

## **Solicitation RFP 18-55-C**

# **OUTDOOR FITNESS SYSTEM AND ACCESSIBLE PLAY PANEL COMPONENT**

**Bid Designation: Public**

**City of Lewisville, Texas**

**Bid RFP 18-55-C****OUTDOOR FITNESS SYSTEM AND ACCESSIBLE PLAY PANEL COMPONENT**

Bid Number	RFP 18-55-C
Bid Title	OUTDOOR FITNESS SYSTEM AND ACCESSIBLE PLAY PANEL COMPONENT
Bid Start Date	In Held
Bid End Date	Aug 2, 2018 5:30:00 PM CDT
Question & Answer End Date	Jul 25, 2018 5:30:00 PM CDT
Bid Contact	Todd White

**Standard Disclaimer**      **All goods and services provided to the City must be compliant with the Americans with Disabilities Act ("ADA") and all regulations promulgated pursuant to the ADA. The successful bidder will be required to certify compliance, if applicable.**

**Description**

The City of Lewisville is accepting sealed proposals for **OUTDOOR FITNESS SYSTEM AND ACCESSIBLE PLAY PANEL COMPONENT** for the Rev. Alvin Turner, Sr. Park, located at 700 Hembry & Birch Streets, Lewisville, Texas 75057. Funding for this project is available from a grant from the U.S. Department of Housing and Urban Development. Award will be based on receiving the highest evaluation score.



# **REQUEST FOR PROPOSAL**

**RFP #18-55-C**

## **OUTDOOR FITNESS SYSTEM AND ACCESSIBLE PLAY PANEL COMPONENT**

**DUE: THURSDAY, AUGUST 2, 2018 5:30 PM CST**

## **SCOPE**

The City of Lewisville is accepting sealed proposals for providing and installing an outdoor fitness system and accessible play panel component for the Rev. Alvin Turner, Sr. Park, located at 700 Hembry & Birch Streets, Lewisville, Texas 75057. Prices are to include all insurance, equipment, supplies, labor, freight and installation costs. In addition, this project is funded through a grant from the U.S. Department of Housing and Urban Development and copies of certified payroll are required to be provided to the City per the Davis-Bacon and Contract and Work Hours Safety Standards Acts. Other grant and federal requirements apply. Please see “Federal Requirements”, HUD-4010 and “DBA Wage Determination” attachments.

## **FITNESS EQUIPMENT**

Individual components of the system are to provide simultaneous fitness experience for a quantity of six (6) to eleven (11) people with varying levels of physical abilities.

The equipment proposed should provide fitness experience to develop/enhance strength, cardio vascular health and balance/flexibility.

All equipment must be complaint with ASTM Standard Specifications applicable for fitness equipment, strength equipment, signage and surfacing.

All components must be made for outdoor/durability and be wear-resistant.

Preference will be given to those systems that provide movable components with adjustable resistance and dual sided components that allow multiple persons and/or persons in wheel chairs to gain full experience of use.

## **Installation**

The successful proposer will responsible for in ground (direct bury) installation.

## **Surfacing**

The successful proposer to provide 1,200 sq. ft. of ¼ inch poured in place rubber safety surfacing or equivalent; colors to be determined after equipment is selected.

## **ACCESSIBLE PLAY PANEL COMPONENT**

Please refer to Exhibit “A” aerial view depicting the 6 ft X 8 ft area size.

## **PLAY PANEL**

Accessible design to create inclusive musical play environment. Material to be durable plastic/steel construction; wear and weather resistant.

## Installation

The successful proposer will be responsible for in ground (direct bury) installation.

## WARRANTY

All products provided are to have the following minimum warranties:

- 15-year warranty on all plastic and steel components
- 3-year warranty on resistance components/mechanisms
- Lifetime warranty on fasteners/aluminum castings

## REQUEST FOR PROPOSAL

1. Proposals are to be submitted on the basis of the specifications contained herein. Alternate proposals will also be considered, provided the alternatives are clearly explained. All deviations from the specifications must be clearly identified and explained.
2. No telephone, telephonic, or fax proposals will be accepted. Proposals may only be accepted if delivered in person or by U.S. Postal Service, Federal Express, UPS, etc. The City is not responsible for missing, lost, or late delivery. Any RFP responses received after the time set for opening will be returned to the proposer unopened.
3. The preparation of the request for proposal will be at the total expense of the proposer. There is no expressed or implied obligation for the City of Lewisville to reimburse responding proposers for any expense incurred in the preparation of proposals in response to this request.
4. The City reserves the right to reject any and all proposals, to consider alternatives, to waive any formalities and irregularities, and to re-solicit proposals. In addition, during the evaluation period, the City may, where it may serve the City's best interest, request additional information or clarifications from proposers, or allow corrections of errors or omissions.
5. Each proposer shall guarantee and honor its response to these specifications for a period of 45 days or until the City enters into a contract with one of the proposers, whichever occurs first.
6. Proposals are to be sealed in an envelope clearly marked with the title of the RFP and the RFP Due Date. **Proposers must submit three (3) original and one complete copy in PDF format on a thumb-drive.**

The RFP will be available to interested parties on Bidsnyc.com or may be picked up in person at the Purchasing Division office.

Proposals must be delivered to:

**City of Lewisville  
Purchasing Division  
151 West Church Street  
Lewisville, Texas 75057**

Proposals must be received at the location above, no later than **5:30 p.m., local time, Thursday, August 2, 2018.** in sealed envelope or box, clearly marked:

**RFP # 18-55-C  
OUTDOOR FITNESS SYSTEM AND ACCESSIBLE PLAY PANEL COMPONENT**

## **SUBMITTALS**

- Provide complete pricing for each system being proposed
- Provide complete technical literature, including manufacturer and model number, of items being proposed
- Provide history and experience of your firm
- Provide a minimum of three customers that can account for your workmanship and timeliness of installation. Include current name of customer and contact information including email address
- Provide a timeline for completion
- Describe functionality and playability of proposed structures and fall-zone
- Any other additional information you feel would be of a value to the City

## **EVALUATION CRITERIA**

Proposals will be scored by an evaluation committee consisting of City staff. Proposals will be scored with regards to the following criteria and associated weights:

Experience and Past Projects	30 points
Functionality and Playability of Proposed Structures and Fall-zone	30 points
Cost of Structures with Installation	30 points
Proposed Timeline for completion	10 points

**MISCELLANEOUS**

All forms requiring either a signature or information to be filled in are to be returned with your proposal. In addition, the language contained in the attached form entitled Purchase Order Terms and Conditions is made part of this request for proposal through reference herein.

**RESTRICTIONS ON COMMUNICATION**

After the RFP has been issued, proposer is prohibited from communicating with City staff regarding the RFP or proposals.

The City reserves the right to contact any proposer for clarification after responses are opened and/or to further negotiate with any proposer if the City so desires.

**INSURANCE PROVISIONS**

Prior to the commencement of any work under this contract, the successful proposer shall furnish an original completed certificate(s) of insurance to the City, which shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon and in attachment entitled "Insurance Requirements for General Contracts for Service".

**MAINTENANCE BOND**

The successful proposer is required to furnish a two-year maintenance bond for 100% of the value of the contract. The City shall provide the form to be used

***PROPOSER'S ACCEPTANCE OF EVALUATION METHODOLOGY***

**WAIVER OF CLAIMS: EACH PROPOSER BY SUBMISSION OF A RESPONSE TO THIS REQUEST FOR PROPOSALS ("RFP") WAIVES ANY CLAIMS IT HAS OR MAY HAVE AGAINST THE OWNER, ITS EMPLOYEES, OFFICERS, AGENTS, REPRESENTATIVES, AND THE MEMBERS OF OWNER'S GOVERNING BODY, CONNECTED WITH OR ARISING OUT OF THIS RFP, INCLUDING THE ADMINISTRATION OF THE RFP AND THE RFP EVALUATION. SUBMISSION OF A PROPOSAL INDICATES PROPOSER'S ACCEPTANCE OF THE EVALUATION TECHNIQUE AND PROPOSER'S RECOGNITION THAT SOME SUBJECTIVE JUDGMENTS MUST BE MADE BY THE OWNER DURING THE EVALUATION OF PROPOSALS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH PROPOSER ACKNOWLEDGES THAT THE BASIS OF SELECTION AND THE EVALUATIONS SHALL BE MADE PUBLIC AFTER THE CONTRACT IS AWARDED, AND WAIVES ANY CLAIM IT HAS OR MAY HAVE AGAINST THE ABOVE-NAMED PERSONS, DUE TO INFORMATION CONTAINED IN SUCH EVALUATIONS.**

**Firm:** \_\_\_\_\_

**Authorized Signature:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_



***CITY OF LEWISVILLE PURCHASING DIVISION  
ADDITIONAL TERMS***

**ANTI-LOBBYING PROVISION**

During the period between proposal / sealed bid submission date and the contract award, proposers, including their agents and representatives, shall not directly discuss or promote their proposal with any member of the City of Lewisville City Council or City staff except in the course of City-Sponsored inquiries, briefings, interviews, or presentations, unless requested by the City.

This provision is not meant to preclude offerors from discussing other matters with City Council members or City staff. This policy is intended to create a level playing field for all potential offerors, assure that contract decisions are made in public, and to protect the integrity of the RFP / Bid Evaluation process. Violation of this provision may result in rejection of the offeror's proposal.

**LAWS AND ORDINANCES**

Laws and Ordinances: The Contractor shall at all times observe and comply with all Federal, State and local laws, ordinances and regulations which in any manner affect the Contract or the work, and shall indemnify and save harmless the City against any claim arising from the violation of any such laws, ordinances and regulations whether by the Contractor or his employees.

**PROTECTION OF RESIDENT WORKERS**

Protection of Resident Workers: The City of Lewisville actively supports the Immigration and Nationality Act (INA) which includes provisions addressing employment eligibility, employment verification, and nondiscrimination. Under the INA, employers may hire only persons who may legally work in the United States (i.e., citizens and nationals of the U.S.) and aliens authorized to work in the U.S. The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9). The Contractor and its Subcontractors shall establish appropriate procedures and controls so no services or products under the Contract Documents will be performed or manufactured by any worker who is not legally eligible to perform such services or employment. The City reserves the right to audit Contractor's or Subcontractor's employment records to verify the existence of a completed Employment

Eligibility Verification Form (I-9) for every worker performing services or manufacturing products under the Contract Documents. The audit will be at the City's expense.

## **IMMIGRATION REFORM AND CONTROL ACT**

Immigration Reform and Control Act (8 U.S.C. §1324a): The City of Lewisville supports the Immigration Reform and Control Act (IRCA) which is a comprehensive scheme prohibiting the employment of unauthorized aliens in the United States. The Contractor shall submit a declaration signed under penalty of perjury of the laws of the State of Texas stating that it has not been found in violation of IRCA by the United States Attorney General or Secretary of Homeland Security in the preceding five (5) years. The Contractor shall ensure that its Subcontractors submit a declaration signed under penalty of perjury of the laws of the State of Texas stating that they have not been found in violation of IRCA by the United States Attorney General or Secretary of Homeland Security in the preceding five (5) years. The Contractor and its Subcontractors shall at all times during the term of the contract with the City comply with the requirements of IRCA and shall notify the City within fifteen (15) working days of receiving notice of a violation of IRCA. The City may terminate a contract with the Contractor if the City determines that (a) the Contractor or its Subcontractors have been untruthful regarding IRCA violations in the preceding five (5) years; (b) if the Contractor fails to ensure that its Subcontractors submit the aforementioned declaration; or (c) the Contractor or its Subcontractors fail to timely notify the City of an IRCA violation.

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Contractor Name

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Authorized Signature

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Date

**PURCHASE ORDER  
TERMS & CONDITIONS**

**Seller and Buyer agree to comply with the following terms and conditions. These Terms and Conditions along with the purchase order shall constitute a contract between the Seller and Buyer upon the Seller issuing an invoice and/or providing any of the goods and services described in the purchase order. In the event of a conflict between these Terms and Conditions and a separate written agreement between the Seller and Buyer, the terms of the separate written agreement shall prevail.**

- 1.SELLER TO PACKAGE GOODS: Seller will package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently packed as follows: (a) Seller's name and address; (b) Consignee's name, address and purchase order or purchase order release number and the supply agreement number if applicable; (c) Container number and total number of containers, e.g. box 1 of 4 boxes; and (d) the number of the container bearing the packing slip. Seller shall bear cost of packaging unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists.
- 2.SHIPMENT UNDER RESERVATION PROHIBITED: Seller is not authorized to ship the goods under reservation and no tender of a bill of lading will operate as a tender of goods.
- 3.TITLE AND RISK OF LOSS: The title and risk of loss of the goods shall not pass to Buyer until Buyer actually receives and takes possession of the goods at the point or points of delivery.
- 4.DELIVERY TERMS AND TRANSPORTATION CHARGES: F.O.B. Inside Delivery, Municipal Facility, Lewisville, Texas, and shall include all delivery and packaging costs. The Buyer assumes no liability for goods delivered in damaged or unacceptable condition. The Seller shall handle all claims with carriers, and in case of damaged goods, shall ship replacement goods immediately upon notification by Seller of damage.
- 5.NO REPLACEMENT OF DEFECTIVE TENDER: Every tender or delivery of goods must fully comply with all provisions of this contract as to time of delivery, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach and Seller shall not have the right to substitute a conforming tender provided, where the time for performance has not yet expired, the Seller may notify Buyer of his intention to cure and may then make a conforming tender within the contract time but not afterward.

- 6.PLACE OF DELIVERY: The place of delivery shall be that set forth on the purchase order. Any change thereto shall be effected by modification as provided for in Clause 20, "Modifications", hereof. The terms of this contract are "no arrival, no sale".
- 7.INVOICES AND PAYMENTS: (a) Seller shall submit separate invoices on each purchase order after each delivery. Invoices shall indicate the purchase order number, shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading, and the freight weigh bill when applicable, should be attached to the invoice. Mail to: City of Lewisville Accounts Payable, PO Box 299002 Lewisville, Texas 75029-9002. Payments shall be made thirty days after the goods are delivered to the Buyer, or a correct invoice is received, whichever is later. Suppliers should keep the Accounts Payable Office advised of any changes in remittance addresses. (b) Buyer's obligation is payable only and solely from funds available for the purpose of the purchase. Lack of funds shall render this contract null and void to the extent funds are not available and any delivered but unpaid for goods will be returned to Seller by Buyer. (c) Do not include Federal Excise, State or City Sales Tax. Buyer shall furnish tax exemption certificate, if required.
- 8.GRATUITIES: The Buyer may, by written notice to the Seller, cancel this contract without liability to Seller if it is determined by Buyer that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Seller, or any agent, or representative of the Seller, to any officer or employee of the City of Lewisville with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or the making or any determinations with respect to the performing of such a contract. In the event this contract is cancelled by Buyer pursuant to this provision, Buyer shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities.
- 9.SPECIAL TOOLS AND TEST EQUIPMENT: If the price stated on the face hereof includes the cost of any special tooling or special test equipment fabricated or required by Seller for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the Buyer and to the extent feasible shall be identified by the Seller as such.
10. WARRANTY PRICE: (a) The price to be paid by the Buyer shall be that contained in Seller's bid which Seller warrants to be no higher than Seller's current prices on orders by others for products of the kind and specification covered by this contract for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on orders by others, or in the alternative, Buyer may cancel this contract without liability to Seller for breach or Seller's actual expense. (b) The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach of violation of this warranty, the Buyer shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract

price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

11. **WARRANTY PRODUCTS:** Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the Buyer. Seller warrants that the goods furnished will conform to the specifications, drawings and descriptions listed in the bid invitation and to the sample(s) furnished by Seller, if any. In the event of a conflict between the specifications, drawings and descriptions, the specifications shall govern.
12. **SAFETY WARRANTY:** Seller warrants that the product sold to Buyer shall conform to the standards promulgated by the U. S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, Buyer may return the product for correction or replacement at the Seller's expense. In the event Seller fails to make the appropriate correction within a reasonable time, correction made by Buyer will be at Seller's expense.
13. **NO WARRANTY BY BUYER AGAINST INFRINGEMENTS:** As part of this contract for sale Seller agrees to ascertain whether goods manufactured in accordance with the specifications attached to this contract will give rise to the rightful claim of any third person by way of infringement or the like. Buyer makes no warranty that the production of goods according to the specification will not give rise to such a claim, and in no event shall Buyer be liable to Seller for indemnification in the event that Seller is sued on the grounds of infringement or the like. If seller is of the opinion that an infringement or the like will result, he will notify Buyer to this effect in writing within two weeks after the signing of this contract. If Buyer does not receive notice and is subsequently held liable for the infringement of the like, Seller will save Buyer harmless. If Seller in good faith ascertains that production of the goods in accordance with the specifications will result in infringement or the like, this contract shall be null and void except that Buyer will pay Seller the reasonable cost of his search as to infringements.
14. **RIGHT OF INSPECTION:** Buyer shall have the right to inspect the goods at delivery before accepting them.
15. **CANCELLATION:** Buyer shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breaches any of the terms hereof including warranties of Seller or if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any other remedies which Buyer may have in law or equity.
16. **TERMINATION:** The performance of work under this order may be terminated in whole or in part by the Buyer in accordance with this provision. Termination of work hereunder shall be effected by the delivery to the Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to and not in lieu of rights of Buyer set forth in Clause 15, herein.

17. **FORCE MAJEURE:** If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this contract then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability.
18. **ASSIGNMENT DELEGATION:** No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
19. **WAIVER:** No claim or right arising out of a breach of this contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved.
20. **MODIFICATIONS:** This contract may be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents. This shall include any change orders.
21. **INTERPRETATION PAROLE EVIDENCE:** This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this contract. Acceptance or acquiescence in a course of performance rendered under this contract shall not be relevant to determine the meaning of this contract even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this contract, the definition contained in the Code is to control.
22. **APPLICABLE LAW:** This contract shall be governed by the Uniform Commercial Code. Wherever the term "Uniform Commercial Code" is used, it shall be construed as meaning the Uniform Commercial Code as adopted in the State of Texas as effective and in force on the date of this contract.
23. **ADVERTISING:** Seller shall not advertise or publish, without Buyer's prior consent, the fact that Buyer has entered into this contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state or local government.

24. **RIGHT TO ASSURANCE:** Whenever one party to this contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of his intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.
25. **VENUE:** Both parties agree that venue for any litigation arising from this contract shall lie in Denton County, Texas.
26. **DISCLOSURE:** Pursuant to Chapter 176 of the Texas Local Government Code, a person or agent of a person who contracts or seeks to contract with the City of Lewisville must complete a conflict of interest questionnaire if the person or agent has an affiliation or business relationship that might cause a conflict of interest with the City. The conflict of interest questionnaire, which is available online at [ethics.state.tx.us](http://ethics.state.tx.us), must be filed with the City Secretary of the City of Lewisville no later than the seventh business day after the person or agent begins contract discussions or negotiations with the City of Lewisville or submits to the City of Lewisville an application, response to a request for proposal or bid, correspondence, or another writing related to a potential agreement with the City of Lewisville. An updated conflict of interest questionnaire must be filed in accordance with Chapter 176 of the Local Government Code

Seller should consult with legal counsel if you have questions regarding its compliance with the requirements of Chapter 176. It is the responsibility of each person or agent who is contracting or seeking to contract with the City of Lewisville to comply with the filing requirements of Chapter 176.

27. **INDEPENDENT CONTRACTOR:** Seller shall be considered an independent contractor and not an agent, servant, employee, or representative of Buyer in the performance of the work. No term or provision herein or act of the Seller shall be construed as changing that status.
28. **TERMINATION FOR DEFAULT:** Buyer reserves the right to enforce the performance of any Purchase Order in any manner prescribed by law or deemed to be in the best interest of Buyer in the event of breach or default. The Buyer reserves the right to terminate any purchase order and/or agreement with the Seller in the event the Seller fails to: (a) meet delivery schedules, or (b) otherwise perform in accordance with these terms and conditions.
29. **PROTESTS:** All protests regarding the solicitation process must be submitted in written form to the Purchasing Manager within five (5) working days following the opening of bids/proposals. This includes all protests relating to legal advertisements, deadlines, bid/proposal openings, and all other related procedures under the Local Government Code. Post-award protests must be submitted in written form to the City Manager within five (5) working days after award. The protest must include, at a minimum, the name of protester, bid/proposal number or description of goods or services, and a statement of grounds for protest.

**30. INDEMNIFICATION: SELLER AGREES TO DEFEND, INDEMNIFY AND HOLD BUYER, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY SELLER'S BREACH OF ANY OF THESE TERMS AND CONDITIONS OR BY ANY NEGLIGENT OR STRICTLY LIABLE ACT OR OMISSION, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY SELLER, ITS OFFICERS, AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THIS CONTRACT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF BUYER, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, AND IN THE EVENT OF JOINT AND CONCURRING NEGLIGENCE OR FAULT OF THE SELLER AND BUYER, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO BUYER UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.**

31. SEVERABILITY: In case any one or more of the provisions contained in these Terms and Conditions shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and these Terms and Conditions shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

32. IMMIGRATION REFORM AND CONTROL ACT (8 U.S.C 1324a): The Buyer supports the Immigration Reform and Control Act (IRCA), which is a comprehensive scheme prohibiting the employment of unauthorized aliens in the United States. The Seller and its subcontractors shall at all times during the term of the contract with the Buyer comply with the requirements of IRCA and shall notify the Buyer within fifteen (15) working days of receiving notice of a violation of IRCA. The Seller also warrants that it has not had an IRCA violation within the last five (5) years. The Buyer may terminate a contract with the Seller if the Buyer determines that (a) the Seller or its subcontractors have been untruthful regarding IRCA violations in the preceding five (5) years or (b) the Seller or its subcontractors fail to timely notify the Buyer of an IRCA violation.

33. ADA COMPLIANCE: All goods and services provided to the Buyer must be compliant with the Americans with Disabilities Act and any amendments thereto (the "ADA") and all regulations promulgated pursuant to the ADA. Seller will be required to certify compliance, if required under the law or otherwise required by the Buyer.



34. **PROTECTION OF RESIDENT WORKERS:** The Buyer actively supports the Immigration and Nationality Act (INA), which includes provisions addressing employment eligibility, employment verification, and nondiscrimination. Under the INA, employers may hire only persons who may legally work in the United States (i.e., citizens and nationals of the U.S.) and aliens authorized to work in the U.S. The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9). The Seller shall establish appropriate procedures and controls so no services under the contract will be performed by any worker who is not legally eligible to perform such services or employment. The Buyer reserves the right to audit Seller's employment records to verify the existence of a completed Employment Eligibility Verification Form (I-9) for every worker performing services under the contract. The audit will be at the Buyer's expense.

35. **NO BOYCOTT OF ISRAEL.** Pursuant to Texas Government Code Chapter 2270, the Seller agrees that acceptance of these Terms & Conditions serves as written verification that Contractor: (1) does not boycott Israel, as defined by Texas Government Code Section 808.001; and (2) will not boycott Israel during the term of the contract.

36. **COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATION.** Pursuant to Texas Government Code Chapter 2252, Subchapter F, Seller affirms that it is not identified on a list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to a foreign terrorist organization.

**INSURANCE REQUIREMENTS**  
**GENERAL CONTRACTS FOR SERVICES**

Service work, supplies requiring installation, Janitorial Services, Welding, Surveyors, Plumbing Contractors, Maintenance Agreements, Concessionaires, Tire Repairs, Tow Service, Painting, Electrical, Movers, Major street repairs and Waterline projects, etc.

Vendor shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the vendor's bid.

**A. MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage "occurrence" form CG 00 01 (10 01). **"Claims Made" form is unacceptable.**
2. Workers' Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.
3. Automobile Liability – as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under this contract. Coverage not required for delivery services.

**B. MINIMUM LIMITS OF INSURANCE**

Vendor shall maintain limits throughout contract not less than:

1. Commercial General Liability: \$500,000 per occurrence/\$1,000,000 aggregate for bodily injury, personal injury and property damage. Policy will include coverage for:
  - a. Premises – Operations

- b. Broad Form Contractual Liability
- c. Products and Completed Operations
- d. Personal Injury
- e. Broad Form Property Damage
- f. If applicable, Explosion Collapse and Underground (XCU) Coverage, Fire Damage, and Medical Expense.

***NOTE: The aggregate loss limit applies to each project.***

- 2. Workers' Compensation and Employer's Liability: Workers' Compensation Statutory limits as required by the Labor Code of the State of Texas and Employer's Liability minimum limits of \$500,000 per injury, \$500,000 per occurrence, and \$500,000 per occupational disease.
- 3. Automobile Liability - \$500,000 Combined Single Limit. Limits can only be reduced if approved by the HR Director or designee.

**C. DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductible or self-insured retentions must be declared to and approved by the City.

**D. OTHER INSURANCE PROVISIONS**

The policies are to contain, or be endorsed to contain the following provisions:

- 1. General Liability and Automobile Liability Coverages
  - a. The City, its officers, officials, employees, Boards and Commissions and volunteers are to be added as "Additional Insured" as respects liability arising out of activities performed by or on behalf of the vendor, products and completed operations of the vendor, premises owned, occupied or used by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers. It is understood that the business auto policy under "Who is an Insured" automatically provides liability coverage in favor of the City. The coverage shall include defense of claims against the City as additional insured.

- b. The vendor's insurance coverage shall be primary and non-contributory insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the vendor's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its officers, officials, and employees, Boards and Commissions or volunteers.
- d. The vendor's insurance shall apply separately to each insured against whose claim is made or suit is brought, except to the limits of the insured's liability.

**2. Waiver of Subrogation – All Coverages**

Each insurance policy required by this exhibit shall waive all rights of subrogation against the City, its officers, officials, employees, and volunteers for losses arising from work performed by the vendor for the City.

**3. Notice of Cancellation - All Coverages**

Each insurance policy required by this exhibit shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given the City, or ten (10) days prior written notice for non-payment of premium.

**E. ACCEPTABILITY OF INSURERS**

The City prefers that insurance be placed with insurers with an A.M. Best's rating of no less than **A-:VI, or, A or better** by Standard and Poors.

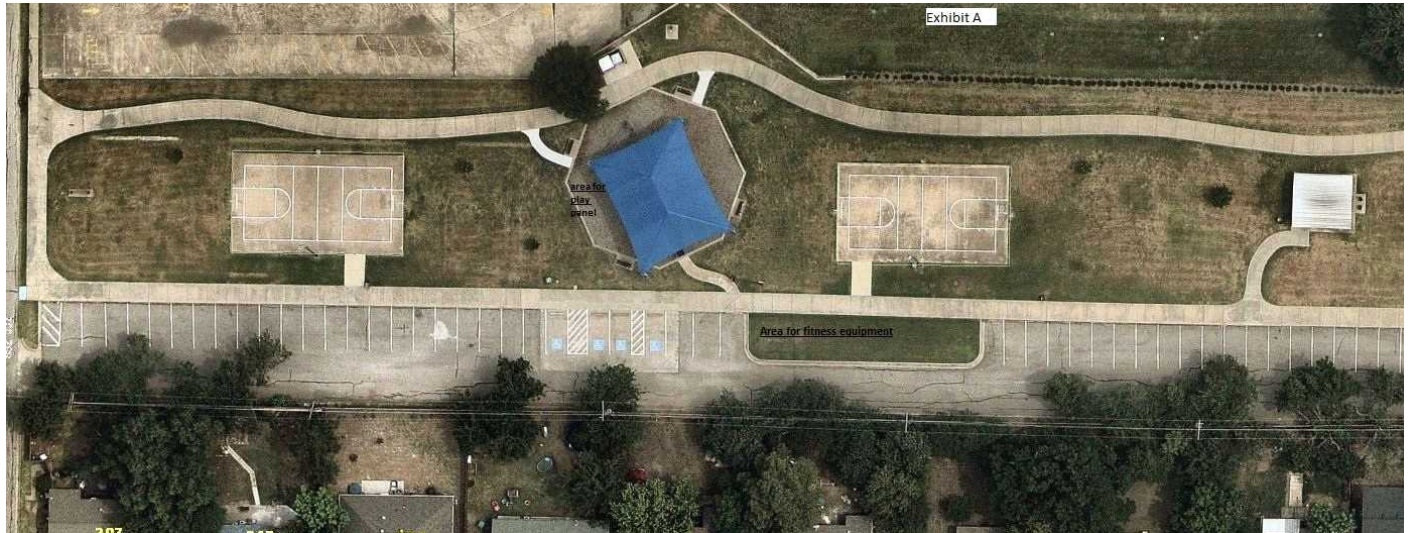
**F. VERIFICATION OF COVERAGE**

Contractor shall furnish the City with certificates of insurance affecting coverage required. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance must be provided on forms approved by the Texas Department of Insurance. City will not accept Memorandums of Insurance or Binders as proof of insurance. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

**G. HOLD HARMLESS AND INDEMNIFICATION**

THE CONSULTANT/CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING

DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONSULTANT'S/CONTRACTOR'S BREACH OF ANY OF THESE TERMS AND CONDITIONS OR BY ANY NEGLIGENT OR STRICTLY LIABLE ACT OR OMISSION OR INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY, CONSULTANT/CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THIS AGREEMENT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THE PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, AND IN THE EVENT OF JOINT AND CONCURRING NEGLIGENCE OR FAULT OF THE CONSULTANT/CONTRACTOR AND THE CITY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW AND THE CITY'S REASONABLE ATTORNEY'S FEES SHALL BE REIMBURSED IN PROPORTION TO THE CONSULTANT'S LIABILITY. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.



## FEDERAL REQUIREMENTS

Bidders may direct any questions concerning the following sections to Jamey Kirby, Community Development Block Grants, Grants Coordinator, at 972-219-3780. The assorted exhibits and forms attached to this bid invitation are included to acquaint prospective bidders with federal requirements for projects using Community Development Block Grant funds. **The attached forms do not have to be returned with sealed bids. The successful bidder will complete necessary documents with technical assistance from the Grants Coordinator before a pre-construction conference.**

### PROJECT NAME, LOCATION:

**City of Lewisville, Parks and Recreation Department -  
Turner Park Improvement Project – Outdoor Fitness and Accessible Play Equipment**

This project is subject to Federal Labor Standards such as the Davis-Bacon Act (DBA), Copeland Act, Contract Work Hours Safety Standards Act (CWHSSA), and the Fair Labor Standards Act (FLSA).

**DAVIS BACON ACT** –Specifies minimum wages to be paid to various classes of laborers and mechanics; overtime pay at 1½ rate. DBA provisions to be in effect on construction contracts in excess of \$2,000. Documentation requirements include:

- HUD Form 4010 (Attached) describing federal labor standards
  - Form 4010 and the Wage Decision, must also be in all sub-contractor agreements
- Certificate Appointing Officer or Employee to Supervise Payment of Employees
- Payroll Reports (Contractor and Subcontractors) – Weekly
- Statement of Compliance - Weekly Attached to Payroll
- Payroll Deduction Authorizations – Once for each affected employee
- Contractor’s Certification Concerning Labor Standards and Prevailing Wage Requirements
- Subcontractor’s Certification Concerning Labor Standards and Prevailing Wage Requirements

Grants office staff will be available to assist contractors unfamiliar with DBA requirements. The documents above as well as the “Contractors Guide” to DBA will be provided to the successful bidder as well as to any prospective bidders that desire more detailed information. Bidders should refer to the wage decision announced in this bid invitation to assess whether the DBA minimum wages will affect project pricing. The following paragraphs outline the DBA process:

FLSA sets out the requirements for payment of minimum wages, overtime pay, child labor standards and prohibits wage discrimination on the basis of sex. DBA specifies the minimum wages to be paid the various classes of laborers and mechanics employed on the project. CWHSSA sets a uniform standard of 40-hour work week with time and a half the basic rate of pay for all work in excess of 40-hours per week. **FAILURE TO COMPLY WITH THE LABOR STANDARDS REQUIREMENTS CAN RESULT IN THE ESCROW OF FUNDS AND/OR WITHHOLDING OF INSURED ADVANCES.**

The Contractor should inform his foreman and subcontractors that this project is subject to periodic employee wage interview visits by City staff and/or federal agencies, such as the Department of Housing and Urban Development (HUD) or the Department of Labor (DOL), to insure compliance with the aforementioned regulations. These federal officers or City staff may not be prevented from conducting such interviews.

The suggested payroll form is WH-347, Payroll. All other payroll forms must be approved by HUD prior to use. Payrolls must be submitted to the City's Grant Coordinator within seven days after a pay period ends. A pay period is seven (7) consecutive days. Payrolls must be original and must be an original ink signature. It is suggested that blue ink be used. The certification dates must cover the seven (7) day period. "A CERTIFICATION FROM CONTRACTOR APPOINTING OFFICER OR EMPLOYEE TO SUPERVISE PAYMENT OF EMPLOYEES" form must be submitted.

The payrolls and basic payroll records of the contractor and each subcontractor covering all laborers and mechanics employed upon the work covered by this contract are to be maintained during the course of work and preserved for a period of three (3) years thereafter.

Liquidated damages will be assessed for failure to pay overtime. The assessment amount is \$10 per day per violation. Overtime begins on this project after 40 hours per week. Additionally, wage restitution must be paid to any employee who is underpaid whether the underpayment is due to failure to pay overtime or failure to apply the prescribed hourly rate of pay.

Employees must be classified and paid accordingly the classifications and rates prescribed by the applicable wage decision. **The decision which is applicable to this project is TX 180026 dated 06/29/18 for Heavy Construction.** The decision is attached to this document and at the web-site <http://www.wdol.gov/dba>. The Wage Decision is subject to change up to the day bids are due. Please visit the website, search by state and county to find Denton County then validate that this decision number is still in effect. **The wage decision must be posted at the construction site along with required posters for the duration of construction activity.** Any classification needed which does not appear on the wage decision must be requested and approved by the U. S. Department of Labor prior to the use of that classification on the project. If you anticipate requesting additional classifications because those attached do not cover all the types of work to be accomplished on this job, please contact the Grants Coordinator as early as possible.

In instances where the owner of a company performs work on the project, that owner must show himself/herself on the payroll and must show the hours worked each day and total hours for the week. All persons who perform work on the project must be shown on the payroll. The address and social security number for each employee must be included the first time that employee appears on the payroll and any time their address changes.

Apprentices may be employed on the project, however, they must be certified by the Bureau of Apprenticeship & Training and the allowable ratio of apprentices to journeymen must not be exceeded.



Payrolls are required for weeks in which no work is performed labeled “NO WORK PERFORMED”.

The first payroll furnished must show “INITIAL” in the payroll number block. Likewise, the last payroll must show “FINAL”. Subsequent payrolls following the initial payroll must be numbered sequentially beginning with number 2, including payrolls labeled “NO WORK PERFORMED”.

Any person who is employed on a piece work basis must be shown on the payroll. The hours worked each day and total hours for the week must be shown. The hourly rate of the piece worker must equal or exceed the prescribed hourly rate for the particular work classification.

Dual work classifications within the same payroll period are acceptable provided that a signed verification of the dual work classification is furnished from the employee. When dual work classifications are used, submit the form “EMPLOYEES STATEMENT OF WORK VERIFICATION”.

Deduction authorizations, signed by employees, must be provided for any deduction with the exceptions of FICA and federal tax.

Unless otherwise specified by the applicable wage decision, the classification of “helper” is unacceptable. Employees must be classified and paid based on the work they perform, e.g., if a person performs the duties of or uses the tools of a plumber, that person must be classified as a plumber, not as a plumber’s helper (the plumber classification is used as an example only). Likewise, the classification “laborer” is only used for workers that are not using the tools or performing un-skilled duties not associated with another classification.

The general contractor will be required to certify that all laborers and mechanics employed on the project (including those employed by subcontractors) have been paid hourly rates as prescribed by the applicable laws.

**Affirmative Action Plan** under **Section 3** of the Housing and Urban Development Act of 1968 and **Executive Order 11246** providing for Equal Opportunity Employment:

Written affirmative action plans must be submitted by contractors and subcontractors having contracts over the amount of \$50,000 and employing more than 25 non-construction employees. The plans should address the contractor’s intent to hire and train minorities and females on an equal basis as any other group. (Contractors without existing plans may complete attachment C of the City of Lewisville’s Affirmative Action Plan included as an exhibit to this bid invitation.)

Purpose of Section 3:

- 1) To encourage the use of small, local and minority businesses as suppliers of goods and services, and
- 2) To encourage the use of local, minority and low income persons as trainees and employees.

Section 3 requires that a “good faith effort” be made to achieve these goals. Section 3 forms must be completed by contractors and subcontractors having contracts over the amount of \$10,000.

Contractors must post an EEO sign and a Notice to all Employees at the project site. Both are available from City staff.

Attachments to be completed by the successful bidder before start of construction include:

- Self-Certification Form  
Socially or Economically Disadvantaged  
Non-Profit Organization
- Affirmative Action Plan
- Statement of Release
- Preliminary Statement of Work Force Needs
- Statement of Policy on Equal Employment Opportunity

These forms are included in the exhibit “City of Lewisville . . . Affirmative Action Plan under Section 3” for information purposes but do not have to be submitted with sealed bids. Some may not have to be submitted depending on whether the Affirmative Action Plan/ Section 3 Plan is required.

**Copeland Anti-kickback Act:** The Copeland Act prohibits kickbacks being paid by the employee to the employer and requires the weekly submission of payrolls. Contractors must certify that they do not and will not accept kick-backs as conditions for employment.

**Debarred Contractors:** Contractors must certify that they have not been debarred or declared ineligible for work on federal projects. All sub-contractors must be cleared by the City on a debarred data base before beginning work.

**Lobbying:** Contractors must complete a certification regarding lobbying restrictions and disclosure.

The staff person who will monitor this project for compliance with federal requirements is Jamey Kirby. Any questions concerning labor requirements should be directed to him at (972)219-3780. Questions should be directed though the general contractor who is ultimately responsible for the fulfillment of these obligations.

Contact Person:

Jamey Kirby  
Grants Coordinator  
Neighborhood Services Department  
151 W. Church St.  
Lewisville, TX 75057  
Telephone: (972) 219-3780  
Fax: (972) 219-3698

**Exhibits:**

City of Lewisville Affirmative Action Plan Under Section 3 of the Housing and Urban Development Act of 1968 with Section 3 Attachments

Statement of Policy on Equal Employment Opportunity  
Certification by Bidder  
Certification Regarding Lobbying  
Certification of Owner's Attorney  
Department of Housing and Urban Development Contract Requirements  
HUD Form 4010  
Current Wage Decision

**City of Lewisville**

**Community Development Department**

**Planning and Zoning Division**

Affirmative Action Plan Under  
Section 3 of The  
Housing and Urban Development Act of 1968

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City of Lewisville  
Community Development Department  
Planning and Zoning Division

Affirmative Action Plan Under  
Section 3 of the  
Housing and Urban Development Act of 1968

**PART I: PURPOSE AND BACKGROUND INFORMATION**

1. Summary Explanation and Purpose:

Section 3 of the Housing and Urban Development Act of 1968, as amended, (“Section 3”) is binding upon the City of Lewisville, (“the City”) and its Contractor in all projects using Community Development Block Grant (CDBG) funds. Any Contractor of CDBG funds, from whatever source, is bound by Section 3.

The two primary purposes of Section 3 are (1) to encourage the use of small, local and minority businesses as suppliers of goods and services, and (2) to encourage the use of local, minority and lower income persons as trainees and employees. Section 3 requires that good faith efforts be made to achieve these purposes.

This plan sets forth the procedures which will be followed by the City of Lewisville’s Community Development Department, Planning and Zoning Division and all its CDBG Contractors to accomplish these purposes. Specific regulations governing Section 3 are set out in 24 CFR 135.

2. Geographical Applicability:

For the Community Development Block Grant Program, Section 3 is applicable to all activities taking place within the corporate limits of the City of Lewisville, Texas. Within this “Section 3 covered area”, the Target areas are considered priority areas. Attachment A, “Target Areas of Lewisville”, shows the location of these priority areas. The Target areas include the following 2010 census tracts/block group numbers:

021502.1, 021502.3, 021618.1, 021618.2, 021619.2, 021620.2, 021624.1, 021716.1, 021716.3, 021728.2, 021733.1, 021733.2, 021734.1, 021734.2, 021735.2, 021739.1, 021739.2, 021740.2, 021743.2, 021744.1, 021744.3, 021745.1, 021745.4

3. Applicability to Businesses:

Businesses which are at least fifty-one percent (51%) owned by socially or economically disadvantaged persons who reside in the Section 3 covered area and which qualify as

**City of Lewisville***Affirmative Action Plan / 2*

small businesses under the standards of the Small Business Administration are eligible for the benefits of Section 3.

4. Applicability to Individuals:

Any person who resides in the Section 3 covered area and whose family income does not exceed eighty percent (80%) of the median income in the Dallas-Fort Worth Standard Metropolitan Statistical Area may be designated as a “lower income person”. Section 3 is intended to benefit such individuals through employment and training opportunities.

**PART II: SELECTION OF CONTRACTORS AND VENDORS**

1. Procedures

All contractors will provide a completed copy of attachment C, “Affirmative Action Plan for Utilizing Eligible Businesses”, or Attachment D, “Statement of Release”, prior to signing any contract for a project using CDBG monies. Each Contractor selected will be bound by Section 3 requirements, including the submission of all relevant documentation required by this plan. Contractors will be held responsible for the Section 3 activities of their Contractors.

When competitive bids are solicited, the contractor will notify bidders of Section 3 requirements. Each contractor will make a good faith effort to issue invitations to bid to Section 3 covered businesses and to use local and minority media to advertise contractual opportunities. City of Lewisville staff will review proposed Contractors and vendors to ascertain their eligibility to receive CDBG funds, based on prior and future assured compliance with Section 3.

Contracts which are typically let on a negotiated basis in non-Section 3 covered areas will be let on a negotiated basis in Section 3 covered areas, if feasible.

2. Sources for Locating Section 3 Covered Businesses:

The City staff will assist in the location and certification of Section 3 covered business and to inform such businesses of bidding opportunities for City contracts.

Lists of Section 3 covered businesses are also available from the Fort Worth Regional HUD Office, the Small Business Administration and other similar agencies. Any business wishing to qualify as a Section 3 covered business will be given the opportunity to file a Self-Certification form (Attachment B) with the Grant Coordinator and all CDBG contractors are encouraged to seek the assistance of that office, should any question arise. The City will notify Section 3 covered businesses of pending contractual activities.

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**3. Required Contract Clauses:**

In the event a CDBG Contractor wishes to subcontract any portion of a project utilizing CDBG monies, the written prior approval of the City must be obtained. Furthermore, the following paragraphs must be included in each subcontract:

The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment are given lower-income residents of the project area and contracts for work in connection with the project are awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

The parties of this Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development, as set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

The Contractor will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations and issued by the Secretary of Housing and Urban Development, 24 CFR 135. The Contractor will not subcontract with any sub-contractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any sub-contract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

Compliance with the provisions of Section 3, regulations set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.



**PART III: HIRING TRAINEES AND EMPLOYEES****1. Procedures:**

All contractors will provide a completed copy of Attachment E, "Preliminary Statement Work Force Needs", prior to signing any contract for a project using CDBG monies. The Contractor will specify the maximum number of trainees which can reasonably be used on the CDBG project, unless the occupational category is subject to a ratio set by the Secretary of Labor. This information will be reviewed by the City staff to ascertain the current and projected use of Section 3 covered individuals.

Should the Contractor wish to hire trainees for a CDBG assisted project, lower income individuals will be used to the greatest extent feasible in the various training categories. All vacant trainee positions should be filled with lower income individuals, if at all possible. Only after a good faith effort to place lower income individuals in vacant trainee positions has been made will the Contractor use non-Section 3 covered individuals as trainees.

Should the Contractor need to hire already trained employees, similar preference will be given to qualified lower income individuals who apply for those positions.

For each occupational category in which vacancies exist, the contractor will set a realistic goal for the number of lower income individuals to be hired. The Contractor will make a good faith effort to see that such goals are met.

To the greatest extent feasible, the Contractor will use lower income individuals as CDBG project employees. (Any Contractor which fills vacant employment positions immediately prior to starting a CDBG project will be required to show that its actions were not an attempt to circumvent Section 3 requirements. )

When a lower income individual applies, either on their own initiative or on referral from any source, the Contractor will review his/her qualifications and hire the individual if his/her qualifications are satisfactory and the Contractor has an opening. If the Contractor does not have an opening, the individual will be listed for the first available opening.

If applicant qualifications are equal, lower income persons will be given preference in hiring. An exception will be made when a Section 3 covered project must also meet the requirements of Executive Order 11246. In this case, when qualifications are equal, minority persons will be given first preference in hiring. The City will require applicants claiming to be lower income to state their family income at the time of application.

**2. Good Faith Efforts:**

A Contractor may show good faith efforts to hire lower income individuals by:

**City of Lewisville***Affirmative Action Plan / 5*

- (1) confirming with the Department of Housing and Urban Development's Regional Administrator, Area Office Director, or FHA Insuring Office Director, the geographical Section 3 covered area for the Contractor's specific project; and
- (2) using local media, project area community organizations, local public and private institutions, and/or signs placed at the proposed project site to recruit lower income applicants for training and employment positions with the project.

**PART IV: COMPLIANCE AND CONSEQUENCES****1. Monitoring of Requirements:**

City staff will monitor the efforts of its contractors to achieve the purpose of Section 3 in two primary ways. First, the documentation required of CDBG Contractors will be examined to determine if good faith efforts are being made to comply with Section 3 requirements. Any obvious omissions or improper actions will be questioned and the manner in which compliance can be documented will be determined by City staff. Next, City staff will conduct on site reviews to assure that any estimates or projected figures for training and employment have been achieved to the best of the Contractor's ability. If a high percentage of the employees of, and subcontractors for, a program meet Section 3 standards, the good faith efforts of the Contractor will be assumed.

If compliance problems are discovered, City staff will encourage the Contractor to resolve them. If this informal persuasion should fail City staff may request that sanctions (as specified below) be applied.

**2. Grievance Procedures:**

Any person or business meeting the definitional standards of Section 3 may personally, or by representative, pursue the grievance procedures outlined here.

Informal complaints should be directed to City staff for investigation of its Contractor's compliance or to the City Contractors for investigation of their subcontractor's compliance. City Contractors will notify City staff of all informal complaints they receive. If the complaint is found to be valid, City staff will make an effort to secure Section 3 compliance through conferences, persuasion and/or mediation. A written notice specifying the exact nature of the non-compliance will be issued to the non-complying party. The notice will recommend specific action to correct the noncompliance and specify a time limit for doing so. Continued non-compliance may result in the application of the sanctions listed below.

If the complainant is not satisfied with the informal complaint procedure, or its outcome, a formal grievance may be filed.

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The grievance should be in writing and include: (1) the name and address of the grievant; (2) the name and address of the grievant's business, if applicable; (3) the name and address of the City, Contractor, or Subcontractor (hereafter called "respondent"); (4) a description of the acts or omissions giving rise to the grievance; and (5) the corrective action sought.

The grievance should be signed by the grievant and mailed to City of Lewisville, Community Development Department, Planning and Zoning Division, P.O. Box 299002, Lewisville, Texas 75029-9002; or Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, Washington, D.C. 20410.

A grievance must be filed not later than ninety (90) days from the date of the action (or omission) upon which it is based. The time for filing may be extended by the Secretary of Housing and Urban Development, if good cause is shown.

Upon receipt of a grievance by the Secretary, a copy of it will be furnished to the respondent. The Secretary will conduct an investigation and will give written notice to both the grievant and respondent as to the decision reached. The grievance may be dismissed or sanctions may be applied, as appropriate.

3. Sanctions:

Failure or refusal to comply with or give satisfactory assurances of future compliance with the requirements of Section 3 shall be the proper basis for applying sanctions. Any or all of the following actions may be taken, as appropriate: cancellation, termination, or suspension in whole or in part of the contract or agreement; determination of ineligibility or debarment from any further assistance or contracts under this program until satisfactory assurance of future compliance has been received; referral to the Department of Justice for appropriate legal proceedings.

**Historically Underutilized Businesses Assistance**

It is the policy of the City of Lewisville to involve Historically Underutilized Businesses in all phases of its procurement practices and to provide them equal opportunities to compete for contracts for construction, professional services, purchases of equipment and supplies, and provision of other services required by the City.

City staff will provide assistance in the location and certification of Section 3 covered businesses. A list of Historically Underutilized Businesses that have been certified by the State of Texas are available by commodity code at the internet address: [www.texas-one.org](http://www.texas-one.org) under the Business Directory, then search by name or sic number, or will be provided to you upon request. If you need to secure services or supplies, please contact the City's staff office:

**CITY OF LEWISVILLE  
COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING AND ZONING DIVISION  
ATTN: GRANT COORDINATOR  
P. O. BOX 299002  
LEWISVILLE, TEXAS 75029-9002  
(972) 219-3780**

**City of Lewisville**

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**SECTION 3 ATTACHMENTS**

**Please Complete and Return Within Seven (7) Days**

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**ATTACHMENT B****SELF-CERTIFICATION FORM****SOCIALLY OR ECONOMICALLY DISADVANTAGED**

Business/Agency Name: \_\_\_\_\_

Address: \_\_\_\_\_

Zip Code: \_\_\_\_\_

I am a member of the following minority group: (Circle One)

Black	American Indian/ Alaskan Native	Asian/ Pacific Islander	Spanish- Surnamed	Other (Specify) _____
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I own at least 51 percent of the above business:

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Title: \_\_\_\_\_

**SELF-CERTIFICATION FORM****NON-PROFIT ORGANIZATION**

This organization is a non-profit organization.

Business/Agency Name: \_\_\_\_\_

Address: \_\_\_\_\_

Zip Code: \_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Title: \_\_\_\_\_

B-1

## ATTACHMENT C

\_\_\_\_\_  
(COMPANY NAME)

\_\_\_\_\_  
(COMPANY ADDRESS)

\_\_\_\_\_  
(COMPANY TELEPHONE & FAX NUMBERS)

AFFIRMATIVE ACTION PLAN

\_\_\_\_\_, in compliance with Executive Order 11246, and Section 3 of the Housing and Urban Development Act regarding Equal Employment Opportunity hereby gives notice that no person in the United States shall on the grounds of race, color, religion, sex, national origin, or disability be denied employment and further assurance is also given that \_\_\_\_\_ will immediately take any measures necessary to effectuate this policy will be placed in plain sight on the job this policy will be placed in plain sight on the job location for the benefit of interested parties and all subcontractors are so notified. All Equal Opportunity posters will be posted as required.

\_\_\_\_\_ has been appointed as the Equal Employment Opportunity Officer to coordinate company efforts, to advise and assist key personnel and staff, and officially serve as focal point for complaints, etc. Attachment E reflects present employment of the company and percentage goals for projected hiring and lower-income residents, minorities and women.

AFFIRMATIVE SUBCONTRACTING

In accordance with paragraph 135.20 of Section 3, Attachment E reflects anticipated subcontractors needs (by craft) for the duration of this project. \_\_\_\_\_ will use the HUD business registry, as far as possible in the project area and inform subcontractors of the need to be in the HUD registry. Specific efforts will be made to contact and use Historically Underutilized Businesses to the maximum extent feasible. Section 3 requires that each applicant, recipient, contractor, or subcontractor undertaking work on a Section 3 covered project area or business concerns owned in substantial part by persons residing in the Section 3 covered area and such language will be in each subcontract bid and/or proposal for work on this project. We will require Section 3 and Executive Order 11246 compliance by covered subcontractors and Section 3 programs from all subcontracts of \$10,000 or more.

**City of Lewisville*****Affirmative Action Plan / 12***

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**UTILIZING LOWER INCOME RESIDENTS, MINORITIES AND WOMEN:**

To the maximum extent feasible \_\_\_\_\_ and any subcontractors will use lower-income residents as trainees, apprentices, and workers (if qualified) to complete the work on this project. Special outreach efforts will be made to various public and private recruitment sources as follows:

**TEXAS WORKFORCE COMMISSION:**

Special emphasis will also be made to recruit minorities and women. \_\_\_\_\_ and all its subcontractors will determine by craft and/or position the approximate manpower needs to complete the project. The manpower needs will be made known to the recruitment resources named above. Attachment E shall be completed by \_\_\_\_\_ and each subcontractor to assure that reasonable goals and target dates are a formal part of any contract or subcontract. Attachment E indicates current work force and shows project work force needs and goals for lower-income residents, minorities and women and is for use in establishing goals as far as subcontracting is concerned.

**PROMOTION, DEMOTION, PAY RATES, LAYOFFS, ETC.**

All personnel actions of the company will be made on a nondiscriminatory basis without regard to race, color, religion, sex, national origin, or disability. We will inform each subcontractor of these affirmative action requirements and insure compliance.

**REPORTS AND RECORDS**

The company will submit all reports required in a timely fashion. The company shall also assure that all subcontractors shall submit required reports as needed in the same timely fashion.

\_\_\_\_\_  
(Name of Company)

By: \_\_\_\_\_

(Signature)

\_\_\_\_\_  
(Title)



**ATTACHMENT D****Statement of Release**

I will not subcontract any work in connection with this project unless I first receive the prior written approval of the Community Development Department, Planning and Zoning Division of the City of Lewisville.

Business/Agency Name: \_\_\_\_\_

Type of Business/Organization: \_\_\_\_\_

Address: \_\_\_\_\_  
(Street)

\_\_\_\_\_  
(City) (State) (Zip)

Signature: \_\_\_\_\_

Title: \_\_\_\_\_



## ATTACHMENT E

**PRELIMINARY STATEMENT  
WORK FORCE NEEDS**

Contractor's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

Employment Classification	OCCUPIED PERMANENT POSITIONS				VACANT POSITIONS**				*Minority - Black - Spanish-American - American Indian - Alaskan Native - Asian/Pacific Islander
	TOTAL		MINORITY*		TOTAL		MINORITY*		
CONSTRUCTION:	Male	Female	Male	Female	Male	Female	Male	Female	**Show Section 3 goals for lower income, area residents <u>only</u> under the Grand Total lines.  ***To be used by municipalities and service contractors, such as engineering consulting firms and other similar firms.
<u>Foremen</u>									
<u>Journeyman</u>									
<u>Apprentices</u>									
<u>Laborers</u>									
<b>GRAND TOTAL</b>									
NON-CONSTRUCTION:***									
<u>Administrators</u>									
<u>Professionals</u>									
<u>Technicians</u>									
<u>Clerks</u>									
<u>Laborers</u>									
<b>GRAND TOTAL</b>									

SUBMITTED BY \_\_\_\_\_ Title \_\_\_\_\_

**STATEMENT OF POLICY ON  
EQUAL EMPLOYMENT OPPORTUNITY**

It will be the policy of this firm to not discriminate against any applicant for employment, or any employee, because of race, creed, color, age, sex, natural origin, or disability. This firm will insure that this policy is continually enforced with regard to employment, promotion, upgrading, demotion, transfer, recruitment, and recruitment advertising, lay off and termination, compensation, training, and working conditions. We will make it understood by all with whom we deal, and in all our employment opportunity announcements that the foregoing is our policy. All applicants and employees will be judged solely on the basis of their skill, devotion loyalty, reliability and integrity.

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Company Name

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Signature

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
CERTIFICATION OF BIDDER REGARDING  
EQUAL EMPLOYMENT OPPORTUNITY**

**INSTRUCTIONS**

This certification is required pursuant to Executive Order 11246 (30 CFR 1231925). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the Contract whether they have participated in any previous contract or subcontract subject to the Equal Opportunity Clause; and, if so, whether they have filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.

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**CERTIFICATION BY BIDDER**

Bidder's Name: \_\_\_\_\_

Address and Zip Code: \_\_\_\_\_

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.

☐ Yes    ☐ No (If answer is yes, identify the most recent contract.)  
\_\_\_\_\_

2. Compliance reports were required to be filed in connection with such contract or subcontract.

☐ Yes    ☐ No

3. Bidder has filed all compliance reports due under applicable instructions, including SF-100.

☐ Yes    ☐ No

4. If answer to item 3 is "No," please explain in detail on reverse side of this certification.

Certification - The information above is true and complete to the best of my knowledge and belief.

\_\_\_\_\_  
Name and Title of Signer (Please Type)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****CERTIFICATION REGARDING LOBBYING**

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

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attesting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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Signature

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Title

---

Date

U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT  
**CONTRACT REQUIREMENTS**

I. Executive Order 11246, Equal Opportunity Clause, Section 202, (30 FR 12319-25)

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

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

7. The contractor will include the provisions of the sentence immediately preceding paragraph 1 and the provisions of paragraphs 1 through 7 in every subcontract or purchase order unless exempt by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

II. Section 3 Clause - 24 CFR, Part 135.20 and HUD Grant Agreement:

Every applicant, recipient, contracting party, contractor, and subcontractor shall incorporate, or cause to be incorporated, in all contracts for work in connection with a Section 3 covered project, the following clause (referred to as Section 3 clause):

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



subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 125, and applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided and to such sanctions as are specified by 24 CFR 135.

### III. Copeland Anti-Kickback Act

In any contract involving construction or repair, Contractor agrees to comply, and shall require its subcontractors to comply, with the provisions of the Copeland “Anti-Kickback Act” (18 U.S.C. 874), as supplemented in Dept. of Labor regulations (29 CFR Part 3). This Act provides that each Contractor or sub-grantee shall be prohibited from inducing, by any means, any person employed in the construction, completion or repair of public work to give up any part of the compensation to which he or she is otherwise entitled; and, if found guilty of doing so, shall be fined not more than \$5,000 or imprisoned not more than five (5) years, or both.

### IV. Lead-Based Paint Hazard

In all contracts for construction or rehabilitation of residential structures, the Contractor and all subcontractors shall comply with the Lead-Based Paint regulations found in 24 CFR 35 and shall comply with the provisions for the elimination of lead-based paint hazards under Sub-Part B thereof. Note that a major revision to these regulations has been published and took effect September 15, 2000. Direct questions to the City of Lewisville, CDBG Program Specialist.

### V. Responsibility of Contractor Regarding Reports

Contractor will comply with the requirements of the City of Lewisville’s Community Development Dept., Planning and Community Services Division regarding the compiling and reporting of statistical information required by the Federal regulations outlined above. Contractor agrees to submit all completed reports according to the instructions and requirements of City staff, and Contractor understands the failure to do so may be cause for termination of this contract.

## VI. Certification and Acknowledgement

I certify that I have read and understand the information regarding my obligations as a Contractor on a project funded by the U.S. Dept. of Housing and Urban Development, which is contained in the preceding Contract provisions. I understand that, should I have any questions regarding my obligations, I will, as soon as possible, contact the City of Lewisville's CDBG Program Specialist.

\_\_\_\_\_  
Contractor

By: \_\_\_\_\_

Title: \_\_\_\_\_

**Insert HUD Form 4010  
Federal Labor Standards Provisions**

Insert Most Recent  
Wage Decision



## Federal Labor Standards Provisions

## U.S. Department of Housing and Urban Development Office of Labor Relations

### Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

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

**(ii) (a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

**(1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**(2)** The classification is utilized in the area by the construction industry; and

**(3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

**(c)** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

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

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

**(iv)** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section I(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii) (a)** The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

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

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

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

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

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

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

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

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

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

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

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by



the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

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

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

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

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

**(3)** The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

General Decision Number: TX180026 06/29/2018 TX26

Superseded General Decision Number: TX20170026

State: Texas

Construction Type: Heavy

County: Denton County in Texas.

Heavy Construction, Including Treatment Plants (Does not include water/sewer lines)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/05/2018
1	06/29/2018

ASBE0021-003 06/01/2016

Rates	Fringes
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ASBESTOS WORKER/HEAT & FROST INSULATOR (Includes application of all insulating materials, protective coverings, coatings, and finishings to all types of mechanical systems).....	\$ 24.32	7.52
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\* ELEC0020-004 06/01/2018

Rates	Fringes
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Electricians:		
Cable Splicer.....	\$ 29.81	8.84
Electrician.....	\$ 29.35	9.49

ELEC0220-001 06/04/2017

Rates	Fringes
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Line Construction:		
CABLE SPLICERS.....	\$ 17.12	14.5%+3.75
EQUIPMENT OPERATORS.....	\$ 25.28	20%+5.50
GROUNDMAN.....	\$ 18.96	20%+5.50

LINEMAN.....\$ 31.60                      20%+5.50

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 ENGI0178-001 06/01/2009

Rates                      Fringes

Cranes:

Hydraulic Crane (35 ton &  
 under).....\$ 23.70                      9.35

Hydraulic over 35  
 tons,Derricks, Overhead  
 Gentry,Stiffleg,Tower,etc.,  
 and Cranes with  
 Piledriving or Caisson  
 attachements.....\$ 24.70                      9.35

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 IRON0263-010 06/01/2017

Rates                      Fringes

Ironworkers:

Reinforcing & Structural....\$ 23.25                      7.32

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 PLUM0100-002 11/01/2017

Rates                      Fringes

Plumbers and Pipefitters.....\$ 30.84                      11.51

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 SHEE0068-002 11/01/2012

Rates                      Fringes

Sheet metal worker.....\$ 27.64                      8.84

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 SUTX1990-039 08/01/1990

Rates                      Fringes

CARPENTER.....\$ 10.536

Concrete Finisher.....\$ 9.603

Form Builder.....\$ 8.036

Form Setter.....\$ 9.578

Laborers:

Common.....\$ 7.25

Utility.....\$ 7.25

Pipelayer.....\$ 7.961

Power equipment operators:

Backhoe.....\$ 10.971

Bulldozer.....\$ 9.942

Front end loader.....\$ 10.771

Mechanic.....\$ 9.88

Motor Grader.....\$ 11.633

Oiler.....\$ 9.183

Scraper.....\$ 8.00

TRUCK DRIVER.....\$ 7.465

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and

the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION





CITY OF LEWISVILLE  
PURCHASING DIVISION**Exceptions**Bid 

On the lines below, please list any exceptions taken to this bid invitation.

Item#	Description
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Signature Company Date **No Exceptions taken to this bid invitation.**Signature Company Date

## Question and Answers for Bid #RFP 18-55-C - OUTDOOR FITNESS SYSTEM AND ACCESSIBLE PLAY PANEL COMPONENT

### Overall Bid Questions

There are no questions associated with this bid.