

**ORDINANCE NO. 154-17**

**AN ORDINANCE AUTHORIZING THE PAYMENT OF \$31,000.00 TO YOUR CONSTRUCTION FOR THE PRIVATE HOME REHABILITATION AT 914 QUINCY COURT, MEDINA AS PART OF THE PY16 CHIP GRANT PROGRAM, AND DECLARING AN EMERGENCY.**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:**

- SEC. 1:** That the payment of \$31,000.00 is hereby authorized to Your Construction for the rehabilitation of 914 Quincy Court, Medina as part of the PY16 CHIP Grant Program, Project #AC-16-06.
- SEC. 2:** That the funds to cover this payment in the amount of \$31,000.00 are available in Account No. 139-0456-52215.
- SEC. 3:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 4:** That this Ordinance shall be considered an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason to not delay payment to the contractor; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and signature by the Mayor.

**PASSED:** October 23, 2017

**SIGNED:** John M. Coyne, III  
President of Council

**ATTEST:** Kathy Patton  
Clerk of Council

**APPROVED:** October 24, 2017

**SIGNED:** Dennis Hanwell  
Mayor

Ord. 154-17

**CITY OF MEDINA**  
(IN PARTNERSHIP WITH CITY OF BRUNSWICK)  
**132 N. ELMWOOD AVE.**  
**MEDINA, OH 44258**  
**PY2016**

**CONTRACT**  
  
**FOR**  
  
**REHABILITATION CONSTRUCTION**  
  
**BETWEEN**

Paul Taylor, File No. M-14/14H  
OWNER

914 Quincy Ct, Medina, OH 44256  
ADDRESS

(330) 636-6788  
TELEPHONE

**AND**

Your Construction  
CONTRACTOR

784 Substation Road, Brunswick, OH 44212  
ADDRESS

(330) 321-8283  
TELEPHONE

September, 2017  
DATE

The following Contract contains the Agreement, Work Write-up Drawings (if applicable) from the Bid and Proposal, the Specifications, General Conditions, and Supplemental Conditions which the undersigned hereby acknowledge he/they do fully understand as the work to be performed.

For the considerations named herein, the Contractor proposes to furnish all the material and do all the work described in, and in accordance with, the Contract identified in the work write-up and General Conditions.

For the Sum of Thirty Thousand Eight Hundred Eighty Dollars and No Cents \$30,880.00

Alternate #1.....\$\_\_\_\_\_

Alternate #2.....\$\_\_\_\_\_

TOTAL        \$30,880.00

Rehab Address: 914 Quincy Ct

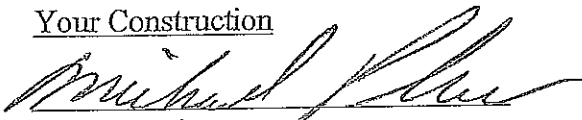
Medina, OH 44256

Contract Number: M-14/14H

ACCEPTANCE OF:

CONTRACTOR

Your Construction

  
Signature

\_\_\_\_\_  
Witness

784 Substation Road  
Brunswick, OH 44212

OWNER (S)

Paul Taylor

  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

914 Quincy Ct  
Medina, OH 44256

September, 2017  
Date

## AGREEMENT

THIS AGREEMENT, made the day hereinafter set forth by and between Your Construction, hereinafter referred to as the "Contractor" and Paul Taylor, hereinafter referred to as the "Owner".

WITNESSETH THAT:

WHEREAS, the Owner desires to engage the Contractor to perform certain work on the premises commonly known as 914 Quincy Ct, and

WHEREAS, the said premises is located in the City of Medina; and

WHEREAS, the Owner desires to rehabilitate, renovate, reduce lead-based paint hazards and improve the aforesaid premises in accordance with the most current Residential Rehabilitation Standards of the Ohio Department of Development; and

WHEREAS, the Owner desires to utilize all services provided by the City of Medina in connection with the said project; and

WHEREAS, the Your Construction agrees to perform all the services and supply all the materials in accordance with the Exhibit "A – Work Specifications" for a total price of \$30,880.00; and

WHEREAS, insofar as this Agreement is concerned, the Local Planning Agency (LPA) shall mean the City of Medina, through its authorized representative.

NOW, THEREFORE, contingent upon the City of Medina executing a HOME Written Agreement, the parties do mutually agree as follows:

SECTION 1. Employment of Contractor: The Owner hereby engages the Contractor to perform the services and supply the materials hereinafter set forth in Exhibit A.

SECTION 2. The Owner also acknowledges receiving a copy of "Protect Your Family From Lead in Your Home" dated September 2013.

SECTION 3. The Owner acknowledges receiving Community Development Bulletins Nos. 1, 2, 3 and 4 issued by the LPA, which are an integral part of the contract documents necessary to complete the Private Rehabilitation process required by the Community Housing Impact and Preservation Program (CHIP) grant received by the City of Medina.

SECTION 4: We agree that the work described in Exhibit A, attached hereto, is all the work to be completed by the Contractor under this Agreement. Any changes in the Work Specifications or this Contract must be approved by written Change Order **before** any work is started, and signed by the Owner, Contractor and City of Medina's representative.

SECTION 5. As stated below, we agree **not** to make any "side agreements" or to arrange for any work or services not covered by this contract or subsequent change orders until all work under this Contract is completed, approved and paid.

DATE: September \_\_, 2017

CONTRACT: M-14/14H

## GENERAL CONDITIONS

The following, known as the "General Conditions", apply in full and equal force to each and every Contract or Subcontract and is to be an inclusive part of every such Contract.

### BIDS

Bids received prior to the stated deadline date for submission will be securely kept unopened. Erasures or other changes in the Bid must be explained or noted over the signature of the Bidder. The LPA will not consider alternates proposed by a Bidder that are not called for in the proposal. Bids as received must be for the execution of the entire work called for in the List of Work and the applicable Drawings and Specifications. Each Bidder is required to include in his Bid all the various branches or categories of work as listed herein. All Bids shall be submitted only on the form provided herein. The Bid must be accompanied by a list of all proposed and alternate subcontractors.

### SITE INSPECTIONS

Each Bidder should visit the site of the rehabilitation work and fully acquaint himself with the existing conditions there relating to the proposed rehabilitation work. He should inform himself as to the facilities involved, the difficulties and restrictions attending the performance of the Contract. The Bidder shall thoroughly examine and familiarize himself with the Drawings, Specifications, and all other Contract Documents. The Contractor by the execution of the Contract shall in no way be relieved of any obligation under it due to his failure to receive or examine any form of legal instrument or to visit the site and acquaint himself with the existing conditions. The LPA will be justified in rejecting any claim based on "conditions", latent or otherwise.

### LPA'S RIGHTS

Parties involved are to understand that the LPA reserves the right to reject any and all bids.

### PERMITS

Any permits or licenses necessary for the new construction or alterations to the structure, also inspection charges, must be obtained and paid for by the Contractor.

### CODES

Improvements throughout must conform to the Residential Rehabilitation Standards of the Office of Housing and Community Partnerships, Ohio Department of Development.

### LIABILITY

Each Contractor must carry adequate Liability Insurance, as stated herein, for damages and accidents that may result directly or indirectly from the performance of work either to the building or to the general public, or the surrounding property adjoining said premises, or to employees, laborers, mechanics, or other persons. The Owner may carry Tornado and/or Fire Insurance on the property, but this insurance does not cover damage to or loss of Contractor's

tools, equipment, or materials stored on the property. The Contractor shall hold and indemnify the Owner against any and all damages, injury, or accidents suffered under the performance of this Contract or as a result of the storage of materials on the property.

#### PROCEED ORDER

The LPA, after execution of the Agreement by all parties, will issue a written Proceed Order within thirty (30) days from the date of acceptance of the Contractor's Bid and Proposal. If the Proceed Order is not issued within this thirty (30) day period, the Contractor has the option of withdrawing his Bid Proposal.

#### PAYMENTS

When furnished an invoice, the Owner and the LPA shall reserve the right to retain out the partial payment then due or thereafter to come due, an amount sufficient to indemnify the Owner and the LPA against all such liens, damages, and claims until the same shall be effectually satisfied, discharged, and cancelled. Partial payments due the Contractor will be paid within 20 days after the LPA receives the Contractor's Invoice. Satisfactory release of liens and/or claims for liens from subcontractors, laborers, and material suppliers for completed work or installed materials shall be furnished by the Contractor when requesting Final Payment. The Invoice requesting Final Payment must also have attached all manufacturers' and suppliers' written guarantees and warranties covering materials and equipment furnished under this Contract. The owner must sign-off on both partial and final payment requests.

#### SAFETY

The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building construction codes shall be observed and the Contractor shall take or cause to be taken such additional safety and health measures as the LPA may determine to be reasonably necessary. Machinery, equipment and all hazards shall be guarded in accordance with the safety provisions of the "Manual of Accidents Prevention in Construction" published by the Associated General Contractors of America, Inc., to the extent that such provisions are not in conflict with applicable local laws.

#### CLEAN PREMISES

Each Contractor shall endeavor to keep the premises clean and orderly during the course of the work. Immediately at the end of the work the Contractor shall remove his rubbish, refuse, and unused materials from the premises and street. Materials and equipment that have been removed and replaced as part of the approved work shall belong to the Contractor, unless otherwise stipulated.

## CHECKING

Each prime Contractor or Subcontractor is to examine the work performed by another Subcontractor to assure himself that the dimensions, locations, etc., of the execution of previous work is according to the Specifications and Drawings contained herein before proceeding to perform his own portion of the work. Each Contractor and his Subcontractors will be held responsible for the accuracy and quality of his portion of the work when completed.

## LABOR MATERIAL

The Contractor is to furnish all cartage, labor, equipment, etc., at his expense, which may be necessary in the execution of the Contract. The materials used and installed must be new and the best quality as specified. Skilled and competent craftsmen must perform all labor. The LPA reserves the right to have personnel removed from the job who are not performing their services in a workmanlike manner.

## SUBSTITUTIONS

It is not the desire of the LPA to exclude any product or materials of equal or greater merit to those specified herein. Trade names used are designed to establish quality desired. Before any substitutions are made, the written consent of the LPA must be obtained.

## GUARANTEES

The Contractor shall guarantee his work against faulty materials or workmanship for a period of one-year and replace same at the direction of the LPA at no cost to the Owner or the LPA. The one-year period shall begin on the date of Owner's satisfaction/certification statement, which is included on the invoice for final payment. The Warranty Form shall be provided to the Owner at the time of final payment request.

## INSTALLATION

All work and materials must be applied in accordance with the applicable manufacturers' last instructions and specifications. Any variation desired to be applied to the instructions or specifications must be called to the LPA's attention prior to application. The LPA reserves the right to direct the scheduling of the proposed work as it deems necessary to insure proper conduct and completion of the proposed work.

## EXTRAS

The Contractor is directed to avoid side agreements with the Owner and/or Owner's Agents for additional work or materials over and above the Original Contract. The prime Contractors and Subcontractors will refrain from offering suggestions to Owners regarding change in the LPA's drawings, plans, or specifications. Such suggestion will be offered directly to the LPA's Program Administrator or Rehabilitation Specialist.

## UTILITIES

In occupied building, the Owner and/or Owner's Agents shall provide the Contractor with the services of water and electricity at no charge. During cold weather, the Owner and/or Owner's Agent shall provide and maintain adequate heating in work areas. Activating the above services in unoccupied building, unless otherwise specified, shall become the direct responsibility of the Owner and/or Owner's Agent during the course of the specified work. All incidental costs shall be borne by the Owner and/or Owner's Agent.

## WORKING CONDITIONS

Unless otherwise agreed to by the Owner(s) and Contractor in writing, all work under this agreement shall be performed between the hours of 8:00 A.M. and 5:00 P.M., Monday-Friday, inclusive. The Contractor shall give the Homeowner 48 hours notice prior to any work.

Where building to be remodeled or furnished is occupied by Owners or their tenants, the prime Contractors and Subcontractors shall make allowances in their Bids for whatever inconvenience is incurred, i.e. working around furniture, minor adjustments to above working hours to accommodate Owner's or Tenant's daily routines, etc. The Contractor shall cover all carpets and furniture in the work area with drop cloths. Passageways and hallways shall be kept clear of debris, lumber or equipment. Bulk materials may not be stored inside the building. The Owner shall make a reasonable effort to move furniture and rugs to create clear working space for the Contractor.

## SUPERINTENDENCE

The Contractor shall furnish the LPA and the Owner with the name and telephone number of one official who will represent and be responsible for the prime Contractor and his Subcontractors in the execution and conduct of their work.

## CONTRACT

This Contract shall consist of the Bid and Proposal, List of Work, Agreement, General Conditions, Supplemental Conditions, Specifications and any drawings included in the description of work. The Housing Rehabilitation General and Performance Specifications, dated March 2010 and the Lead Based Paint Hazard Reduction General and Performance Specifications, dated January 2004, shall also be considered to be an integral part of the Contract. The Contractor shall be furnished the above documents. It is the Contractor's responsibility to ensure that his subcontractors adhere to said documents.

CONTRACTOR IS HEREIN NOTIFIED THAT NO LEAD PAINT SHALL BE USED.



## SUPPLEMENTAL CONDITIONS

SECTION 1. Scope of Services: The Contractor shall perform all services and furnish all the material necessary to make the improvements described in the Contract for the aforesaid premises.

SECTION 2. Improvements: The improvements to be made and/or constructed by the Contractor are set forth in Exhibit "A" being the plans and Specifications, attached hereto and made a part of this Agreement.

SECTION 3. Time for Performance: The Contractor shall within ten (10) calendar days from the date of the Proceed Order begin actual performance hereunder and all work to be performed by the Contractor shall be completed in accordance with the Conditions, Plans, and Specifications, within seventy-five (75) calendar days thereafter. The Contractor is excused from the performance time requirement if, during the progress of the work, a delay is authorized in writing by the LPA, delay is caused by any act or neglect of the Owner or LPA or of an employee of either, or by any separate Contractor employed by the Owner, or by authorized changes in the work, or by strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties, or any caused completely beyond the Contractor's control such as weather, natural disasters and acts of God. The time of completion shall be extended for such reasonable time as the LPA may decide. The LPA shall be empowered to make final decisions on the justifiability of causes offered as a basis for extension of time. Contractor further agrees to pay as liquidated damages, the sum of \$50.00 for each consecutive calendar day after the stated completion date. When the project is completed the Program Administrator shall calculate the liquidated damages dollar amount and same shall be deducted from the balance of the contract.

SECTION 4. Proposal: The Bid and Proposal shall be accepted by the Owner within thirty (30) days from the deadline date for return of the Proposal, but it is expressly understood that the Contractor shall not commence work until he has received a written Proceed Order properly executed by the LPA.

SECTION 5. Section 3 Clause: For all contracts in an amount exceeding \$10,000:

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance of HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135 (copy attached as Exhibit "B" and incorporated herein as though fully set forth), which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under CFR Part 135.
- F. Non-compliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.

SECTION 6. Subcontracting: The Contractor shall not be required to employ any Subcontractor against whom he has a reasonable objection. The Contractor agrees that he is as fully responsible to the Owner for the acts and omissions of his Subcontractors and of persons either directly or indirectly employed by them. Nothing contained in the Agreement documents shall create any contractual relation between any Subcontractor and the Owner. The Contractor shall not subcontract any part of the work under this Contract or permit his subcontracted work to be further subcontracted without the prior notification to the LPA. The Contractor shall submit to the LPA along with his Bid and Proposal, a complete list of proposed Subcontractors and possible alternates.

SECTION 7. Insurance: The Contractor shall maintain such insurance as will protect him from claims under workmen's compensation acts and other employees benefit acts, from claims for damages to property. These damages may arise both out of and during operations under this Contract, whether such operations are by himself or by any Subcontractor or anyone directly or indirectly employed by either of them. Public liability insurance protecting the Owner and LPA shall be written for not less than \$100,000/\$200,000 each occurrence for injury to persons and not less than \$100,000 for damages to property. Certificates of proof of such insurance shall be filed with the LPA prior to or at the time and the Bid Proposal are submitted.

The Contractor shall defend, indemnify and hold harmless the Owner and the LPA, its officers and employees, from liability and claim for damages because of bodily injury, death, property damage, sickness, disease, or loss and expense arising from Contractor's operation under this Contract.

SECTION 8. Changes: It is agreed by the Parties hereto that all changes mutually agreed upon shall be in writing and signed by the parties to the Contract and the LPA. Any agreements not signed as heretofore indicated shall be considered null and void.

SECTION 9. Waiver of Liens: The Contractor shall submit to the Owner a waiver of all mechanics and material liens with the final payment request of the consideration set forth hereafter.

SECTION 10. Compensation: The Owner, through the LPA, agrees to compensate the Contractor \$30,880.00 (Thirty Thousand Eight Hundred Eighty Dollars and No Cents) for the services and the materials to be provided herein.

SECTION 11. Method of Payment: The Owner agrees to pay the Contractor in accordance with one of the following schedules:

Schedule A. Payment in full upon satisfactory completion of the entire work.

Schedule B. Progress payments based upon work completed. Work completed shall be determined by the Owner or authorized agent.

Final payment shall be made to the Contractor only upon submission of the Final Invoice by the Contractor and approved by the Owner and LPA in writing.

If the LPA and Owner deem it inexpedient to correct work injured or not done in accordance with this Contract and its attachments, an equitable deduction from the Contract amount, based solely upon the judgment of the LPA, shall be made therefore.

SECTION 12. Disputes: The LPA shall, within a reasonable time, make decisions on all claims of the Owner or Contractor and on all other matters relating to the execution and progress of the work or the interpretation of the Contract Documents. The LPA's decisions, in matters relating to artistic effects shall be final within the terms of the Contract Documents.

SECTION 13. Workmanship: The work provided hereunder by the Contractor shall be executed as directed by the Plans and Specifications in the most sound, workmanlike, and substantial manner. All materials used in the construction, rehabilitation, renovating, remodeling, and improvements shall be new unless otherwise expressly set forth in the Specifications.

SECTION 14. Defects after Completion: The Contractor shall guarantee the work performed for a period of twelve (12) months from the date of final acceptance of all work required by the Contract. Furthermore, the Contractor shall furnish the Owner, in care of the LPA with all manufacturers and suppliers written guarantees and warranties covering materials and equipment furnished under the Contract. Any defects that appear within this twelve month period and arise out of defective or improper materials or workmanship shall, upon direction of the LPA, be corrected and made good by the Contractor at his expense.

SECTION 15. Inspection of Work: The LPA shall at all times have access to the work. If the specifications, plans, instructions, laws, ordinances, community development standards, or any public authority requires any work to be specifically inspected, tested or approved, the Contractor shall give the LPA timely notice (at least 24 Hours notice) of its readiness for inspection and if the inspection is by another authority other than the LPA, the time fixed for such inspection. Inspections by the LPA shall be promptly made. If any work should be covered up without approval or consent of the LPA, it must, if required by the LPA, be uncovered for examination at the Contractor's expense. If such work should be found not in accordance with this contract, including incorporated plans and specifications, the Contractor shall pay such costs; provided, however, if the Contractor can show that the defect was not caused by him or his Subcontractors, then in that event, the Owner shall pay the cost of remedying the work. At all times, the Contractor shall permit the U.S. Government or its designee to examine and inspect the rehabilitation work.

SECTION 16. Rehabilitation Inspector(s): Rehabilitation Inspector(s) as designated by the LPA, shall be authorized to review all work done and materials furnished. Such Rehabilitation Inspector may extend to all or any part of the work and manufacture of the materials to be used. In case of any dispute arising between the Contractor and the Rehabilitation Inspector, the Rehabilitation Inspector shall have the authority to stop the use of material or suspend the work until the LPA and the Owner can decide the issue. The Rehabilitation Inspector shall not be authorized to revoke, alter, enlarge, relax or release any requirements of work or to issue instructions contrary to the Plans and Specifications. The Rehabilitation Inspector shall in no case act as foreman or perform other duties for the Contractor or interfere with the management of the work by the latter. Any advice which the Rehabilitation Inspector may give the Contractor shall in no way be construed as binding the LPA or Owner in any way or releasing the Contractor from the fulfillment of the terms of the Contract.

The Contractor shall not be entitled to any claims for loss of time, damages or anticipated profit due to any time lost from suspension of work and from the referral of the questions at issue to said LPA or Owner or his representative.

SECTION 17. Status of Administrator:

- A. The Administrator shall be the LPA's and Owner's representative during the construction period.
- B. The Rehabilitation Specialist will make periodic visits to the site to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the Contract Documents. He/she will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work. His/her efforts will be directed toward providing assurance for the LPA and the Owner that the completed Project will conform to the requirements of the Contract Documents. On the basis of these efforts, as an experienced and qualified professional, he/she will keep the LPA and the Owner informed of the progress of the work and will endeavor to guard the LPA Owner against defects and deficiencies in the work of contractors.

- C. Clarifications and Interpretations: The Administrator will issue with reasonable promptness such written clarifications and interpretations of the Contract Documents (in the form of Drawings or otherwise as he may determine necessary) which shall be consistent with or reasonably interchangeable with the overall intent of the Contract Documents.
- D. Rejecting Defective Work: The Administrator and/or Rehabilitation Specialist will have authority to disapprove or reject work, which is "defective" (which term is hereinafter used to describe work that is Unsatisfactory, faulty, or defective, or does not conform to the requirements of the Contract Documents or does not meet the requirements of inspection, test or approval).

The Administrator and/or the Rehabilitation Specialist will also have authority to require special inspection or testing of the work, whether or not the work is fabricated, installed or completed.

- E. If the work is defective, or CONTRACTOR FAILS to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the WORK in such a way that the completed work will conform to the Contract Documents, the Administrator may order the Contractor to stop the work, or any portion thereof, until the cause of such order has been eliminated.

SECTION 18. Permits and Licenses: All permits and licenses necessary for the completion and execution of the work shall be secured and paid for by the Contractor. If the Contractor observes that the Drawings, Plans and/or Specifications are at variance with applicable laws, rules, or ordinances, and/or regulations bearing on the conduct of the work, he shall promptly notify the LPA in writing. Any necessary changes shall be adjusted as provided for in the Contract for changes in the work. If the Contractor knowingly performs work contrary to such laws, ordinances, etc., and without notice to the LPA, he shall bear all costs arising therefrom. All work shall be performed in conformance with applicable local codes and requirements whether or not covered by the Specifications and Drawings for the work.

SECTION 19. Equal Employment Opportunity: During the performance of this Contract, the Contractor agrees as follows:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, or national origin. Such action shall include, but not limited to the following: employment, upgrading, demotion or transfers; recruiting or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places and make available to employees and applicants for employment, notices to be provided by municipality setting forth the provisions of this non-discrimination clause.

- B. The Contractor, will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color or national origin.
- C. The Contractor will cause the foregoing provisions to be inserted in all Subcontracts for any work covered by this Contract so that such provisions will be binding upon each Subcontractor provided that the foregoing provisions shall not apply to Contracts or Subcontracts for standard commercial supplies or raw materials.

SECTION 20. Engineering or Construction Survey: The Contractor shall furnish all surveys as required under this Contract unless otherwise specified.

SECTION 21: Approval by LPA: This Agreement must be approved by the LPA before it becomes effective. The Notice of Award of this Rehabilitation Contract signed by the Administrator shall constitute LPA approval.

SECTION 22: Non-Liability of the LPA: The parties hereto agree to hold the LPA harmless for any damage concerning the undertaking and execution of this Agreement.

SECTION 23. Default: In case of default by the Contractor, the Owner may procure the articles or services from other sources and hold the Contractor responsible for any excess cost occasioned thereby.

SECTION 24. Termination: The Owner may declare the Contractor in default and terminate the Contract upon the occurrence of any one or more of the following events:

- A. If Contractor fails to perform the work in accordance with the Contract Documents including by not limited to failure to supply sufficient skilled workers or suitable materials or equipment, or failure to complete the work within the time limit specified in the Notice to Proceed; or
- B. If Contractor disregards the Laws or Regulations of any public body having jurisdiction; or
- C. If Contractor disregards the authority of the Administrator; or
- D. If Contractor otherwise violates in any substantial way any provisions of the Contract Documents.
- E. If Contractor, or his agents, conducts himself improperly when communicating with the owner, tenant, or any other household member, or when Contractor, or his agents, abuse or damage property of the owner, tenant, or any other household member.

The Owner, in conjunction with the LPA, after giving Contractor (and the surety, if any) seven (7) days written notice and to the extent permitted by Laws and Regulations, may terminate the services of the Contractor, exclude the Contractor from the site and take possession of the work and materials to be used in the work, and stored at the work site, and finish the work as Owner and the LPA may deem expedient.

Upon termination, the Owner in conjunction with the LPA, will proceed to have the work completed, shall apply to the cost of having the work completed any money due the Contractor under the Contract, and the Contractor shall be responsible for any damages resulting to owner by reason of said termination.

Upon termination, Contractor shall be paid (without duplication of any items):

- A. For completed and acceptable work executed in accordance with the Contract Documents prior to the effective date of termination, and in accordance with the Bid and Proposal;
- B. For expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials or equipment as required by the Contract Documents in connection with uncompleted work, and acceptable by the LPA and Owner, and in accordance with Bid and Proposal;
- C. For all claims, costs, losses and damages incurred in settlement of terminated contracts with Subcontractors, Suppliers and others, and in accordance with Bid and Proposal;

The Contractor shall not be paid on account of loss of anticipated profits or revenues or other economic loss arising out of or resulting from such termination.

SECTION 25. Notice: Notices to be given by the Owner and/or the LPA to the Contractor shall be considered given for the purpose of this Agreement if mailed by regular mail to the Contractor at:

Your Construction  
784 Substation Road  
Brunswick, OH 44212  
(330) 321-8283

SECTION 26. Assignment: The Contractor shall not assign the Contract without prior written consent of the Owner and the LPA. The request for approval or assignment must be addressed in care of the LPA.

SECTION 27. Effective Date of Agreement: This Agreement shall not become a Contract Binding upon the parties concerned until these parties have properly signed this agreement and the application for the respective loan and/or Grant has been formally approved by the respective Federal Government Agency or LPA designated to make such approval.

SECTION 28. Dispute Resolution and Conflict Management Policy. The Dispute Resolution and Conflict Management Policy, attached as Exhibit C, is incorporated herein as though fully set forth.

SECTION 29. Renovation, Rehabilitation or Paint Repair In a Lead-Safe Manner:

- 1) That the contractor shall make available for inspection by ODH staff during normal business hours anytime while the renovation, rehabilitation, or paint repair is going on the entire work site, work specifications, and any documents related to the project.
- 2) That the contractor will do work in a lead-safe manner in order to protect both workers and occupants.
- 3) That the contractor:
  - a) Shall maintain at the work site documentation that the firm is a Certified EPA Firm and certification of all persons working on the project who have successfully completed an ODH-approved *Addressing Lead-Based Paint Hazards During Renovation, Remodeling, and Rehabilitation in Federally Owned and Assisted Housing* program and/or approved RRP Training ( or documentation that such persons are licensed abatement contractors and have completed the RRP Training); and
  - b) Shall provide such documentation to ODH or ODOD personnel upon request.
- 4) That grantee will terminate an agreement with any contractor who does not do the renovation, remodeling, or paint repair work in a lead-safe manner consistent with an ODH-approved *Addressing Lead-Based Paint Hazards During Renovation, Remodeling, and Rehabilitation in Federally Owned and Assisted Housing* program and who fails to correct the inconsistent work practices.
- 5) That grantee will not pay for renovation, remodeling, or paint repair work done in a non lead-safe manner.
- 6) That each HUD-assisted unit that is subject to lead-safe renovation must pass a clearance examination. Clearance must be achieved using the methods and standards prescribed by U.S.E.P.A. at 40 C.F.R. 745.227.
- 7) That the laboratory approved by the director of ODH shall conduct the analysis of all environmental samples.
- 8) That grantee will not disburse more than 75% of project funds to the contractor until clearance is achieved.

ODH	Ohio Department of Health
ODOD	Ohio Department of Development
HUD	U.S. Department of Housing and Urban Development
U.S.E.P.A.	United States Environmental Protection Agency



## EXHIBIT A

The following section contains the plans and specifications of the rehabilitation work to be performed.

A Contractor's total bid shall be broken down, on the following pages, specifically for each line item or group of line items contained in the List of Work. Blank spaces are therefore provided after each line item or group of similar line items.

The grand total of the bid amount must be summarized below, per applicable work category. Overhead and profit must be reflected in the itemized specifications attached. Any authorized alternatives shall also be entered below.

The total bid below must be transferred to and equal the bid amount as entered on the following page of this Bid and Proposal.

Address: 914 Quincy Ct, Medina, OH 44256

Contract Number: M-14/14H

### BID SUMMARIZATION

Carpentry.....	\$ <u>17,640.00</u>
Electrical.....	\$ <u>4,350.00</u>
Plumbing.....	\$ <u>1,900.00</u>
Heating.....	\$ <u>6,990.00</u>
Other.....	\$ <u>1</u>
SUB-TOTAL \$ <u>30,880.00</u>	
Lead Based Paint Hazard Reduction.....	\$ <u>                    </u>
SUB-TOTAL \$ <u>30,880.00</u>	
Alternate (If needed).....	\$ <u>                    </u>
GRAND TOTAL.....	\$ <u>30,880.00</u>

Michael Pless  
General Contractor

ADDENDUM  
TO SPECIFICATIONS FOR  
M-14 Paul Taylor 914 Quincy Ct. Medina, OH 44256

BID PRICE

XXXX

Clarification: Exterior Line Item 3. Windows:  
Replace (16) windows.

XXXX

Clarification: Exterior Line Item 5. Driveway:  
Include replacement of 3'x6' section of sidewalk.  
Do not include sidewalk and approach from street.

XXXX

Clarification: Exterior Line Item 6. Electrical Service  
Include removal of treated post and GFCI outlets located in middle of  
backyard.

XXXX

Clarification: Interior Line Item 6. Bedroom 3: Right Front  
Install access panel to wall from previous plumbing repair.

*Michael Plummer*

Paul Taylor  
914 Quincy Ct  
Medina, OH 44256

M-14/14H  
(330) 636-6788  
Inspection Date: July 14, 2017

## SPECIFICATIONS

### BID PRICE:

### EXTERIOR:

#### 1. EAVES:

\$700.<sup>00</sup>

##### a. GUTTERS AND DOWNSPOUTS

Install new seamless aluminum gutters and downspouts with splash blocks. Downspouts shall have extensions and splash blocks in accordance with RCO Sections R801n (min 5' from foundation walls or to an approved drainage system) and Chapter 13.

#### 2. OVERHEAD GARAGE DOOR HEADER:

\$3700.<sup>00</sup>

Support garage ceiling and second floor. Remove overhead garage door and track. Remove all drywall and siding above overhead garage door. Replace as needed all rotten and damaged wood structure and sheathing. Install an LVL laminated header including exterior sheathing. Re-install vinyl siding. Repair drywall above overhead garage door. Seal gaps and holes with a color matched sealant and replace damaged pieces with new vinyl siding to match existing vinyl siding close as possible. Items in accordance with Chapters 2, 5, 6, 7, 9, & 12.

#### 3. WINDOWS:

\$5500.<sup>00</sup>

Replace (17) exterior window(s), as per Chapter 11 and in accordance with RCO Section 115.6.1. The Contractor shall include in his bid any trim that is rotted or is damaged during construction, interior or exterior with same material and any additional framing needed for the replacement window.

#### 4. EXTERIOR DOORS:

\$170.<sup>00</sup>

Replace brick mold on back exterior door as per Chapter 11.

#### 5. DRIVEWAY:

\$6,500.<sup>00</sup>

Remove and replace existing section of concrete driveway in front of house. Use a 4,000 psi Class "C" concrete. All work in accordance with Chapter 4 and RCO Section R506.

#### 6. ELECTRICAL SERVICE:

\$250.<sup>00</sup>

Install (1) GFCI at front of house and (1) at rear of house. GFCI(s) shall be installed in waterproof boxes in accordance with 14 and NEC Section 210.8.

## INTERIOR

### 1. BASEMENT:

\$1100.<sup>00</sup>

#### a. WATER HEATER:

Replace the existing hot water heater with new hot water heater. Include new shut-off valves and dielectric unions; tie into **new vent stack** in accordance with Chapter 16 and OPC.

\$6990.<sup>00</sup>

#### b. FURNACE:

Replace the existing furnace and central air conditioning unit with a new 90+ % eff. gas furnace w/ 2-pipe system and new high efficiency central air conditioning unit; *include* a new thermostat located away from all exterior openings (Doors). It shall be the responsibility of the contractor to properly size furnace and air returns. **Complete all items in accordance with Chapter 15 and RCO Chapter 13 "General Mechanical System Requirements" as they apply.** All existing ductwork that meets the furnace manufacturer's recommendations and RCO may be reused. Each room must have heat run and sufficient air return, install/add as required. Remove any/all grills in main supply plenum in basement and install heat run. Installation shall be in accordance with Manual J and Chapter 15. *Install new Chimney Cap and Liner with Bird Screen as per Chapter 15. Install a new vent stack for the water heater tied to new liner, installation shall be to code. Seal/cap any holes in chimney from old vent stacks.* Results of combustion testing shall be submitted on the ticket produced by the Combustion testing equipment. **Seal all accessible ductwork with mastic. Include 1- new CO detector as required by RCO and as per NEC and Chapter 14.**

\$800.<sup>00</sup>

#### c. GASLINES:

Replace all copper gas supply lines in basement. Replace all illegal fittings and shut offs. All gas lines shall be tested and inspected by the contractor. Repair leaks in existing gas lines and fittings, throughout basement. Work shall be in accordance with Chapter 16, National Fuel Gas Code, and subject to local codes and inspection.

\$1900.<sup>00</sup>

#### d. ELECTRIC PANEL:

Install new 100 amp electrical panel complete in accordance with Chapter 14 and NEC Section 230.1. All appliances shall have separate circuits. Replace and/or add receptacles and circuits as required for dedicating appliances per Chapter 14 and NEC Section 210.11. Perform "wiring upgrade" as per Chapter 14. Remove all sub panels unless otherwise approved by rehab specialist. All illegal, defective or abandoned wiring, on the interior or exterior of the house, shall be removed and/or replaced to code (NEC). **All existing wiring that is operational and complies with NEC can remain.** All basement and garage outlets shall be GFCI protected as per NEC Section 210.8. Single use, dedicated receptacles to equipment and appliances shall be single port receptacles, not duplex.

2. MISCELLANEOUS:

\$4,200.00

a. SAFETY ALARMS:

Install (3) Combination Smoke alarm/CO detector(s), (1) located in basement or general vicinity of the gas fired appliances and (1) located on first in living room, and (1) in hallway outside sleeping areas per manufacturers' recommendations. Install (3) smoke alarms, one per floor, one per bedroom as per RCO Section 313. All safety alarms shall be electric with a battery backup and connected in series and with main bathroom lighting in accordance with RCO Section 311.1 and Chapter 14.

3. LIVING ROOM:

\$370.00

a. WALLS & CEILING:

Repair/patch ceiling, texture ceiling, and paint ceiling with (2) coats of paint in accordance with Chapters 7 and 9.

4. LAUNDRY ROOM

\$250.00

a. LIGHTING

Install (1) new ceiling light and connect to (1) new wall switch. All work as per NEC Section 210.70 and in accordance with Chapter 14.

\$200.00

b. OUTLETS & GFCIS

Install new 220 4-prong dryer outlet to wall in accordance with Chapter 14 and NEC Section 220.52. Include 4 prong whip for existing dryer.

\$200.00

c. DRYER VENT

Install new dryer vent using solid smooth walled pipe to the exterior as per Residential Code of Ohio and Chapter 15. Pipe not shall be secured with screws.

5. BEDROOM NO. 1: MASTER BED ROOM

\$150.00

a. LIGHTING

Replace (1) ceiling light and connect to existing wall switch for closet. All work as per NEC Section 210.70 and in accordance with Chapter 14.

6. BEDROOM NO. 3: FRONT RIGHT

\$500.00

a. WALLS:

Repair/patch wall, paint wall with (2) coats of paint in accordance with Chapters 7 and 9.

\$30,880.00 TOTAL

General Notes:

1. All code references are from the most current Residential Code of Ohio, specifically Section 115 "Existing Building and Structures." All Chapter annotations are to reference the Housing Rehabilitation General and Performance Specifications for Community Housing Improvement Program. This manual has been mailed to all contractors accepted into this program.
2. The General Contractor is responsible for ensuring that all subcontractors receive the section of the above stated manual pertinent to their discipline. The General Contractor is also responsible for ensuring that all work completed by any subcontractors is in conformance with this manual.
3. The Contractor shall comply with all items listed in Chapter 1 and 2.
4. The Contractor is responsible for notifying the Homeowner 48-hours in advance of commencing any work.
5. *Any painted surfaces to be disturbed shall be assumed to be Lead based paint and shall be done using the lead safe methods as per the HUD guidelines. Any painted surface that will disturb more than de minimus will be subject to appropriate clearance.*

## § 135.1 24 CFR Subtitle B, Ch. I (4-1-03 Edition)

### APPENDIX TO PART 135

AUTHORITY: 12 U.S.C. 1701u; 42 U.S.C. 3535(d).

SOURCE: 59 FR 33880, June 30, 1994, unless otherwise noted.

EFFECTIVE DATE NOTE: At 59 FR 33880, June 30, 1994, part 135 was revised effective August 1, 1994 through June 30, 1995. At 60 FR 28325, May 31, 1995, the effective period was extended until the final rule implementing changes made to section 3 of the Housing and Urban Development Act of 1968 by the Housing and Community Development Act of 1992 is published and becomes effective.

#### Subpart A—General Provisions

##### § 135.1 Purpose.

- (a) Section 3. The purpose of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3) is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.
- (b) Part 135. The purpose of this part is to establish the standards and procedures to be followed to ensure that the objectives of section 3 are met.

##### § 135.2 Effective date of regulation.

The regulations of this part will remain in effect until the date the final rule adopting the regulations of this part with or without changes is published and becomes effective, at which point the final rule will remain in effect. [60 FR 28325, May 31, 1995]

##### § 135.3 Applicability.

- (a) Section 3 covered assistance. Section 3 applies to the following HUD assistance (section 3 covered assistance):
- (1) Public and Indian housing assistance. Section 3 applies to training, employment, contracting and other economic opportunities arising from the expenditure of the following public and Indian housing assistance:
    - (i) Development assistance provided pursuant to section 5 of the U.S. Housing Act of 1937 (1937 Act);
    - (ii) Operating assistance provided pursuant to section 9 of the 1937 Act; and
    - (iii) Modernization assistance provided pursuant to section 14 of the 1937 Act;
  - (2) Housing and community development assistance. Section 3 applies to training, employment, contracting and other economic opportunities arising in connection with the expenditure of housing assistance (including section 8 assistance, and including other housing assistance not administered by the Assistant Secretary of Housing) and

community development assistance that is used for the following projects:

- (i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);
- (ii) Housing construction; and
- (iii) Other public construction.

(3) Thresholds—(i) No thresholds for section 3 covered public and Indian housing assistance. The requirements of this part apply to section 3 covered assistance provided to recipients, notwithstanding the amount of the assistance provided to the recipient. The requirements of this part apply to all contractors and subcontractors performing work in connection with projects and activities funded by public and Indian housing assistance covered by section 3, regardless of the amount of the contract or subcontract.

(ii) Thresholds for section 3 covered housing and community development assistance—(A) Recipient thresholds. The requirements of this part apply to recipients of other housing and community development program assistance for a section 3 covered project(s) for which the amount of the assistance exceeds \$200,000.

(B) Contractor and subcontractor thresholds. The requirements of this part apply to contractors and subcontractors performing work on section 3 covered project(s) for which the amount of the assistance exceeds \$200,000; and the contract or subcontract exceeds \$100,000.

(C) Threshold met for recipients, but not contractors or subcontractors. If a recipient receives section 3 covered housing or community development assistance in excess of \$200,000, but no contract exceeds \$100,000, the section 3 preference requirements only apply to the recipient.

(b) Applicability of section 3 to entire project or activity funded with section 3 assistance. The requirements of this part apply to the entire project or activity that is funded with section 3 covered assistance, regardless of whether the section 3 activity is fully or partially funded with section 3 covered assistance.

(c) Applicability to Indian housing authorities and Indian tribes. Indian housing authorities and tribes that receive HUD assistance described in paragraph (a) of this section shall comply with the procedures and requirements of this part to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450a(b)). (See 24 CFR part 905.)

(d) Other HUD assistance and other Federal assistance. Recipients, contractors and subcontractors that receive HUD assistance, not listed in paragraph (a) of this section, or other Federal assistance, are encouraged to provide, to the greatest extent feasible, training, employment, and contracting opportunities generated by the expenditure of this assistance to low- and very low-income persons, and business concerns owned by low- and very low income persons, or which employ low and very low-income persons.

##### § 135.5 Definitions.

The terms Department, HUD, Indian housing authority (IHA), Public housing agency (PHA), and Secretary are defined in 24 CFR part 5.

*Annual Contributions Contract (ACC)* means the contract under the U.S. Housing Act of 1937 (1937 Act) between HUD and the PHA, or between HUD and the IHA, that contains the terms and conditions under which HUD assists

the PHA or the IHA in providing decent, safe, and sanitary housing for low income families. The ACC must be in a form prescribed by HUD under which HUD agrees to provide assistance in the development, modernization and/or operation of a low income housing project under the 1937 Act, and the PHA or IHA agrees to develop, modernize and operate the project in compliance with all provisions of the ACC and the 1937 Act, and all HUD regulations and implementing requirements and procedures. (The ACC is not a form of procurement contract.)

*Applicant* means any entity which makes an application for section 3 covered assistance, and includes, but is not limited to, any State, unit of local government, public housing agency, Indian housing authority, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization (CHDO), resident management corporation, resident council, or cooperative association.

*Assistant Secretary* means the Assistant Secretary for Fair Housing and Equal Opportunity.

*Business concern* means a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

*Business concern that provides economic opportunities for low- and very low-income persons.* See definition of "section 3 business concern" in this section.

*Contract.* See the definition of "section 3 covered contract" in this section.

*Contractor* means any entity which contracts to perform work generated by the expenditure of section 3 covered assistance, or for work in connection with a section 3 covered project.

*Employment opportunities generated by section 3 covered assistance* means all employment opportunities generated by the expenditure of section 3 covered public and Indian housing assistance (i.e., operating assistance, development assistance and modernization assistance, as described in §135.3(a)(1)). With respect to section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with section 3 covered projects (as described in § 135.3(a)(2)), including management and administrative jobs connected with the section 3 covered project. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

*Housing authority (HA)* means, collectively, public housing agency and Indian housing authority.

*Housing and community development assistance* means any financial assistance provided or otherwise made available through a HUD housing or community development program through any grant, loan, loan guarantee, cooperative agreement, or contract, and includes community development funds in the form of community development block grants, and loans guaranteed under section 108 of the Housing and Community Development Act of 1974, as amended. Housing and community development assistance

does not include financial assistance provided through a contract of insurance or guaranty.

*Housing development* means low-income housing owned, developed, or operated by public housing agencies or Indian housing authorities in accordance with HUD's public and Indian housing program regulations codified in 24 CFR Chapter IX.

*HUD Youthbuild* programs mean programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

*Indian tribes* shall have the meaning given this term in 24 CFR part 571.

*JTPA* means the Job Training Partnership Act (29 U.S.C. 1579(a)).

*Low-income person.* See the definition of "section 3 resident" in this section.

*Metropolitan area* means a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

*Neighborhood area* means:

(1) For HUD housing programs, a geographical location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in ordinances, or other local documents as a neighborhood, village, or similar geographical designation.

(2) For HUD community development programs, see the definition, if provided, in the regulations for the applicable community development program, or the definition for this term in 24 CFR 570.204(c)(1).

*New hires* mean full-time employees for permanent, temporary or seasonal employment opportunities.

*Nonmetropolitan county* means any county outside of a metropolitan area.

*Other HUD programs* means HUD programs, other than HUD public and Indian housing programs, that provide housing and community development assistance for "section 3 covered projects," as defined in this section.

*Public housing resident* has the meaning given this term in 24 CFR part 953.

*Recipient* means any entity which receives section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, Indian tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include any ultimate beneficiary under the HUD



program to which section 3 applies and does not include contractors.

*Section 3* means section 3 of the Housing and Urban Development Act of 1968, as amended (42 U.S.C. 1701u).

*Section 3 business concern* means a business concern, as defined in this section—

- (1) That is 51 percent or more owned by section 3 residents; or
- (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or
- (3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of "section 3 business concern."

*Section 3 clause* means the contract provisions set forth in § 135.38.

*Section 3 covered activity* means any activity which is funded by section 3 covered assistance public and Indian housing assistance.

*Section 3 covered assistance* means: (1) Public and Indian housing development assistance provided pursuant to section 5 of the 1937 Act;

(2) Public and Indian housing operating assistance provided pursuant to section 9 of the 1937 Act;

(3) Public and Indian housing modernization assistance provided pursuant to section 14 of the 1937 Act;

(4) Assistance provided under any HUD housing or community development program that is expended for work arising in connection with

(i) Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);

(ii) Housing construction; or (iii) Other public construction project (which includes other buildings or improvements, regardless of ownership).

*Section 3 covered contract* means a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of section 3 covered assistance, or for work arising in connection with a section 3 covered project. "Section 3 covered contracts" do not include contracts awarded under HUD's procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). "Section 3 covered contracts" also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a section 3 covered contract. For example, a contract for the purchase and installation of a furnace would be a section 3 covered contract because the contract is for work (i.e., the installation of the furnace) and thus is covered by section 3.

*Section 3 covered project* means the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

*Section 3 joint venture.* See § 135.40.

*Section 3 resident* means: (1) A public housing resident; or (2) An individual who resides in the metropolitan area or nonmetropolitan county in which the section 3 covered assistance is expended, and who is:

(i) A low-income person, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or

(ii) A very low-income person, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(3) A person seeking the training and employment preference provided by section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

*Section 8 assistance* means assistance provided under section 8 of the 1937 Act (42 U.S.C. 1437f) pursuant to 24 CFR part 882, subpart G.

*Service area* means the geographical area in which the persons benefiting from the section 3 covered project reside. The service area shall not extend beyond the unit of general local government in which the section 3 covered assistance is expended. In HUD's Indian housing programs, the service area, for IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power, is limited to the area of tribal jurisdiction.

*Subcontractor* means any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of section 3 covered assistance, or arising in connection with a section 3 covered project.

*Very low-income person.* See the definition of "section 3 resident" in this section.

*Youthbuild programs.* See the definition of "HUD Youthbuild programs" in this section.

[59 FR 33880, June 30, 1994, as amended at 61 FR 5206, Feb. 9, 1996]

#### § 135.7 Delegation of authority.

Except as may be otherwise provided in this part, the functions and responsibilities of the Secretary under section 3, and described in this part, are delegated to the Assistant Secretary for Fair Housing and Equal Opportunity. The Assistant Secretary is further authorized to redelegate functions and responsibilities to other employees of HUD; provided however, that the authority to issue rules and

regulations under this part, which authority is delegated to the Assistant Secretary, may not be redelegated by the Assistant Secretary.

**§ 135.9 Requirements applicable to HUD NOFAs for section 3 covered programs.**

(a) Certification of compliance with part 135. All notices of funding availability (NOFAs) issued by HUD that announce the availability of funding covered by section 3 shall include a provision in the NOFA that notifies applicants that section 3 and the regulations in part 135 are applicable to funding awards made under the NOFA. Additionally the NOFA shall require as an application submission requirement (which may be specified in the NOFA or application kit) a certification by the applicant that the applicant will comply with the regulations in part 135. (For PHAs, this requirement will be met where a PHA Resolution in Support of the Application is submitted.) With respect to application evaluation, HUD will accept an applicant's certification unless there is evidence substantially challenging the certification.

(b) Statement of purpose in NOFAs. (1) For competitively awarded assistance in which the grants are for activities administered by an PHA, and those activities are anticipated to generate significant training, employment or contracting opportunities, the NOFA must include a statement that one of the purposes of the assistance is to give to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns.

(2) For competitively awarded assistance involving housing rehabilitation, construction or other public construction, where the amount awarded to the applicant may exceed \$200,000, the NOFA must include a statement that one of the purposes of the assistance is to give, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, job training, employment, contracting and other economic opportunities to section 3 residents and section 3 business concerns.

(c) Section 3 as NOFA evaluation criteria. Where not otherwise precluded by statute, in the evaluation of applications for the award of assistance, consideration shall be given to the extent to which an applicant has demonstrated that it will train and employ section 3 residents and contract with section 3 business concerns for economic opportunities generated in connection with the assisted project or activity. The evaluation criteria to be utilized, and the rating points to be assigned, will be specified in the NOFA.

**§ 135.11 Other laws governing training, employment, and contracting.**

Other laws and requirements that are applicable or may be applicable to the economic opportunities generated from the expenditure of section 3 covered assistance include, but are not necessarily limited to those listed in this section.

(a) Procurement standards for States and local governments (24 CFR 85.36)—(1) General. Nothing in this part 135 prescribes specific methods of procurement. However, neither section 3 nor the requirements of this part 135 supersede the general requirement of 24 CFR 85.36(c) that all procurement transactions be conducted in a competitive manner. Consistent with 24 CFR 85.36(c)(2), section 3 is a Federal statute that expressly encourages, to the maximum extent feasible, a geographic preference in the evaluation of bids or proposals.

(2) Flexible Subsidy Program. Multifamily project mortgagors in the Flexible Subsidy Program are not required to utilize the methods of procurement in 24 CFR 85.36(d), and are not

permitted to utilize methods of procurement that would result in their award of a contract to a business concern that submits a bid higher than the lowest responsive bid. A multifamily project mortgagor, however, must ensure that, to the greatest extent feasible, the procurement practices it selects provide preference to section 3 business concerns.

(b) Procurement standards for other recipients (OMB Circular No. A-110). Nothing in this part prescribes specific methods of procurement for grants and other agreements with institutions of higher education, hospitals, and other nonprofit organizations. Consistent with the requirements set forth in OMB Circular No. A-110, section 3 is a Federal statute that expressly encourages a geographic preference in the evaluation of bids or proposals.

(c) Federal labor standards provisions. Certain construction contracts are subject to compliance with the requirement to pay prevailing wages determined under Davis-Bacon Act (40 U.S.C. 276a-276a-7) and implementing U.S. Department of Labor regulations in 29 CFR part 5. Additionally, certain HUD-assisted rehabilitation and maintenance activities on public and Indian housing developments are subject to compliance with the requirement to pay prevailing wage rates, as determined or adopted by HUD, to laborers and mechanics employed in this work. Apprentices and trainees may be utilized on this work only to the extent permitted under either Department of Labor regulations at 29 CFR part 5 or for work subject to HUD-determined prevailing wage rates, HUD policies and guidelines. These requirements include adherence to the wage rates and ratios of apprentices or trainees to journeymen set out in "approved apprenticeship and training programs," as described in paragraph (d) of this section.

(d) Approved apprenticeship and trainee programs. Certain apprenticeship and trainee programs have been approved by various Federal agencies. Approved apprenticeship and trainee programs include: an apprenticeship program approved by the Bureau of Apprenticeship and Training of the Department of Labor, or a State Apprenticeship Agency, or an on-the-job training program approved by the Bureau of Apprenticeship and Training, in accordance with the regulations at 29 CFR part 5; or a training program approved by HUD in accordance with HUD policies and guidelines, as applicable. Participation in an approved apprenticeship program does not, in and of itself, demonstrate compliance with the regulations of this part.

(e) Compliance with Executive Order 11246. Certain contractors covered by this part are subject to compliance with Executive Order 11246, as amended by Executive Order 12086, and the Department of Labor regulations issued pursuant thereto (41 CFR chapter 60) which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally-assisted construction contracts.

**Subpart B—Economic Opportunities  
for Section 3 Residents and Section 3 Business  
Concerns**

**§ 135.30 Numerical goals for meeting  
the greatest extent feasible requirement.**

(a) General. (1) Recipients and covered contractors may demonstrate compliance with the "greatest extent feasible" requirement of section 3 by meeting the numerical goals set forth in this section for providing training, employment, and contracting opportunities to section 3 residents and section 3 business concerns.

(2) The goals established in this section apply to the entire amount of section 3 covered assistance awarded to a

recipient in any Federal Fiscal Year (FY), commencing with the first FY following the effective date of this rule.

(3) For recipients that do not engage in training, or hiring, but award contracts to contractors that will engage in training, hiring, and subcontracting, recipients must ensure that, to the greatest extent feasible, contractors will provide training, employment, and contracting opportunities to section 3 residents and section 3 business concerns.

(4) The numerical goals established in this section represent minimum numerical targets.

(b) Training and employment. The numerical goals set forth in paragraph (b) of this section apply to new hires. The numerical goals reflect the aggregate hires. Efforts to employ section 3 residents, to the greatest extent feasible, should be made at all job levels.

(1) Numerical goals for section 3 covered public and Indian housing programs. Recipients of section 3 covered public and Indian housing assistance (as described in § 135.5) and their contractors and subcontractors may demonstrate compliance with this part by committing to employ section 3 residents as:

(i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;

(ii) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996;

(iii) 30 percent of the aggregate number of new hires for one year period beginning in FY 1997 and continuing thereafter.

(2) Numerical goals for other HUD programs covered by section 3. (i) Recipients of section 3 covered housing assistance provided under other HUD programs, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with this part by committing to employ section 3 residents as 10 percent of the aggregate number of new hires for each year over the duration of the section 3 project;

(ii) Where a managing general partner or management agent is utilized, in a given metropolitan area, with recipients of section 3 covered housing assistance, for an aggregate of 500 or more units in any fiscal year, the managing partner or management agent may demonstrate compliance with this part by committing to employ section 3 residents as:

(A) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;

(B) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996;

(C) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997, and continuing thereafter.

(3) Recipients of section 3 covered community development assistance, and their contractors and subcontractors (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to employ section 3 residents as:

(i) 10 percent of the aggregate number of new hires for the one year period beginning in FY 1995;

(ii) 20 percent of the aggregate number of new hires for the one year period beginning in FY 1996; and

(iii) 30 percent of the aggregate number of new hires for the one year period beginning in FY 1997 and continuing thereafter.

(c) Contracts. Numerical goals set forth in paragraph (c) of this section apply to contracts awarded in connection with all section 3 covered projects and section 3 covered activities. Each recipient and contractor and subcontractor (unless the contract or subcontract awards do not meet the threshold specified in § 135.3(a)(3)) may demonstrate compliance with the requirements of this part by committing to award to section 3 business concerns:

(1) At least 10 percent of the total dollar amount of all section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing, or for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and

(2) At least three (3) percent of the total dollar amount of all other section 3 covered contracts.

(d) Safe harbor and compliance determinations.

(1) In the absence of evidence to the contrary, a recipient that meets the minimum numerical goals set forth in this section will be considered to have complied with the section 3 preference requirements.

(2) In evaluating compliance under subpart D of this part, a recipient that has not met the numerical goals set forth in this section has the burden of demonstrating why it was not feasible to meet the numerical goals set forth in this section. Such justification may include impediments encountered despite actions taken. A recipient or contractor also can indicate other economic opportunities, such as those listed in § 135.40, which were provided in its efforts to comply with section 3 and the requirements of this part.

#### § 135.32 Responsibilities of the recipient.

Each recipient has the responsibility to comply with section 3 in its own operations, and ensure compliance in the operations of its contractors and subcontractors.

This responsibility includes but may not be necessarily limited to:

(a) Implementing procedures designed to notify section 3 residents about training and employment opportunities generated by section 3 covered assistance and section 3 business concerns about contracting opportunities generated by section 3 covered assistance;

(b) Notifying potential contractors for section 3 covered projects of the requirements of this part, and incorporating the section 3 clause set forth in § 135.38 in all solicitations and contracts.

(c) Facilitating the training and employment of section 3 residents and the award of contracts to section 3 business concerns by undertaking activities such as described in the Appendix to this part, as appropriate, to reach the goals set forth in § 135.30. Recipients, at their own discretion, may establish reasonable numerical goals for the training and employment of section 3 residents and contract award to section 3 business concerns that exceed those specified in § 135.30;

(d) Assisting and actively cooperating with the Assistant Secretary in obtaining the compliance of contractors and subcontractors with the requirements of this part, and refraining from entering into any contract with any contractor where the recipient has notice or knowledge that the contractor has been found in violation of the regulations in 24 CFR part 135.

(e) Documenting actions taken to comply with the requirements of this part, the results of actions taken and impediments, if any.

(f) A State or county which distributes funds for section 3 covered assistance to units of local governments, to the greatest extent feasible, must attempt to reach the numerical goals set forth in § 135.30 regardless of the number of local governments receiving funds from the section 3 covered assistance which meet the thresholds for applicability set forth at 135.3. The State or county must inform units of local government to whom funds are distributed of the requirements of this part; assist local governments and their contractors in meeting the requirements and objectives of this part; and monitor the performance of local governments with respect to the objectives and requirements of this part.

**§ 135.34 Preference for section 3 residents in training and employment opportunities.**

(a) Order of providing preference. Recipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of section 3 covered assistance to section 3 residents in the order of priority provided in paragraph (a) of this section.

(1) Public and Indian housing programs. In public and Indian housing programs, efforts shall be directed to provide training and employment opportunities to section 3 residents in the following order of priority:

(i) Residents of the housing development or developments for which the section 3 covered assistance is expended (category 1 residents);

(ii) Residents of other housing developments managed by the HA that is expending the section 3 covered housing assistance (category 2 residents);

(iii) Participants in HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 residents);

(iv) Other section 3 residents.

(2) Housing and community development programs. In housing and community development programs, priority consideration shall be given, where feasible, to:

(i) Section 3 residents residing in the service area or neighborhood in which the section 3 covered project is located (collectively, referred to as category 1 residents); and

(ii) Participants in HUD Youthbuild programs (category 2 residents).

(iii) Where the section 3 project is assisted under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.), homeless persons residing in the service area or neighborhood in which the section 3 covered project is located shall be given the highest priority;

(iv) Other section 3 residents.

(3) Recipients of housing assistance programs administered by the Assistant Secretary for Housing may, at their own discretion, provide preference to residents of the housing development receiving the section 3 covered assistance within the service area or neighborhood where the section 3 covered project is located.

(4) Recipients of community development programs may, at their own discretion, provide priority to recipients of government assistance for housing, including recipients of certificates or vouchers under the Section 8 housing assistance program, within the service area or neighborhood where the section 3 covered project is located.

(b) Eligibility for preference. A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a section 3 resident, as defined in § 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

(c) Eligibility for employment. Nothing in this part shall be construed to require the employment of a section 3 resident who does not meet the qualifications of the position to be filled.

**§ 135.35 Preference for section 3 business concerns in contracting opportunities.**

(a) Order of providing preference. Recipients, contractors and subcontractors shall direct their efforts to award section

3 covered contracts, to the greatest extent feasible, to section 3 business concerns in the order of priority provided in paragraph (a) of this section.

(1) Public and Indian housing programs. In public and Indian housing programs, efforts shall be directed to award contracts to section 3 business concerns in the following order of priority:

(i) Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 1 businesses);

(ii) Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the HA that is expending the section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 2 businesses); or

(iii) HUD Youthbuild programs being carried out in the metropolitan area (or nonmetropolitan county) in which the section 3 covered assistance is expended (category 3 businesses).

(iv) Business concerns that are 51 percent or more owned by section 3 residents, or whose permanent, fulltime workforce includes no less than 30 percent section 3 residents (category 4 businesses), or that subcontract in excess of 25 percent of the total amount of subcontracts to business concerns identified in paragraphs (a)(1)(i) and (a)(1)(ii) of this section.

(2) Housing and community development programs. In housing and community development programs, priority consideration shall be given, where feasible, to:

(i) Section 3 business concerns that provide economic opportunities for section 3 residents in the service area or neighborhood in which the section 3 covered project is located (category 1 businesses); and

(ii) Applicants (as this term is defined in 42 U.S.C. 12899) selected to carry out HUD Youthbuild programs (category 2 businesses);

(iii) Other section 3 business concerns.

(b) Eligibility for preference. A business concern seeking to qualify for a section 3 contracting preference shall certify or submit evidence, if requested, that the business concern is a section 3 business concern as defined in § 135.5.

(c) Ability to complete contract. A section 3 business concern seeking a contract or a subcontract shall submit evidence to the recipient, contractor, or subcontractor (as applicable), if requested, sufficient to demonstrate to the satisfaction of the party awarding the contract that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. (The ability to perform successfully under the terms and conditions of the proposed contract is required of all contractors and subcontractors subject to the procurement standards of 24 CFR 85.36 (see 24 CFR 85.36(b)(6)).) This regulation requires consideration of, among other factors, the potential contractor's record in complying with public policy requirements. Section 3 compliance is a matter properly considered as part of this determination.

**§ 135.38 Section 3 clause.**

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed

to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each, and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450a) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

#### § 135.40 Providing other economic opportunities.

(a) General. In accordance with the findings of the Congress, as stated in section 3, that other economic opportunities offer an effective means of empowering low-income persons, a recipient is encouraged to undertake efforts to provide to low-income persons economic opportunities other than training, employment, and contract awards, in connection with section 3 covered assistance.

(b) Other training and employment related opportunities. Other economic opportunities to train and employ section 3 residents include, but need not be limited to, use of "upward mobility", "bridge" and trainee positions to fill vacancies; hiring section 3 residents in management and maintenance

positions within other housing developments; and hiring section 3 residents in part-time positions.

(c) Other business related economic opportunities.

(i) A recipient or contractor may provide economic opportunities to establish, stabilize or expand section 3 business concerns, including micro-enterprises.

Such opportunities include, but are not limited to the formation of section 3 joint ventures, financial support for affiliating with franchise development, use of labor only contracts for building trades, purchase of supplies and materials from housing authority resident-owned businesses, purchase of materials and supplies from PHA resident-owned businesses and use of procedures under 24 CFR part 963 regarding HA contracts to HA resident-owned businesses. A recipient or contractor may employ these methods directly or may provide incentives to non-section 3 businesses to utilize such methods to provide other economic opportunities to low-income persons.

(2) A section 3 joint venture means an association of business concerns, one of which qualifies as a section 3 business concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the section 3 business concern:

(i) Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and

(ii) Performs at least 25 percent of the work and is contractually entitled to compensation proportionate to its work.

#### Subpart C [Reserved]

#### Subpart D—Complaint and Compliance Review

##### § 135.70 General.

(a) Purpose. The purpose of this subpart is to establish the procedures for handling complaints alleging noncompliance with the regulations of this part, and the procedures governing the Assistant Secretary's review of a recipient's or contractor's compliance with the regulations in this part.

(b) Definitions. For purposes of this subpart:

(1) Complaint means an allegation of noncompliance with regulations of this part made in the form described in § 135.76(d).

(2) Complainant means the party which files a complaint with the Assistant Secretary alleging that a recipient or contractor has failed or refused to comply with the regulations in this part.

(3) Noncompliance with section 3 means failure by a recipient or contractor to comply with the requirements of this part.

(4) Respondent means the recipient or contractor against which a complaint of noncompliance has been filed. The term "recipient" shall have the meaning set forth in § 135.7, which includes PHA and IHA.

##### § 135.72 Cooperation in achieving compliance.

(a) The Assistant Secretary recognizes that the success of ensuring that section 3 residents and section 3 business concerns have the opportunity to apply for jobs and to bid for contracts generated by covered HUD financial assistance depends upon the cooperation and assistance of HUD recipients and their contractors and subcontractors. All recipients shall cooperate fully and promptly with the Assistant Secretary in section 3 compliance reviews, in



Development  
Services Agency

Program Policy Notice: OCD 13-02

Community Services Division  
Office of Community Development  
77 South High Street, Columbus Ohio 43215 U.S.A.  
Phone: (614) 466-2285  
Fax: (614) 752-4575

Replaces Program Policy Notice OCD 09-04

**SUBJECT:** Dispute Resolution and Conflict Management Policy for Office of Community Development for housing rehabilitation and repair activities except for projects funded through the Ohio Housing Finance Agency.

**ISSUED:** July 1, 2013

**DISTRIBUTED TO:** Office of Community Development Award Recipients and their Affiliates

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## PROGRAM POLICY

The Office of Community Development is replacing the original Program Policy Notice to provide clarity and update the requirements of dispute resolution and conflict management for the Office of Community Development funded programs. This policy applies to all programs funded through the Office of Community Development's Residential Revitalization Section, Economic and Appalachian Development Section and the Supportive Housing Section. It does not apply to projects funded through the Ohio Housing Finance Agency. The Office of Community Development Dispute Resolution and Conflict Management Policy applies to all direct beneficiary-related housing rehabilitation, repair and construction projects completed with the Office of Community Development program funds and program income, beginning with grants funded in FY 2013.

## General Requirements

To protect the interest of the parties involved in the Office of Community Development-funded housing activities, the Ohio Development Services Agency's Office of Community Development established the Dispute Resolution and Conflict Management Policy.

The policy outlines the responsibilities of the grantee, administrator, homeowners and contractors responsible for completing the Office of Community Development-funded projects. This policy applies only to those projects which include housing rehabilitation, repairs and construction. The grantee shall have appropriate procedures in place to address disputes arising from walkaway projects and/or non-construction activities. During the Office of Community Development's monitoring of a grant, compliance with this policy and local procedures will be confirmed.

The Office of Community Development will not entertain requests to intervene during a dispute. If it becomes necessary to proceed to arbitration, the arbitrator's decision is final and binding. No dispute or argument will be considered after this process is complete.

Recommendation: Most disputes can be prevented by all parties if there is a clear understanding of material quality standards and material selection limitations. Signed approval of material selection, color choices and change orders can assist in the prevention of a conflict.

To ensure that the appropriate parties are informed about the Dispute Resolution and Conflict Management Policy, grantees must provide a copy of the Dispute Resolution and Conflict Management Policy and Dispute Resolution Form to every administrator, rehabilitation/repair/construction client, contractor and when/if necessary any mediator and/or arbitrator. The grant administrator shall provide copies of the policy to both the client and contractor at the pre-construction conference and obtain their signatures acknowledging receipt, along with their complete understanding of the Dispute Resolution and Conflict Management Policy. By acknowledging receipt of the policy all parties agree to abide by the terms therein. A clause shall be incorporated in any rehabilitation/repair/construction contract referring to the Dispute Resolution and Conflict Management Policy. The original document must be maintained in the program's administrative file and copies provided to the homeowner and contractor.

The grantee is responsible for developing an alternative written method for communicating with an applicant if the applicant has a disability (e.g., physical, visual, hearing, speech and/or cognitive disability), is functionally illiterate, or has limited English proficiency and requests an accommodation. The grantee must also provide a copy of the written alternative method for communicating with a homeowner/applicant who is disabled to the administrator. For guidance regarding communicating with people with disabilities, visit <http://www.adata.org/ada-document-portal>. The cost of providing an accommodation to persons with a disability is the responsibility of the grantee.

The homeowner must understand their signature and date on the certification of completion verifies satisfaction of the contractor's workmanship and validates final payment. No complaints regarding workmanship will be accepted after that date. Failed items covered under the warranties should be handled by contacting the contractor directly, in writing if necessary, detailing all warranty items that need addressed, within 12 months of work completion. The grantee and program administrator have no obligation to assist with warranty work issues.

The cost of mediation and arbitration shall be borne by the grantee. Charges are eligible to be paid with active grant funds as soft costs, administration funds, or program income of the same activity source. If funds are not available, contact the Office of Community Development program representative for assistance in seeking other funding options.

Resolution of disputes shall follow the format described below.

#### **Dispute Resolution and Conflict Management Process**

1. If there is any dispute regarding the scope of work, workmanship or material quality/selection or any other discrepancy, the homeowner must notify the contractor immediately. If the contractor is not on site, the disputed work must stop and the contractor will be notified. Disputed work will not proceed until the issue is resolved.
2. Both the homeowner *and* contractor shall contact the administrator immediately when/if the dispute is not resolved between the contractor and the homeowner at step #1.
3. The administrator and/or grantee, rehabilitation specialist, contractor and the homeowner shall make a good faith effort to resolve the dispute at this time. If resolved, details of the dispute and resolution must be documented and signed at this time. The documentation will be placed in the client file.
4. If the dispute is not resolved at step #3, the homeowner must submit a written complaint to the grantee within five working days, on the Dispute Resolution Form provided.



**Note:** Disputed work that is necessary for the health and safety of the occupants, sanitary reasons or the protection of the structure and/or property, should proceed to the extent necessary to safeguard until the dispute is resolved.

5. Upon receipt of a written complaint, the administrator shall notify the grantee of the dispute. The grantee may attempt local resolution at this point, but in any case, shall require the administrator to respond in writing within 15 working days of receiving the complaint. Local resolution may be, but is not limited to, a review committee comprised of impartial members. Procedures for local resolution methods must be attached to this policy, and described in the grantee's local Policies and Procedures Manual.
6. The homeowner shall provide a statement, in writing, within 15 working days of the grantee's response date either accepting the proposed resolution or requesting mediation.
7. Within 15 working days of the date of the homeowner's response requesting mediation, the grantee and administrator shall provide the homeowner with the option of two dates for mediation.\*

\*The grantee may opt to proceed directly to arbitration.

#### **Mediator Responsibilities**

If the dispute cannot be resolved through negotiations with all parties, it may be submitted to mediation if the grantee chooses. The mediator is responsible for assisting the parties, impartially, in reaching an agreement on the disputed matter within 30 days of receiving the dispute.

The grantee may use the assistance of, but are not limited to, the Ohio Mediation Association to identify a mediator. The Ohio Mediation Association can be reached at P.O. Box 473, Columbus, Ohio, 43216, and can be contacted by telephone at (614) 321-7922, and by email at <http://mediateohio.org>.

#### **Arbitrator Responsibilities**

If the dispute cannot be resolved through negotiations with all parties or through the optional mediation process, the dispute **must** be submitted to arbitration. The arbitrator is responsible for providing a resolution to the dispute submitted by the applicant within 60 days of receiving the dispute.

The administrator may use the assistance of, but are not limited to, the American Arbitration Association. The American Arbitration Association is located at 250 East Fifth Street, Suite 330, Cincinnati, Ohio 45202-4173 and can be contacted by telephone at (513) 241-8434 or by fax at (513) 241-8437. For more information regarding the American Arbitration Association, visit <http://www.adr.org/>.



***The arbitrator's decision is final and binding. No dispute or argument will be considered after this process is complete.***

**We hereby acknowledge receipt of this copy of the *Dispute Resolution and Conflict Management Policy*. We understand and accept the outlined process for any and all disputes that may result from our involvement with the program.**

Paul Z 9/15/17  
Homeowner Signature Date

Homeowner Signature Date  
M. J. Smith 8-15-17  
Contractor Signature Date

### Dispute Resolution Form

Please describe the order of events regarding the dispute and, if necessary, provide the line item the disputed issue(s) directly relates to on the scope of work. The grant administrator will contact you with a response within 15 working days of filing.

Step #3 – The attempt at resolution was completed on \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Signature(s) of Complainant(s)

Date Filed

## **CITY OF MEDINA**

(In partnership with the City of Brunswick)

### **COMMUNITY HOUSING IMPACT AND PRESERVATION PROGRAM (PY 2016 CHIP)**

#### **HOME WRITTEN AGREEMENT**

##### **PRIVATE OWNER REHAB ASSISTANCE**

NOTICE TO HOMEOWNER: This AGREEMENT contains a number of requirements you must fulfill in exchange for the federal assistance you are receiving through the Home Investment Partnerships Program (HOME Program). You should read each paragraph carefully and ask questions regarding any sections you do not fully understand. This AGREEMENT will be enforced by a partially forgivable loan and mortgage as set forth below. You should be sure that you thoroughly understand these documents before you sign them.

THIS AGREEMENT made and entered into by and between CITY OF MEDINA (hereinafter referred to as "CITY") and Paul J. Taylor, (hereinafter referred to as "OWNER") for Private Owner Rehabilitation Assistance to the OWNER utilizing HOME Funds made available through a Community Housing Impact and Preservation ("CHIP") Grant obtained by City of Medina from the Ohio Development Services Agency, Office of Community Development for the residence at 914 Quincy Ct., Medina, Ohio.

OWNER attests and the CITY has verified that the OWNER qualifies as a low-income individual or household as defined by the HOME Program. "Low-income" is defined as an individual or household whose total income does not exceed 80% of the Area Median Income (AMI) as defined by HUD.

The County Auditor has valued the property at \$132,960. The after rehab value of the home will not exceed \$162,000 which is 95% of the maximum purchase price for assistance;

OWNER certifies that the residence at 914 Quincy Court, Medina, Ohio is OWNER's principal place of residence.

OWNER desires to rehabilitate, renovate, reduce lead-based paint hazards and improve the aforesaid premises. Pursuant to the HOME Program rules, the property that is the subject of this Agreement must meet the Ohio Development Services Agency, Office of Community Development Residential Rehabilitation Standards and all local code requirements.

OWNER understands that the purpose of the Private Owner Rehabilitation Program is to correct basic building code violations, health and safety issues including lead based paint hazards for qualified homeowners with household incomes at or below 80% of median income in City of Medina. Only single-family, owner-occupied housing units within the City's service area for the grant funds are eligible for this program.

The CITY will provide Private Owner Rehabilitation Assistance to OWNER in the form of a 5 year deferred, partially forgivable loan. The principal amount of the loan shall be reduced over the first five years by seventeen percent (17%) of the original principal balance of the Loan for each year the loan is outstanding. The interest rate for this loan is zero percent (0%). **No payment will be required so long as the applicant continues to live in and own the home.** The loan will be secured by a mortgage and promissory note with a declining repayment agreement. Should OWNER no longer reside in the home, the amount remaining due on the mortgage will be due and payable to City of Medina or the City of Brunswick (as identified on the executed mortgage).

This Agreement shall remain in force until satisfied as long as the home remains the principal residence of the OWNER. Should the OWNER not maintain the home as his/her principal residence, or rent or sell the residence to another party, the OWNER will be required to repay any amount that has not yet been forgiven as set forth in the Agreement, as of the day the home is no longer the principal place of residence of the OWNER.

OWNER(s) hereby agrees to the following terms and conditions in order to receive housing rehabilitation assistance.

1. Inspection. OWNER will allow inspection of the property by City of Medina, its designee and/or CHIP Program Staff, public building, electrical, plumbing and health department officials and inspectors, and contractors who are bidding on the proposed rehabilitation work during normal business hours.

Inspections will be made before, during and after completion of the rehabilitation work. All inspections will be made by appointment arranged in advance.

2. Competitive Bidding. OWNER has worked with City of Medina, its designee and/or CHIP Program Staff to seek competitive bids on OWNER's behalf from qualified contractors for all the rehabilitation work. Bids will be requested according to the procedures established by City of Medina, its designee and/or CHIP Program Staff and in accordance with federal, state and local laws.
3. Agreement with Contractor. OWNER agrees to enter into a Contract with the lowest and best bidder, normally to the low bidder. OWNER understands that OWNER may reject, in writing the low bidder in favor of the next highest bidder if in my opinion the low bidder does not possess the experience, skill or resources to satisfactorily complete the job, or the ability to proceed in a timely manner, or who has not visited my house, before preparing the bid.
4. Property Standards. Pursuant to HOME Program rules, as stated above, the property that is the subject of the Agreement must meet the Ohio Development Services Agency, Office of Community Development Residential Rehabilitation Standards and all local code requirements upon completion of the work funded by the CHIP Program's Private Owner Rehabilitation Program.
4. Homeowner Modifications. OWNER agrees **not** to make any changes to the home that will affect the estimate of repairs i.e. removing kitchen cabinets, removing carpeting, removing walls, etc. Doing so may result in denial of assistance.

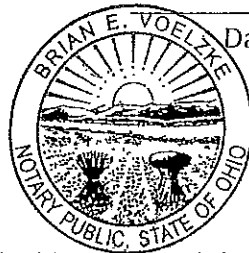
5. Side Agreements. OWNER will refrain from making side agreements with the contractor for work not included in OWNER's Agreement with the Contractor, or not included in any written Change Orders approved by City of Medina, its designee and/or CHIP Program Staff until all work under the Contract is satisfactory and closing inspections are completed. City of Medina, its designee and/or CHIP Program Staff assumes no responsibility for the cost or quality of work not covered by the Agreement or approved by Change Orders.
6. Access. OWNER agrees to provide access to the contractor and subcontractors awarded the bid between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday (unless otherwise agreed to by the parties at the preconstruction meeting) in order to facilitate timely completion of the project.
6. Conflict of Interest. OWNER will not pay any bonus, commission or fee to anyone for the purpose of obtaining approval of any application for rehabilitation assistance. OWNER will not allow any member of the United States Congress or State government, elected official of the CITY or City of Medina employee who exercises any functions or responsibilities in connection with the administration of this Housing Rehabilitation Program to have any interest in or benefit from a rehabilitation loan or grant financed under my Agreement.
7. Non-Discrimination. OWNER will not discriminate in the sale, lease, rental use or occupancy of my property, as required by Title VI of the Civil Rights Act of 1964.
8. Maintenance of the Property. OWNER will make every reasonable effort to keep the property in safe, sound and habitable condition following completion of the rehabilitation work through the affordability period.
9. Hazard Insurance. OWNER will at all times during the duration of this Agreement maintain a valid and current insurance policy on the property rehabilitated in an amount based on its value after rehabilitation. Such insurance must be maintained throughout the term of the loan and shall carry an endorsement to the CITY.
10. Loan Subordination. OWNER agrees that the property is not available as a source of collateral for future loans when such loans require subordination of the CITY's loan. The CITY may subordinate its loan if, in its judgment, it is in the best interests of both the CITY and the OWNER and approved in writing.
11. Loan Repayment. OWNER agrees to execute a Promissory Note, Declining Payment Agreement and Mortgage. The specific terms governing the loan are contained in the Promissory Note, Declining Payment Agreement and the Truth-in-Lending Statement. OWNER understands that the terms of the loan include a declining repayment agreement with a 15% payback after the affordability period.
12. Right to Financial Privacy. The Federal Financial Act of 1978 guarantees financial confidentiality to persons requesting assistance directly or indirectly from the federal government. To comply with this law, the CITY must inform the rehabilitation client that no financial information will be disclosed or released to another government agency (except the Ohio Development Services Agency (ODSA) and the U.S. Department of Housing and Urban Development (HUD) which may review the file on a

monitoring visit) without the prior written consent of the client. Financial records involving my transaction will be available to ODSA and HUD without further notice or authorization, but will not be disclosed or released to another government agency or department without my consent except as required or permitted by law. Also, verification forms sent to other agencies for the purpose of determining my eligibility for the rehabilitation program must contain a signed Authorization to Release Information.

Paul Taylor  
Owner

9/15/17  
Date

Owner



Date BRIAN E. VOELZKE

NOTARY PUBLIC  
STATE OF OHIO

RECORDED IN  
SANDUSKY COUNTY  
My Commission Expires  
August 25, 2019

State of Ohio: ) SS:  
County of Sandusky )

Before me, a Notary Public for the State of Ohio, appeared the above named Paul Taylor who acknowledged and signed the foregoing instrument and their signing was their free act.

IN WITNESS WHEREOF, I have hereunto subscribed my name affixed my seal this 15 day of September, 2017

Brian E. Voelzke  
Notary Public

CITY OF MEDINA

Dennis Hanwell  
Mayor Dennis Hanwell  
City of Medina

09-18-17  
Date

State of Ohio: ) SS:  
County of Medina )

Before me, a Notary Public for the State of Ohio, appeared the above named Dennis Hanwell who acknowledged and signed the foregoing instrument and their signing was their free act.

IN WITNESS WHEREOF, I have hereunto subscribed my name affixed my seal this 18<sup>th</sup> day of September, 2017.

Sandra Davis  
Notary Public  
Commission Expires 11-29-21