may result in the establishment of one or more new entities to implement the models developed through this scope of work.

Work products resulting from this scope of work should lead to outcomes that leverage publicly-owned land for future programs that keep Detroit neighborhood accessible to residents of all incomes.

8.1. LAND USE AND HOUSING OPTIONS FOR ANALYSIS

To develop the recommended land disposition or management strategy for long term affordability, the vendor team is expected to analyze the financial feasibility of including the land uses and housing options described in Section 8.1.

8.1.1. HOUSING AVAILABILITY AND MAINTENANCE

Since the early stages of the Great Recession, Detroit's housing market has struggled. Only recently has it begun to improve in limited areas of the city. For the citywide housing market to regain stability, housing opportunities must be available that are competitive in the metropolitan area and meet consumer demands in terms of cost, quality, and construction unit type. There are upwards of 5,000 units of multifamily housing in the development pipeline in Detroit, over 90% of these units are expected to be rental. While these newly constructed units will add diverse housing options into Detroit's housing market, these units will not alone restore a housing market that is overwhelmingly comprised of aging single family units.

Inclusive of all housing in Detroit, nearly 70% of units are single family and 80% of units were built before 1960. Correlations can be drawn between the age of housing and quality.

Precipitously declining home values during the Great Recession paralyzed the home lending market in Detroit making it difficult to complete needed

renovations of homes. Within the past couple years, Detroit home values have risen to a level where, in limited geographic areas, lenders are willing to make loans. The Detroit Home Mortgage (“DHM”) program was designed to make a mortgage product available for potential homeowners in those areas of the city that are still not being served by traditional lenders by providing loans above appraised value.

Whether using traditional lending products or the DHM, many potential homeowners will have to conduct significant renovations to update their homes or make them livable. For first-time homebuyers this is a major disincentive to invest in Detroit. In neighborhoods where prices are most rapidly rising, homes that are move-in ready and in readily financeable neighborhoods, often above prices that first time homebuyers are able to afford.

Renters in Detroit are often confronted with housing that is distressed and not properly maintained. The City of Detroit Buildings and Safety Department and the Detroit Housing Commission estimate that more than 60% of initial inspections of rental units fail to meet the inspection criteria. Despite the poor quality, housing costs are difficult for many Detroit residents to afford. According to the U.S. Department of Housing and Urban Development definition of affordability, approximately 60% of Detroit households are housing cost burdened. With more households now renting in Detroit than owning, and the majority of those renters living in single-family housing, the issues of housing quality and affordability in Detroit are of great concern to stabilizing and growing our neighborhoods.

A vendor team should evaluate housing development (including substantial rehabilitation) models that focused on housing quality and affordability. Vendor teams should also analyze the financial and geographic feasibility of development models in developing new or rehabilitating units and maintaining them. Several housing types and tenures should be considered, though an analysis of single family housing options must be performed. Vendors should develop development and operating pro formas and the identify both the total funding requirements and subsidy requirements funding necessary to construct and operate housing units within prototypical developments as identified by HRD. The depth of affordability that will be offered should be evaluated by level of affordability and mix within the housing options offered. Facilitating the development of mixed-income neighborhoods is a priority, as is offering affordable housing options across the income spectrum. Vendor team should expect to conduct this work in collaboration with staff from HRD’s Office of Public-Private Partnerships.

8.1.2. AFFORDABLE HOUSING PRESERVATION-SINGLE FAMILY LIHTC PORTFOLIO

There are 1,240 units of scattered site single family housing units in Detroit that were developed through the Low-Income Housing Tax Credit program. The units are associated with 34 development projects. All will reach the end of the 15-year compliance period associated with the relevant project by 2023. Many of these developments agreed to make the houses available to tenants for purchase at the end of the 15-year compliance period. As these developments reach this critical point, few have programs to make this a possibility for tenants a financially feasible option nor have they planned to maintain affordability.

Efforts led by a tax-credit syndicator are underway to develop homeownership programs for several of these developments, however due to many of the very low incomes of many existing residents it is unclear that such a program can be successful with current tools. This presents an opportunity to set up an ownership and operating model to facilitate the long term affordability of these units, with a focus on affordable homeownership.

Many of these existing units were financed in part through City of Detroit HOME Investment Partnership Funds through low-interest forgivable loans, and these units are likely to be in neighborhoods with high rates of public land ownership. For these reasons, and the risk to existing residents, vendor teams should determine the potential for these developments to further long-term affordability as consistent with the purpose of this scope.

Vendor teams must evaluate the financial, geographic, and legal feasibility of converting an aging Low-Income Housing Tax Credit property (“LIHTC”) or multiple scattered site LIHTC properties into a combined community-based ownership model. Vendor teams should anticipate evaluating the disposition methods practiced by scattered site LIHTC developments in other states and whether or not long term affordability was successfully achieved.

8.1.3. OPEN SPACE PRODUCTIVITY AND STEWARDSHIP

Non-recreational publicly owned land in Detroit totals 13,700 acres, much of which is vacant or underutilized. These vacant parcels are scattered throughout the city. The City of Detroit is initiating planning efforts to identify potential uses for public land in areas of prolonged market inactivity to create neighborhood assets that improve quality of life in Detroit.

The vendor team should evaluate the opportunities and costs associated with converting and operating unused, vacant parcels into productive land uses, such as, but not limited to, urban agriculture, flower farms, community gardens, woodlands, orchards, etc. The vendor team should be aware that many of these vacant parcels have environmental concerns that may need to be mitigated to reuse the parcels.

8.1.4. COMMERCIAL LAND USE AND REAL ESTATE DEVELOPMENT

Each of the City of Detroit's ten 2016 Targeted Multifamily Housing Areas is centered by a long-functioning commercial corridors. While the commercial activity present in each area varies, each target area is key to strengthening neighborhoods along with adjacent residential multi-family or mixed-use development. A vendor should work with the Detroit Economic Growth Corporation (DEGC), the City of Detroit Planning and Development Department (PDD), and the Housing and Revitalization Department (HRD) to identify barriers to reactivating commercial storefronts along commercial corridors and identify locations and buildings prime for mixed-use or multi-family redevelopment. Selected vendor should consult with the Detroit Neighborhood Retail Study team and expect to identify sites using work completed through neighborhood planning studies led by PDD.

The vendor team should evaluate whether shared ownership of a commercial structure is financially feasible and useful to stimulating reactivation of commercial storefronts, or maintaining existing storefronts operated by small businesses. This analysis should consider market trends and the estimated timeframe a commercial use could become viable operation for a shared-ownership organization.

8.1.5. GREEN STORMWATER INFRASTRUCTURE (GSI) IMPLEMENTATION

The Detroit Water and Sewage Department (DWSD) has begun charging all customers stormwater drainage fees based on the area of impermeable surface on a lot. The rate will be one of the highest charged in the country. With many acres of vacant land in Detroit, The Nature Conservancy and DWSD have an effort underway to determine if off site mitigation is possible through the exchange of stormwater credits. If the economic analysis of a stormwater credit exchange is positive, the exchange will need an operator. An organization, such as a CLT, responsible for long-term affordable management of land, could fill this role and the operation of this exchange could become a source of revenue for that organization.

Respondents should consider the existing operation of a GSI credit exchange in proposals. While the selected consultant will not design the exchange itself, they should be prepared to regularly engage with The Nature Conservancy (TNC) who will be managing a scope of work to determine the economic feasibility of such an exchange. While consultants for TNC will complete much of the work to determine the feasibility of a credit exchange, proposals should include analysis of the major steps required to set up and operate an exchange.

8.2. LAND DISPOSITION OR MANAGEMENT MODELS

For each of the long-term housing affordability models to be considered the vendor team should evaluate the term of affordability that can be expected and the incomes each model is most likely to serve. The vendor team should conduct feasibility analysis of at least the following two types of land disposition models:

8.2.1. DISPOSE OF LAND TO A DEVELOPER AND REQUIRE AFFORDABILITY AS PART OF AGREEMENT

The vendor team should evaluate the affordable outcomes of projects underway or future projects that can be expected if the City, or its partner public agencies, dispose of land to a developer and require that affordable housing be produced as part of a mixed-income development project. The vendor should evaluate the financing models likely to be used by a developer, the size of financial gaps and tools available to reduce these gaps, the term of affordability that can be expected, and how that affordability would be managed over the long-term. The vendor team should provide information on similar models that have been used to manage long-term affordability. The vendor should evaluate how a developer would leverage vacant land for long-term development that includes affordable housing options, in particular looking at issues associated with long-term asset management.

8.2.2. DISPOSE OF OR LEASE LAND TO A LAND TRUST TO MANAGE AFFORDABILITY

The vendor team should evaluate the affordable outcomes that can be expected if the City, or its partner public agencies dispose of land to a Land Trust. The three models below should be considered. All models should contemplate commercial and multifamily management or development in addition to what is described below.

Mixed-Income Housing Development or Preservation

A land trust focused only on housing preservation and development would explore solutions for preserving deed restricted scattered site housing developed through the Low-Income Housing Tax Credit Program and would also consider mixed-income housing with a strong emphasis on providing housing options that would be affordable across the income spectrum. These mixed-income neighborhoods may incorporate existing market conditions or innovatively plan and build out a model to facilitate a mixed-income neighborhood.

Mixed-Income Housing and Open Space Stewardship

In this model a land trust not only provides affordable housing to residents but also open space land stewardship options including urban agriculture, community gardens, parks, etc. The land trust would acquire or lease City of Detroit / Detroit Land Bank Authority owned homes or land, rehab the homes or build new ones, and rent them / sell them at rates / sales prices affordable to individuals making a certain income. The land trust would

operate / maintain these properties and work to lease / sell them when appropriate based on the organizational mission. Housing unit prices or rents would be governed as is described in the preceding paragraph. The open space component of this model could include, but is not limited to, the land trust operating and maintaining that improved vacant land or lease it to open space businesses to develop themselves.

Mixed-Income Housing with Green and Stormwater Infrastructure Management

In this model a land trust would own, operate and maintain mixed-income housing and revenue producing green stormwater infrastructure projects. Housing unit pricing would be governed as is described above and elements of the Open Space Stewardship model may incorporated into the management of land necessary for the long term management of land for stormwater management. The City of Detroit is specifically interested in the capacity of a land trust model that innovatively links land uses appropriate to areas of or adjacent to market strength and highly vacant areas of the city.

8.3. PROJECT TASKS AND DELIVERABLES

This planning and implementation process requires a multifaceted team to complete six stages of work. These stages are 1) Feasibility Study; 2) Business Planning (including the option of writing a Request for Proposal); 3) Legal Establishment; 4) Program Design; 5) Program Implementation. The tasks and deliverables associated with these five stages are described, as follows:

Please note that working on stages 2-5 requires a positive outcome of a feasibility study that indicates a land trust or a CLT is the preferred option for creating long-term affordable housing options, and working on stages 3-5 is contingent on the outcome of an RFP process.

8.3.1. FEASIBILITY STUDIES

The selected vendor team must complete feasibility studies of the four proposed models to determine which, if any, may feasibly be developed and implemented within the near term in Detroit and which will lead to the most stable and reliable affordable housing over time. Through the feasibility studies, the vendor team should evaluate the financial and operational feasibility of each proposed model. The feasibility study should collect and analyze data as follows:

- 8.3.1.1. Existing Conditions – Review existing materials on methods to produce long-term affordability in mixed-income developments, focusing on single family housing. Analyze current City of Detroit practices for leveraging public land for long term affordability. Review existing materials on Community Land Trusts in Michigan, materials on Community Land Trusts with operational models similar to those

described in this RFP, recently completed neighborhood plans, or recently completed Detroit housing market reports. Plans or reports completed by the City of Detroit will be shared.

8.3.1.2. Legal due diligence - Review existing State and local laws on real property taxes, real property ownership, real property conveyance, conservation trusts, land trusts, nonprofits, and real estate insurance to identify any legal concerns that will influence future phases of work and establishment of a land trust.

8.3.1.3. Real estate and spatial analysis - Analyze Detroit's real estate market data to determine areas of market strength and needs across the city that can be addressed through one or more of the proposed models in limited or city-wide geographic approaches. The vendor team should analyze trends and patterns of traditional and non-traditional land sales across the city within the past three (3) years, public land ownership, and property tax delinquency. Vendor team should conduct an analysis to identify areas of the city where public ownership of land and real estate trends are most conducive to the models suggested in this RFP. As part of this analysis, the vendor team should:

- Identify land use patterns that are consistent with model types
- Conduct an existing conditions survey of DLBA / City owned structures
- Identify zoning concerns related to large scale open space projects

This analysis should be used to identify needs and the opportunity to plan and implement any of the potential models, including potential geographic areas of the city that are best suited for the respective model.

8.3.1.4. Financial Analysis: To determine the financial feasibility of implementing each of the models presented in this RFP, no less than four (4) types of analysis and data collection must be conducted based on at least 2-4 operating models.

The selected consultant will analyze the subsidy required for the development of single family and multi-family development and the maintenance of residential, commercial, and open space components within prevalent Detroit neighborhood typologies.

Issues of portfolio 'right-sizing' should be considered as a factor in development and operating feasibility.

Stakeholder Engagement and Capacity Survey: Vendor teams shall evaluate the capacity and needs of local agencies that are likely to be involved in the planning and implementation of a land trust and the role the various groups would fill through a structured engagement process. Surveyed agencies must include all relevant public, nonprofit, and for-profit organizations as identified by HRD and the vendor team. Data collection and analysis to measure capacity must be done based on requirements to operate each CLT model being explored. For example, determine how a relevant agency would support implementation of a model resulting from this scope of work.

8.3.1.5. GSI credit exchange and other productive open space uses:

Vendors team for this study will work with the consultant leading the GSI off-site modeling work for Detroit that is being led by The Nature Conservancy. The vendor team must collaborate with the GSI consultant to identify the best structure and define roles and responsibilities for a CLT operating a stormwater exchange and the vendor team must evaluate the potential financial impact of operating a stormwater credit exchange on the CLT. If other productive open space uses are identified through the City-led open space plan, the vendor team should conduct the same analyses for the identified open space uses.

8.3.1.6. **Deliverable:** Vendor team should plan for an in-person report and presentation containing findings of feasibility study. Vendor team should plan to deliver at least one draft report of findings to HRD in advance of completing final deliverable. If feasibility study is positive, vendor team must prepare a briefing book of findings that is suitable for publication to guide potential CLT stakeholders. Findings should contain full financial analysis and mapping that will be delivered to the client with information provided on methodology, rationale, and conclusions. If the feasibility study is positive, the final report should contain specific recommendations for the CLT model(s) that the vendor team believes to be the most feasible in Detroit. These recommendations should provide information on opportunities and challenges associated with any recommended model and a detailed guide of next steps for HRD, partner agencies, and stakeholders. Any data acquired by the vendor team through performance of this contract shall be delivered to the client upon request.

8.3.2. FINANCIAL TOOL ANALYSIS

The City of Detroit expects that the Affordable Housing Leverage Fund (AHLF) will make its first awards in 2019. A portion of the AHLF will support affordable housing development that may be recommended through this scope of work. To identify how AHLF can support such developments, a vendor must develop multiple financial product types that could be deployed to support affordable housing development in Detroit. The work produced

for 8.3.2 will be used to help establish AHLF. Basic details about AHLF can be found in the *Multifamily Affordable Housing Strategy*.

- 8.3.2.1. Identify fiduciary responsibilities – vendor teams should evaluate the responsibilities that will be required by the Community Development Financial Institution (CDFI) that will be designated as the AHLF fiduciary. This CDFI will be responsible for managing funds directed to AHLF, coordinating the lending committee, and managing relationships with contributors. The vendor team should recommend specific responsibilities for the AHLF fiduciary and provide HRD guidance or representation as necessary during negotiations with a CDFI.
- 8.3.2.2. Identify non-grant funding opportunities – AHLF is envisioned to be a \$250 million fund that enables Detroit to meet its affordable housing goals by introducing a new set of financing options to fund affordable housing. \$50 million will be provided by the City of Detroit using its allocation of federal grant funds and \$50 million would be sourced through philanthropic grants. A portion of these funds will be used to provide low-interest subordinate and forgivable loans for the development of affordable units. The remaining \$150 million of the fund should support the feasibility of developments by creating greater access and affordability of capital. Potential sources of this financing have various preferences for how funding that can be used for this purpose, is made available for development projects. A vendor team should identify potential sources of funding and provide information on how those sources can be used.
- 8.3.2.3. Develop product types – With potential funding types identified, the vendor team will develop product types for using the AHLF. These product types must be able to be used with work produced through this scope of work and to achieve the City’s broader affordable housing preservation and development goals.
- 8.3.2.4. **Deliverable:** The vendor team should develop a term sheet appropriate for the requirements of the AHLF fiduciary. The vendor must deliver a report detailing the potential sources of flexible capital for AHLF and the relevant terms, uses, and regulations associated with those funds. The vendor should also include the historical use of such funds, relevant timelines associated with accessing funds, and profile of any related lender or funder. This report should provide HRD and the CDFI with an identified strategy for securing low-interest financing necessary to support work emerging from this larger scope of work and

the City's broader housing development goals, and product types for full deployment of the funds.

8.3.3. BUSINESS OPERATIONS PLANNING

After determining that a CLT model can be successful in the Detroit context and is the preferred method to maintain long-term affordable options, a five year business plan must be developed to describe the main functions of the CLT and how it will operationalize those functions. There are six areas the business plan must address: (1) engagement, (2) education, (3) funding options and structure, (4) the operating structure, (5) growth opportunities, (6) challenge and threats analysis, and (7) optional RFP for a CLT operator.

8.3.3.1. Purpose and Organizational Structure: Based on the feasibility analysis and stakeholder and community engagement carried out as part of developing the business plan, the consultant team should develop the operational model the future CLT would be expected to operate. The consultant should also provide information on the capacity needed and appropriate organizational structure for operating the CLT. Analysis must include an outline of major operational work streams, required CLT staff or vendors, and expertise or skills necessary to operate the CLT.

8.3.3.2. Engagement: The vendor team must design a stakeholder and community engagement strategy that outlines an engagement timeline and process definition. The team should plan on conducting community engagement within those neighborhoods where market conditions to support a CLT exist. Proposals should include allowances for 6-8 meetings during this phase of work. Vendor teams must also deliver a 5-year engagement plan that describes the work the CLT will have to do to gain and maintain support of the residents living near the CLT.

8.3.3.3. Education: After the capacity building needs are determined in the feasibility study, the selected consultant must develop a capacity building action plan. A plan of this kind will address the educational needs of groups interested in operating a CLT in Detroit and outline the number of educational sessions required, the timeline for improving capacity, and recommend content for each section. Where possible the consultant will identify existing programs that deliver such educational opportunities.

8.3.3.4. Funding: Based on the feasibility study and engagement work, the selected consultant must work to define a funding strategy for the CLT. This would include investigating available upfront capital and long term funding options for the CLT and make a recommendation for

funding structure for the CLT. Reports should include analysis about funding structure for other, similar CLTs, outline an initial capital stack for the CLT, and determine how funding opportunities may change over time. The pro formas developed for the feasibility study should be refined based on information learned during development of the business plan.

8.3.3.5. Growth: As part of the five year business planning effort, the lead consultant should provide a growth and expansion strategy for the CLT. The consultant should map major stages of growth including, but not limited to, continued property acquisition, expanded services, and new land uses. Any recommendations for growth should match the “Funding” section (8.3.3.4).

8.3.3.6. Challenges and Threats Analysis: Vendor team should identify major barriers and decision points that the CLT will likely have to solve for. Team should use knowledge from developing other CLTs and information specific to the Detroit context. Team should recommend solutions when such solutions are specific.

8.3.3.7. Request for Proposal (optional task): Given the CLT model has been selected and organizational capacity has been determined, the selected consultant should write a Request for Proposal for a CLT operator. This RFP should include traditional sections of an RFP, such as: Introduction, Qualifications, Context, Tasks and Deliverables but should also be built around the lead consultant’s knowledge of a successful CLT operator. The selected consultant may serve on the selection committee for the selection of the CLT operator.

8.3.3.8. **Deliverable:** A single, action oriented document that outlines major, high level activities required for the first 5 years of operation of a CLT, including a timeline, an educational / community engagement strategy, legal recommendations for incorporation, funding structure, organizational structure, a growth strategy, and major hurdles to execution. Additionally, the consultant must write a full RFP for a CLT operator. Vendor team should plan for an in-person report and presentation containing all the identified action items. Vendor team should plan to deliver at least one draft report of findings to HRD in advance of completing final deliverable. Findings should contain information on all due diligence done to reach recommendations provided.

8.3.4. LEGAL ESTABLISHMENT

The vendor team will be responsible for assisting with the legal incorporation of the CLT. Prior to the CLT operator selection, the vendor team should identify State and local laws that relate to the legal establishment of the CLT, and how such laws will affect the legal requirements. Once a CLT operator is selected the incorporation of the CLT can begin to move forward. At this point in the process, a CLT operator will have been selected through the City of Detroit's procurement process. The selected consultant must work with the selected operator on the legal establishment needed in order to begin the operation of a CLT. There are four major steps to this incorporation: (1) establish legal guidelines and execute the incorporation of a CLT, (2) recruit board members for the CLT, (3) onboard selected CLT operator, (4) create bylaws.

Building upon the work completed in the feasibility study, the selected consultant must do due diligence to understand what sort of legal restrictions govern CLTs and the actions necessary to incorporate and formalize a CLT.

The selected consultant must outline and help execute all legal steps required to ensure the operator's legal status as a CLT, including, but not limited to, completing the IRS non-profit designation work.

In conjunction with CLT operator and stakeholders, the selected consultant will identify and recruit eligible board members for the CLT. In order to complete this task, the selected consultant must create a master list of interested candidates and design and execute a fair interview process that includes objective evaluation methods.

The vendor team must onboard the selected CLT operator. This involves designing and executing an education course for senior staff of the CLT that includes CLT best practices, management, etc. with a specific emphasis on the needs identified in the capacity building exercise.

In conjunction with the newly onboarded CLT operator and board members, the selected consultant must facilitate the creation of the CLT's governing bylaws and formalize them.

8.3.4.1. Deliverable: An incorporated CLT, organizational bylaws, a Board of Directors, an executed educational plan for key CLT stakeholders that may include CLT staff.

8.3.5. PROGRAM DESIGN

The selected consultant will work with a Board of Directors to develop an action plan for the first year of the CLT's operation and engage the community on the selected CLT model. This portion of the scope will be led by the selected consultant and recruited board members. Major stages of this

section of work includes: (1) Community Engagement, (2) Initial Scope, (3) Financial Model, (4) Recruiting residential members, (5) Programming / Services, (6) Enforcement.

- 8.3.5.1. Community Engagement: Work with the newly selected Board of Directors and CLT operator to do community engagement around the forthcoming CLT.
- 8.3.5.2. Initial scope: Design guidelines and scope for the CLT's first year of operation such as: number of structures, acres of open space, commercial properties owned, resale formula, etc.
- 8.3.5.3. Financial model: Model out the CLT's income statement, balance sheet, and cash flows.
- 8.3.5.4. Populate Community Land Trust: Define a strategy around recruitment of CLT residents, business operators, and open space operators.
- 8.3.5.5. Programming: Recommend a strategy for the incorporation of workforce development and homeownership training and programming within the Community Land Trust.
- 8.3.5.6. Enforcement: Guidelines and mechanism around income cap enforcement and resale restrictions.
- 8.3.5.7. Deliverable: Vendor team will deliver a program and all other phases of work, including: strategy for the first year of operation for the CLT including the initial scope of the CLT, upfront funding needs, basic accounting setup, recruitment efforts, educational program design, and enforcement.

8.3.6. PROGRAM IMPLEMENTATION

The selected consultant will work with the selected CLT operator and board of directors to initiate all elements of the Program Design phase. Major initiatives include: (1) Programming, (2) Ownership transfer, (3) Processing and in-taking new residents of the CLT.

- 8.3.6.1. Programming: The selected consultant will aid in initiating the proposed workforce and homeownership training programs. This would include identifying instructors for the courses and playing a role in the design of the course's content.

8.3.6.2. Ownership: The City of Detroit, through its traditional means, will work with the selected consultant and CLT operator to transfer any PDD and / or DLBA parcels identified for developing long term land affordability to the legally incorporated CLT. The City and the CLT will enter into a Development Agreement at this time.

8.3.6.3. Processing: The selected consultant should work hand-in-hand with the CLT operator to execute the proposed recruitment strategy in the Program Design phase (section 4.1.25). Once a finalized list of CLT residents / business owners, etc is identified, the selected consultant should work with the CLT operator to process these individuals and incorporate them into the CLT.

8.3.6.4. Deliverable: The execution of the initial phase of the CLT where the CLT owns the land they plan to operate, residents moved into homes and businesses, and have program infrastructure in place to run educational programming.

9. RELATIONSHIP AND REQUIRED WORK PLAN

The City will make every effort to provide the interested firm with all relevant information and data or access to those who can provide that information and data so the firm can make the best possible recommendations to the City.

10. TECHNICAL INFORMATION

Present a brief description of procedures to be followed, presented in a form which will best assist the City in evaluating your firm's ability to identify, evaluate, and communicate while providing the requested services, e.g. fees.

11. RESPONDENT PERFORMANCE HISTORY

The respondent shall provide the following information:

- a) Identify in detail at least 3 (three) similar projects by name, subject matter, location, respondent's services provided and the length of time respondent's service were provided on each (use attached reference form). Included in this informal shall be the description of services provided and the time period during which the services were provided;
- b) Identify the respondent's key personnel working on the projects identified in "section a" above;
- c) Identify any projects in which the respondent's contract was terminated for any reason;
- d) Identify any claims or lawsuits that have been brought against your organization as a result of any services provided within the last years;
- e) Attach your organization's financial statements (CPA Certified) for the previous three years; and

- f) Provide an organization chart indicating the key personnel who will provide services resulting from this RFP. Also provide a resume for each of the key personnel.

12. EVALUATION CRITERIA

Technical Proposal

Criteria	Points (100)
Overall Strength of Concept/Proposal	35
Financial Analysis Capacity	10
Legal Analysis Capacity	10
Affordable Housing Transaction Expertise	10
Engagement Capacity	10
Long Term Housing Affordability Model Development Experience	10
Local Engagement Partner	5
Timeline / Work Plan	10

Cost Proposal

The Cost Proposal will only be evaluated if the Respondent meets the minimum qualifications and after the Technical Proposal has been evaluated.

13. EVALUATION PROCEDURE

Any proposals determined to be non-responsive to the specifications or other requirements of the RFP, including instructions governing submission and format, will be disqualified unless the City determines, in its sole discretion, that non-compliance is not substantial or that an alternative proposal by the Respondent is acceptable.

A designated Evaluation Committee will evaluate the minimum qualifications of the respondent first and determine whether or not the respondent meets the minimum qualifications. For those institutions that meet the minimum qualifications, the Evaluation Committee will then evaluate the Technical Proposal. The Cost Proposal will only be reviewed after this process, including the evaluation of the Technical Proposal, is completed.

The City may also, at its discretion, request oral presentations, make site visits at the Respondent’s facility, and may request a demonstration of Respondent’s operations. If scheduled, a final determination will be made after the oral presentations and/or demonstrations are complete.

The City may also, at its sole discretion, elect to rank order the qualified proposals and negotiate with some limited number of the highest scored qualified

respondents. A final determination would include the cumulative inputs of this evaluation procedure.

All decisions reached by the Evaluation Committee will be by consensus.

14. CONTRACT APPROVAL

Upon contract award, the City and the respondent shall execute a Professional Services Contract, which shall contain all contractual terms and conditions in a form provided by the City. No contract shall become effective until the contract has been approved by the required City Departments and Detroit City Council and signed by the City of Detroit Chief Procurement Officer. Prior to the completion of this approval process, the respondent shall have no authority to begin work under the contract. The Chief Financial Officer shall not authorize any payments to the respondent prior to such approvals; nor shall the City incur any liability to reimburse the respondent regarding any expenditure for the purchase of materials or the payment of services.

15. REQUIRED SUBMITTAL INFORMATION

Specifies documents, which must be submitted with all proposals. (i.e., organizational chart, resumes, client list, brochures, cover letter, executive summary, etc.)

16. SUBMITTAL INSTRUCTIONS

All proposals must be submitted through the Bidsync system. Each respondent is responsible for ensuring that its proposal is received by the City on a timely basis.

Faxed or mailed proposals will not be accepted.

Firms shall not distribute their proposals to any other City office or City employee. Proposals received become the property of the City. The City is not responsible for any costs associated with preparation or submission of proposals. All proposals submitted by the due date will be recorded in the Bidsync System. Responses received **will not** be available for review. Proposals received will be subject to disclosure under applicable Freedom of Information Act. An officer of the company authorized to bind the company to a contractual obligation with the City must sign the proposals in the Bidsync System. The contact person regarding the proposal should also be specified by name, title, and phone number. The successful respondent will receive an award letter. Respondents who are not awarded will receive a notification that the award decision has been made.

17. PREPARATION OF PROPOSAL

The proposal shall include all forms as specified in these instructions. Each proposal shall show the full legal name and businesses address of the prospective respondent, including street address if different from mailing address, and shall be signed and dated by the person or persons authorized to bind the prospective respondent. Proposals by a partnership or joint venture shall list the full names and addresses of all parties to the joint venture. The state of incorporation shall be shown for each corporation that is a party to the proposed joint venture.

Respondent shall provide notice in its proposal to take exception to any requirement of the RFP. Should a respondent be in doubt as to the true meaning of any portion of this RFP or find any patent ambiguity, inconsistency, or omission herein, the respondent must make a written request for an official interpretation or correction in accordance with the instructions for submitting questions as specified in this RFP.

Respondents are advised that no oral interpretation, information or instruction by an officer or employee of the City of Detroit shall be binding upon the City of Detroit.

18. REQUIRED CONTENT

Bid responses must include the following content:

Letter of Transmittal

The prospective respondent's proposal shall include a letter of transmittal signed by an individual or individuals authorized to bind the prospective respondent contractually. The letter must state that the proposal will remain firm for a period of one hundred twenty (120) days from its due date and thereafter until the prospective respondent withdraws it, or a contract is executed, or the procurement is terminated by the City of Detroit, whichever occurs first.

The second document is the Cost Proposal. It must be organized in the manner described below:

Cost Proposal

Respondents are required to make a cost proposal to the City of Detroit. It must clearly indicate the fees you will charge to perform each of the services you are bidding on. The rates and any discounts shown in the Cost Proposal shall be consistently applied and remain in place throughout the length of the contract.

Please include any applicable fee schedule for services that your institution can provide.

The City of Detroit reserves the right to select proposals from the most responsible respondents with the most reasonable costs. The City reserves the right to select one or more institutions.

Technical Proposal

The third document is the Technical Proposal that includes an Executive Summary. Follow specified format for Technical Proposal including approach and deliverables.

19. ADDITIONAL REQUIRED INFORMATION

Respondents are also required to submit certain clearance and affidavits. The following clearances and affidavits are required to do business with the City of Detroit. Approved clearances are not required to submit a response to the RFP, but will be required of the successful respondent prior to City Council approval.

Respondents must submit requests for clearance and affidavits electronically on the firm’s Profile Page in the BidSync system. If there is documentation that the respondent is required to provide to the City that contains personal identifiable information, the respondent must submit the request for clearance through the BidSync system and send the confidential information to the City separately to the Contracting and Procurement Specialist handling the RFP via email. Do not attach copies of clearance documents or affidavits to the Technical Proposal.

Required Clearances	Required Affidavits
Income Tax Revenue Tax	Slavery Era Hiring Compliance Political Contributions Human Rights

Accuracy and Completeness of Information

All information pertaining to the prospective respondent’s approach in meeting the requirements of the RFP shall be organized and presented in the prospective respondent’s proposal. The instructions contained in this RFP must be strictly followed.

Accuracy and completeness are essential. Omissions and ambiguous or equivocal statements will be viewed unfavorably and may be considered in the evaluation. Since all or a portion of the successful proposal may be incorporated into any ensuing contract, all prospective respondents are further cautioned not to make any claims or statements that cannot be subsequently included in a legally binding agreement.

In your introduction, please include, at a minimum, the following information and/or documentation:

- ❑ A statement to the effect that your proposal is in response to this RFP;
- ❑ A brief description of your firm;
- ❑ The location of the firm’s principal place of business and, if different, the location of the place of performance of the contract;
- ❑ A commitment to perform the requested work in accordance with the requirements outlined in this RFP;
- ❑ The name and contact information of the of the firm’s partner and or manager(s) that will be in charge of this project;

- ❑ The firm's financial solvency, fiscal responsibility and financial capability;
- ❑ The age of the firm's business and the average number of employees during each of the last three (3) years;
- ❑ The firm's current tax status and Federal Employer Identification Number; and
- ❑ Evidence of any licenses or registrations required to provide the services under this contract.

20. REQUIRED FORMAT

To be considered responsive, each proposal must, at a minimum, respond to the following RFP sections in their entirety:

- ❑ Overall Scope of Work and Operational Responsibilities;
- ❑ Respondents Performance History;
- ❑ Proposal Submission Procedure; and
- ❑ Certificate of Good Corporate Standing.

21. REQUIRED COST PROPOSAL

Respondents are requested to make a firm cost proposal to the City of Detroit. Submit as separate proposal document from technical proposal. If a contract is entered into as a result of this RFP, it will be a contract for fees as related to providing all requested services, with a price not to exceed the total price quoted in the proposal. The City of Detroit reserves the right to select proposals from the most responsible respondents with the most reasonable costs. The City reserves the right to select one or more firms to perform all or separate parts of this function

Indicate the fees you will charge to perform the services. Attach a schedule of fees or hourly rates broken out for each type of staff member that will work on the project (i.e., Sr. Partner, Partner, Associate Paralegal Typist, etc.)

22. TECHNICAL PROPOSAL AND APPROACH

Present a brief description of procedures to be followed, presented in a form which will best assist the City in evaluating your firm's ability to identify, evaluate, and communicate while providing the requested services, e.g. fees.

23. QUESTION DEADLINE by 4:00 p.m., Friday, June 8, 2018

All questions regarding the RFP#18EJ1961 shall be submitted to the RFP Q&A Section in Bidsync System. Respondents shall provide notice to take exception to any requirements of the Request for Proposals. Such exceptions may reflect negatively on the evaluation of the Proposal. The City of Detroit does not guarantee a response to questions not submitted after the question deadline.

24. ECONOMY OF PREPARATION

Proposals should be prepared simply and economically providing a straight forward, concise description of the contractor's ability to meet the requirements of the RFP. Emphasis should be on the completeness and clarity of content.

25. PAYMENT

All properly executed invoices submitted by the successful respondent will be paid in accordance with the City of Detroit Prompt Payment Ordinance.

26. ORAL PRESENTATION/DEMONSTRATION

The City reserves the right, at its own discretion, to request Oral Presentations regarding proposals submitted in response to the RFP. Failure to make an oral presentation will be grounds for rejection of your proposal. Proponents will be notified by the Office of Contracting and Procurement of the date, time and location for Oral Presentations.

27. ASSIGNMENT

The services to be performed by the respondent shall not be assigned, sublet, or transferred, nor shall the respondent assign any monies due or to become due to him under any contract entered into with the City pursuant to these specifications, without prior written approval of the City.

28. MISCELLANEOUS

It shall be the responsibility of the respondent to thoroughly familiarize themselves with the provisions of these specifications. After executing the contract, no consideration will be given to any claim of misunderstanding.

The respondent agrees to abide by the rules and regulations as prescribed herein by the City as the same now exists or may hereafter from time to time be changed in writing.

29. MODIFICATION OF SERVICES AFTER CONTRACT APPROVAL

The City reserves the right to modify the services provided by the respondent awarded a contract. Any modification and resulting changes in pricing shall be made by amendment to the contract by the respondent and the City.

30. BID DEPOSIT AND PERFORMANCE BOND

The successful respondent(s) must furnish a performance bond in the amount of 100% of the contract value specified in the contract (City of Detroit form attached) guaranteeing the contract will be accepted if tendered an award.

31. CHANGES IN FACTS

Proposers shall advise the City during the time the Proposal is open for consideration of any changes in the principal officers, organization, financial ability of, or any other facts presented in the proposal with respect to the proposer or the proposal immediately upon occurrence.

32. CONFIDENTIALITY OF PROPOSALS

Proposals shall be opened with reasonable precautions to avoid disclosure of contents to competing offers during the process of evaluation. Once proposals have been publicly recorded they are subject disclosure as per the requirements of the Michigan Freedom of Information Act.

33. NEWS RELEASE

News releases pertaining to these proposal specifications or the provisions to which they relate shall not be made without prior approval of the City and then only in coordination with the City.

34. CHANGES IN PROPOSAL REQUIREMENTS

The City may make changes to the requirements of this RFP, as it deems necessary. Respondents will be notified by email if any changes are made to the RFP. If changes are made, the City may, at its discretion, extend the time allowed for submission of proposals.

35. OFFICE OF INSPECTOR GENERAL¹

35.1. In accordance with Section 2-106.6 of the City Charter, this Contract shall be voidable or rescindable at the discretion of the Mayor or Inspector General at any time if a Public Servant who is a party to the Contract has an interest in the Contract and fails to disclose such interest.

35.2. This Contract shall also be voidable or rescindable if a lobbyist or employee of the contracting party offers a prohibited gift, gratuity, honoraria or payment to a Public Servant in relation to the Contract.

35.3. A fine shall be assessed to the Contractor in the event of a violation of Section 2-106.6 of the City Charter. If applicable, the actions of the Contractor, and its representative lobbyist or employee, shall be referred to the appropriate prosecuting authorities.

35.4. Pursuant to Section 7.5-306 of the City Charter, the Inspector General shall investigate any Public Servant, City agency, program or official act, contractor and subcontractor providing goods and services to the City, business entity seeking contracts or certification of eligibility for City contracts and person

¹ "Public Servant" means the Mayor, members of City Council, City Clerk, appointive officers, any member of a board, commission or other voting body established by either branch of City government or the City Charter, and any appointee, employee or individual who provides services to the City within or outside of its offices or facilities pursuant to a personal services contract.

seeking certification of eligibility for participation in any City program, either in response to a complaint or on the Inspector General's own initiative in order to detect and prevent waste, abuse, fraud and corruption.

For purposes of this Article

- 35.5. In accordance with Section 7.5-310 of the City Charter, it shall be the duty of every Public Servant, contractor, subcontractor, and licensee of the City, and every applicant for certification of eligibility for a City contract or program, to cooperate with the Inspector General in any investigation pursuant to Article 7.5, Chapter 3 of the City Charter.
- 35.6. Any Public Servant who willfully and without justification or excuse obstructs an investigation of the Inspector General by withholding documents or testimony, is subject to forfeiture of office, discipline, debarment or any other applicable penalty.
- 35.7. As set forth in Section 7.5-308 of the City Charter, the Inspector General has a duty to report illegal acts. If the Inspector General has probable cause to believe that any Public Servant or any person doing or seeking to do business with the City has committed or is committing an illegal act, then the Inspector General shall promptly refer the matter to the appropriate prosecuting authorities.

ADDENDUM A

RFP#18EJ1961 PROPOSAL SUBMISSION SIGNATURE PAGE

ASSIGNMENT: A Contractor shall not assign any Purchase Order or Contract or any monies due therefrom without prior approval of the Chief Procurement Officer, the Office of the Chief Financial Officer and in some cases the City Council. Contact the RFP, Contracting and Procurement Specialist for proper procedure: Elizabeth C. Ayana Johnson, johnsonea@detroitmi.gov

IN THE FURTHER DESCRIPTION OF THIS PROPOSAL, WE SUBMIT INFORMATION IDENTIFIED AS FOLLOWS:

BIDDING UNDER THE NAME OF:

(PRINT FULL LEGAL NAME)

(PURCHASE ORDER WILL BE ISSUED AND PAYMENT WILL BE MADE ONLY IN THE NAME ABOVE. ALL PAYMENTS WILL BE DIRECT DEPOSIT. VENDOR PICK-UP OF PAYMENT IS NOT ACCEPTABLE)

FIRM'S HEADQUARTERS ADDRESS:

(ZIP CODE)

FIRM'S SITE ADDRESS:

(IF DIFFERENT FROM ABOVE)

(ZIP CODE)

FIRM'S BUSINESS ADDRESS:

(CHECK ONE):

LEASE _____ RENT _____ OWN _____

(ZIP CODE)

FEDERAL EMPLOYER ID #:

CHECK ONE:

CORPORATION, Incorporated Under The Laws Of The State Of _____

If Other Than Michigan Corporation, Licensed To Do Business In Michigan? _____ YES _____ NO

PARTNERSHIP, Consisting of (List Partners)

ASSUMED NAME (Register No.)

INDIVIDUAL

IF NOT SIGNED BY OFFICER OF FIRM, THE PERSON SIGNING MUST HAVE AUTHORITY TO COMMIT THE FIRM CONTRACTUALLY TO THIS BID. The authorized signature affirms that the proposal will remain firm for a period of one hundred

twenty (120) days from its due date and thereafter until withdrawn, in writing, or a contract is executed, or the procurement is terminated by the City of Detroit, whichever occurs first. ***THIS FORM MUST BE FILLED IN ITS ENTIRETY. FAILURE TO COMPLETE FORM WILL BE CAUSE FOR REJECTION.***

E-MAIL _____

AUTHORIZED SIGNATURE:

DATE _____

SIGNED: _____

TELEPHONE NO. _____

PRINTED _____

FAX NO. _____

TITLE _____

CELL PHONE NUMBER _____

ALTERNATE CONTACT _____

ADDITIONAL DISCLOSURES: NON-COLLUSION AFFIDAVIT, CONFLICT OF INTEREST STATEMENT

NON-COLLUSION AFFIDAVIT OF PRIME PROPOSER

State of Michigan)

County Wayne)

_____,
being first duly sworn, deposes and says
that:

He / She is, _____, of
(Owner, Partner, Officer, Representative, Agent)

(Contractor that has submitted the attached Proposal)

He / She is fully informed respecting the preparation and contents of the attached, Proposal and of all pertinent circumstances respecting such Proposal.

Such Proposal is genuine and is not a collusive or sham proposal.

Neither the said Proposer nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including the person making this statement, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Proposer, Firm or person to submit a collusive or sham Proposal in connection with the Contract for which the attached Proposal has been submitted or to refrain from proposing in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Proposer, Firm or person to fix the price or prices in the attached Proposal or the Proposal of any other Proposer, or to fix any overhead, profit or cost element of the bid price or the bid price of any other Proposer, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Detroit or any person interested in the proposed Contractor; and

The price or prices quoted in the attached Cost Proposal are fair and proper and are not tainted by a collusion, conspiracy, connivance or unlawful agreement on the part of the Proposer or any of its agents, representatives, owners, partners, employees, or parties in interest, including the person making this statement.

(Signature)

(Title)

Subscribed and sworn to before me this _____ day of _____, 2014
_____ my commission expires,

Notary Public _____ County, Michigan.

NOTARY SEAL:

ADDENDUM B

HUD CONFLICT OF INTEREST CERTIFICATION, DRUG FREE WORKPLACE

CONFLICT OF INTEREST CERTIFICATE

I hereby affirm that I have received copies of the provisions of the Code of Federal Regulations relevant to conflict of interest in regards to Contracts under the CDBG and HOME programs and I hereby Certify that to the best of my knowledge and belief, no actual or apparent Conflict of interest exists with regard to the performance of this contract.

Name of Organization: _____

Name: _____
(Print)

Signature _____ **Date** _____
President of Board of Directors

Or authorized representative:

Signature Authorized Representative:

Title: _____ **Date** _____

Applicant Name

Certification for a Drug-Free Workplace

U.S. Department of Housing and Urban
Development

Program/Activity Receiving Federal Grant Funding

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
- b. Establishing an on-going drug-free awareness program to inform employees ---
 - (1) The dangers of drug abuse in the workplace;
 - (2) The Applicant's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;
- d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. through f.

- (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction; e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---
- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

2. Sites for Work Performance. The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

Check here if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official

Title

Signature

Date

X

form **HUD-50070** (3/98)
ref. Handbooks 7417.1, 7475.13, 7485.1 & .3

ADDENDUM C

FEDERAL REGULATIONS

2 CFR 200.200-202, 208 AND 2 CFR 200.317-318, 320-321, 323, 325, 330, 332, 336, 338, 340, 344, OMB SUBAWARD DATA FORM

OMB Guidance

§ 200.202

Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards

§ 200.200 Purpose.

(a) Sections 200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts through 200.208 Certifications and representations. Prescribe instructions and other pre-award matters to be used in the announcement and application process.

(b) Use of §§200.203 Notices of funding opportunities, 200.204 Federal awarding agency review of merit of proposals, 200.206 Federal awarding agency review of risk posed by applicants, and 200.207 Specific conditions, is required only for competitive Federal awards, but may also be used by the Federal awarding agency for non-competitive awards where appropriate or where required by Federal statute.

§ 200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.

(a) The Federal awarding agency or pass-through entity must decide on the appropriate instrument for the Federal award (i.e., grant agreement, cooperative agreement, or contract) in accordance with the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301-06).

(b) Fixed Amount Awards. In addition to the options described in paragraph (a) of this section, Federal awarding agencies, or pass-through entities as permitted in §200.332 Fixed amount subawards, may use fixed amount awards (see §200.45 Fixed amount awards) to which the following conditions apply:

(1) Payments are based on meeting specific requirements of the Federal award. Accountability is based on performance and results. The Federal award amount is negotiated using the cost principles (or other pricing information) as a guide. Except in the case of termination before completion of the Federal award, there is no governmental review of the actual costs incurred by the non-Federal entity in performance of the award. The Federal awarding agency or pass-through enti-

ty may use fixed amount awards if the project scope is specific and if adequate cost, historical, or unit pricing data is available to establish a fixed amount award with assurance that the non-Federal entity will realize no increment above actual cost. Some of the ways in which the Federal award may be paid include, but are not limited to:

(1) In several partial payments, the amount of each agreed upon in advance, and the "milestone" or event triggering the payment also agreed upon in advance, and set forth in the Federal award;

(11) On a unit price basis, for a defined unit or units, at a defined price or prices, agreed to in advance of performance of the Federal award and set forth in the Federal award; or,

(111) In one payment at Federal award completion.

(2) A fixed amount award cannot be used in programs which require mandatory cost sharing or match.

(3) The non-Federal entity must certify in writing to the Federal awarding agency or pass-through entity at the end of the Federal award that the project or activity was completed or the level of effort was expended. If the required level of activity or effort was not carried out, the amount of the Federal award must be adjusted.

(4) Periodic reports may be established for each Federal award.

(5) Changes in principal investigator, project leader, project partner, or scope of effort must receive the prior written approval of the Federal awarding agency or pass-through entity.

§ 200.202 Requirement to provide public notice of Federal financial assistance programs.

(a) The Federal awarding agency must notify the public of Federal programs in the Catalog of Federal Domestic Assistance (CFDA), maintained by the General Services Administration (GSA).

(1) The CFDA, or any OMB-designated replacement, is the single, authoritative, governmentwide comprehensive source of Federal financial assistance program information produced by the executive branch of the Federal government.

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suspension and debarment in 2 CFR part 180, and must require non-Federal entities to comply with these provisions. These provisions restrict Federal awards, subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal programs or activities.

§ 200.206 Standard application requirements.

(a) *Paperwork clearances.* The Federal awarding agency may only use application information collections approved by OMB under the Paperwork Reduction Act of 1996 and OMB's implementing regulations in 5 CFR part 1320, Controlling Paperwork Burdens on the Public. Consistent with these requirements, OMB will authorize additional information collections only on a limited basis.

(b) If applicable, the Federal awarding agency may inform applicants and recipients that they do not need to provide certain information otherwise required by the relevant information collection.

§ 200.207 Specific conditions.

(a) Based on the criteria set forth in § 200.205 Federal awarding agency review of risk posed by applicants or when an applicant or recipient has a history of failure to comply with the general or specific terms and conditions of a Federal award, or failure to meet expected performance goals as described in § 200.210 Information contained in a Federal award, or is not otherwise responsible, the Federal awarding agency or pass-through entity may impose additional specific award conditions as needed under the procedure specified in paragraph (b) of this section. These additional Federal award conditions may include items such as the following:

- (1) Requiring payments as reimbursements rather than advance payments;
- (2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- (3) Requiring additional, more detailed financial reports;
- (4) Requiring additional project monitoring;

(5) Requiring the non-Federal entity to obtain technical or management assistance; or

(6) Establishing additional prior approvals.

(b) The Federal awarding agency or pass-through entity must notify the applicant or non-Federal entity as to:

(1) The nature of the additional requirements;

(2) The reason why the additional requirements are being imposed;

(3) The nature of the action needed to remove the additional requirement, if applicable;

(4) The time allowed for completing the actions if applicable, and

(5) The method for requesting reconsideration of the additional requirements imposed.

(c) Any special conditions must be promptly removed once the conditions that prompted them have been corrected.

§ 200.208 Certifications and representations.

Unless prohibited by Federal statutes or regulations, each Federal awarding agency or pass-through entity is authorized to require the non-Federal entity to submit certifications and representations required by Federal statutes, or regulations on an annual basis. Submission may be required more frequently if the non-Federal entity fails to meet a requirement of a Federal award.

§ 200.209 Pre-award costs.

For requirements on costs incurred by the applicant prior to the start date of the period of performance of the Federal award, see § 200.458 Pre-award costs.

§ 200.210 Information contained in a Federal award.

A Federal award must include the following information:

(a) *General Federal Award Information.* The Federal awarding agency must include the following general Federal award information in each Federal award:

- (1) Recipient name (which must match registered name in DUNS);

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Awards, Contracts and Cooperative Agreements.”

(d) The Federal government has the right to:

(1) Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(e) Freedom of Information Act (FOIA).

(1) In addition, in response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under a Federal award that were used by the Federal government in developing an agency action that has the force and effect of law, the Federal awarding agency must request, and the non-Federal entity must provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA. If the Federal awarding agency obtains the research data solely in response to a FOIA request, the Federal awarding agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the Federal agency and the non-Federal entity. This fee is in addition to any fees the Federal awarding agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).

(2) Published research findings means when:

(i) Research findings are published in a peer-reviewed scientific or technical journal; or

(ii) A Federal agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law. “Used by the Federal government in developing an agency action that has the force and effect of law” is defined as when an agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.

(3) Research data means the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: preliminary anal-

yses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This “recorded” material excludes physical objects (e.g., laboratory samples). Research data also do not include:

(1) Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and

(2) Personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.

§ 200.316 Property trust relationship.

Real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The Federal awarding agency may require the non-Federal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property.

PROCUREMENT STANDARDS

§ 200.317 Procurements by states.

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with § 200.322 Procurement of recovered materials and ensure that every purchase order or other contract includes any clauses required by section § 200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow § 200.318 General procurement standards through 200.326 Contract provisions.

§ 200.318 General procurement standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is un-

able or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, the non-Federal entity is encouraged to enter into state and local inter-governmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor

standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

§ 200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$3,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

(i) The invitation for bids will be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an

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offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

(4) After solicitation of a number of sources, competition is determined inadequate.

§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

§ 200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition,

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where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§ 200.323 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§ 200.324 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the

Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be

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reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§ 200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract

to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§ 200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

PERFORMANCE AND FINANCIAL MONITORING AND REPORTING

§ 200.327 Financial reporting.

Unless otherwise approved by OMB, the Federal awarding agency may solicit only the standard, OMB-approved governmentwide data elements for collection of financial information (at time of publication the Federal Financial Report or such future collections as may be approved by OMB and listed on the OMB Web site). This information must be collected with the frequency required by the terms and conditions of the Federal award, but no less frequently than annually nor more frequently than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes, and preferably in coordination with performance reporting.

200.328 Monitoring and reporting program performance.

(a) *Monitoring by the non-Federal entity.* The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also § 200.331 Requirements for pass-through entities.

(b) *Non-construction performance reports.* The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance

every two years or every three years, not to exceed a five-year reporting period; or a Federal awarding agency or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years).

SUBRECIPIENT MONITORING AND MANAGEMENT

§ 200.330 Subrecipient and contractor determinations.

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

(a) *Subrecipients.* A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See § 200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) *Contractors.* A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use

and creates a procurement relationship with the contractor. See § 200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

(c) *Use of judgment in making determination.* In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

§ 200.331 Requirements for pass-through entities.

All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

- (1) Federal Award Identification.
 - (i) Subrecipient name (which must match registered name in DUNS);
 - (ii) Subrecipient's DUNS number (see § 200.92 Data Universal Numbering System (DUNS) number);
 - (iii) Federal Award Identification Number (FAIN);

from the pass-through entity as required by § 200.521 Management decision.

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing subrecipients with training and technical assistance on program-related matters; and

(2) Performing on-site reviews of the subrecipient's program operations;

(3) Arranging for agreed-upon-procedures engagements as described in § 200.425 Audit services.

(f) Verify that every subrecipient is audited as required by Subpart F—Audit Requirements of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in § 200.501 Audit requirements.

(g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

(h) Consider taking enforcement action against noncompliant subrecipients as described in § 200.338 Remedies for noncompliance of this part and in program regulations.

§ 200.332 Fixed amount subawards.

With prior written approval from the Federal awarding agency, a pass-through entity may provide subawards based on fixed amounts up to the Simplified Acquisition Threshold, provided that the subawards meet the requirements for fixed amount awards in § 200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.

RECORD RETENTION AND ACCESS

§ 200.333 Retention requirements for records.

Financial records, supporting documents, statistical records, and all other non-Federal entity records perti-

nent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

(a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

(b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.

(c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

(d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.

(e) Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.

(f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer

usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the Federal government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(2) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the Federal government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

§ 200.334 Requests for transfer of records.

The Federal awarding agency must request transfer of certain records to its custody from the non-Federal entity when it determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping, the Federal awarding agency may make arrangements for the non-Federal entity to retain any records that are continuously needed for joint use.

§ 200.335 Methods for collection, transmission and storage of information.

In accordance with the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information, the Federal awarding agency and the non-Federal entity should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine readable formats rather than in closed formats or on paper. The Federal awarding agency or pass-through entity must always provide or accept paper versions of Federal award-related information to and from the non-Federal entity upon request. If paper copies are submitted, the Federal awarding agency or pass-through entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there

is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

§ 200.336 Access to records.

(a) *Records of non-Federal entities.* The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.

(b) Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the non-Federal entity and the Federal awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the Federal awarding agency or delegate.

(c) *Expiration of right of access.* The rights of access in this section are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and pass-through entities must not impose any other access requirements upon non-Federal entities.

§ 200.337 Restrictions on public access to records.

No Federal awarding agency may place restrictions on the non-Federal entity that limit public access to the

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records of the non-Federal entity pertinent to a Federal award, except for protected personally identifiable information (PII) or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13526 if the records had belonged to the Federal awarding agency. The Freedom of Information Act (5 U.S.C. 552) (FOIA) does not apply to those records that remain under a non-Federal entity's control except as required under § 200.315 Intangible property. Unless required by Federal, state, or local statute, non-Federal entities are not required to permit public access to their records. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.

REMEDIES FOR NONCOMPLIANCE

§ 200.338 Remedies for noncompliance.

If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in § 200.207 Specific conditions. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (c) Wholly or partly suspend or terminate the Federal award.
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 100 and Federal awarding agency

regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).

(e) Withhold further Federal awards for the project or program.

(f) Take other remedies that may be legally available.

§ 200.339 Termination.

(a) The Federal award may be terminated in whole or in part as follows:

(1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;

(2) By the Federal awarding agency or pass-through entity for cause;

(3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or

(4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.

(b) When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §§ 200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities.

§ 200.340 Notification of termination requirement.

(a) The Federal agency or pass-through entity must provide to the

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records of the non-Federal entity pertinent to a Federal award, except for protected personally identifiable information (PII) or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13526 if the records had belonged to the Federal awarding agency. The Freedom of Information Act (5 U.S.C. 552) (FOIA) does not apply to those records that remain under a non-Federal entity's control except as required under § 200.315 Intangible property. Unless required by Federal, state, or local statute, non-Federal entities are not required to permit public access to their records. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.

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- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (c) Wholly or partly suspend or terminate the Federal award.
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency

regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).

- (e) Withhold further Federal awards for the project or program.
- (f) Take other remedies that may be legally available.

§ 200.339 Termination.

(a) The Federal award may be terminated in whole or in part as follows:

- (1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;
- (2) By the Federal awarding agency or pass-through entity for cause;
- (3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or

(4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.

(b) When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §§ 200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities.

§ 200.340 Notification of termination requirement.

(a) The Federal agency or pass-through entity must provide to the

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(e) Consistent with the terms and conditions of the Federal award, the Federal awarding agency or pass-through entity must make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The non-Federal entity must account for any real and personal property acquired with Federal funds or received from the Federal government in accordance with §§200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property.

(g) The Federal awarding agency or pass-through entity should complete all closeout actions for Federal awards no later than one year after receipt and acceptance of all required final reports.

POST-CLOSEOUT ADJUSTMENTS AND CONTINUING RESPONSIBILITIES

§ 200.344 Post-closeout adjustments and continuing responsibilities.

(a) The closeout of a Federal award does not affect any of the following.

(1) The right of the Federal awarding agency or pass-through entity to disallow costs and recover funds on the basis of a later audit or other review. The Federal awarding agency or pass-through entity must make any cost disallowance determination and notify the non-Federal entity within the record retention period.

(2) The obligation of the non-Federal entity to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments.

(3) Audit requirements in Subpart F—Audit Requirements of this part.

(4) Property management and disposition requirements in Subpart D—Post Federal Award Requirements of this part, §§200.310 Insurance Coverage through 200.316 Property trust relationship.

(5) Records retention as required in Subpart D—Post Federal Award Requirements of this part, §§200.333 Retention requirements for records through 200.337 Restrictions on public access to records.

(b) After closeout of the Federal award, a relationship created under the Federal award may be modified or

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ended in whole or in part with the consent of the Federal awarding agency or pass-through entity and the non-Federal entity, provided the responsibilities of the non-Federal entity referred to in paragraph (a) of this section including those for property management as applicable, are considered and provisions made for continuing responsibilities of the non-Federal entity, as appropriate.

COLLECTION OF AMOUNTS DUE

§ 200.345 Collection of amounts due.

(a) Any funds paid to the non-Federal entity in excess of the amount to which the non-Federal entity is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal government. If not paid within 90 calendar days after demand, the Federal awarding agency may reduce the debt by:

(1) Making an administrative offset against other requests for reimbursements;

(2) Withholding advance payments otherwise due to the non-Federal entity; or

(3) Other action permitted by Federal statute.

(b) Except where otherwise provided by statutes or regulations, the Federal awarding agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (31 CFR parts 900 through 999). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

Subpart E—Cost Principles

GENERAL PROVISIONS

§ 200.400 Policy guide.

The application of these cost principles is based on the fundamental premises that:

(a) The non-Federal entity is responsible for the efficient and effective administration of the Federal award through the application of sound management practices.

(b) The non-Federal entity assumes responsibility for administering Federal funds in a manner consistent with

(i)	Subrecipient Name	[Insert Subrecipient name, which must match the name associated with its unique entity identifier]
(ii)	Subrecipient Unique Entity Identifier:	[Insert Subrecipient DUNS #]
(iii)	Federal Award Identification Number (FAIN):	[Insert Federal Award Identification #]
(iv)	Federal Award Date of Award to the Recipient by the Federal Agency:	[Insert date]
(v)	Subaward Period of Performance Start Date:	[Insert date]
	Subaward Period of Performance End Date:	[Insert date]
(vi)	Amount of Federal Funds Obligated by this Action by the Pass-Through Entity to the Subrecipient:	[Insert Total Agreement Funds]
(vii)	Total Amount of Federal Funds Obligated to the Subrecipient by the Pass-Through Entity Including the Current Obligation:	[If additional federal awards have been awarded to the Subrecipient, insert total amount, including the Total Agreement Funds specified above]
(viii)	Total Amount of the Federal Award Committed to the Subrecipient by the Pass-Through Entity:	[Insert amount]
(ix)	Federal Award Project Description:	[Insert description]
(x)	Name of Federal Awarding Agency:	[Insert name]
	Name of Pass-Through Entity:	[CAA]
	Contact Information for Federal Awarding Official:	[Insert contact information]
	Contact Information for [CAA] Authorizing Official:	[Insert contact information]
	Contact Information for [CAA] Project Director:	[Insert contact information]
(xi)	CFDA Number and Name:	[Insert CFDA number and name]

¹ This information is required by the Uniform Guidance, 2 C.F.R. § 200.331(a)(1). The Uniform Guidance also requires that if any of these data elements change, the pass-through entity must include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the federal prime award and subaward.

