CAMBRIDGE HOUSING AUTHORITY

Cambridge Housing Authority Statement on Union Action
Updated 12/7/11*

CAMBRIDGE, April 5, 2011, updated 5/16/11, 6/13/11, 12/7/11—Members of Local 4 of the International Union of Elevator Constructors (IUEC) have been picketing two Cambridge Housing Authority (CHA) properties because a non-union contractor, United States Elevator, Inc., was hired to do elevator work at each property. CHA is respectful of the union's right to disagree on the employ of US Elevator however we feel it is important to clarify statements about the process CHA used to select a contractor for the work at 116 Norfolk St. and the Frank J. Manning Apartments on Franklin St. Please find CHA's point-by-point response to each allegation made against us with respect to the selection process following this statement.

US Elevator is the only contractor that submitted bids for the elevator work at the two developments. No union contractors or contractors based in Massachusetts submitted bids for the work. In January 2010, the Cambridge Housing Authority invited contractors to bid for elevator modernization work at the two public housing developments. CHA received no bids in response to the initial invitation to bid.

In February 2010, CHA issued revised bid documents. Only one bid was received for each development, both were from United States Elevator, Inc. At that time CHA also received information that raised questions around US Elevator's ability to work in Massachusetts as well as allegations that deficiencies in our bid documents were the reason no local companies responded to CHA's bid invitation. In response to the latter allegation, CHA had our bid documents reviewed by an independent engineering firm. The independent consultant rejected the allegation and confirmed the acceptability of the specifications included in our original invitation to bid.

With respect to issues raised about the ability of US Elevator to work in Massachusetts, the Commonwealth's Department of Industrial Accidents (DIA) issued US Elevator a stop work order related to another job. The order resulted in the firm's debarment in Massachusetts and prevented US Elevators from immediately moving forward with its CHA contract.

After administrative appeals and court intervention, it was found that the disbarment was erroneous. US Elevator was reimbursed for fines assessed by the Commonwealth, the stop work order was rescinded and US Elevator was removed from the DIA Debarment list.

CHA is a public agency and is required under Chapter 149 of state law to publicly bid all construction work over $25,000. All contractors are required to be pre-qualified by the Commonwealth's Division of Capital Asset Management (DCAM). At the time of the bid, US Elevator was (and remains) a pre-qualified contractor by DCAM with a rating of 91% out of 100. A score of 80% or higher is required to be eligible to publicly bid in Massachusetts.

*Updates from 12/7/11 are in bold.

Additionally, CHA did its own independent reference checks and received satisfactory results. Any issues with US Elevator's qualifications for the two CHA jobs, or any other jobs in Massachusetts, should be addressed to DCAM.

CHA's Board of Commissioners awarded a construction contract for each project to US Elevator Corporation with a total budget of $1,093,770. CHA is satisfied that it followed the law, used due diligence and awarded the contract to the lowest responsible bidder in its selection of United States Elevator, Inc. for the work at 116 Norfolk St. and F.J. Manning Apartments.

Please direct any inquiries to:
Susan C. Cohen
General Counsel
P: 617-520-6241
E: scohen@cambridge-housing.org

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CAMBRIDGE HOUSING AUTHORITY

CHA Responds to Latest IUEC Allegations:

IUEC has distributed pamphlets**/flyers** that include allegations against the process CHA used to select the contractor for the elevator work at 116 Norfolk Street and the F.J. Manning Apartments. Please find CHA's responses below:

Allegation: Job Action is result of CHA's hiring an out-of-state company employing primarily out of state workers with a poor track record of compliance and questionable status in the Commonwealth.

Fact: IUEC Local 4 contractors had the opportunity to bid for this work but chose not to.

As described in CHA's initial statement, US Elevator was prequalified by the Commonwealth's Department of Capital Asset Management with a rating of 91 out of 100 (80 is "passing"). A firm with a 91% score from the Commonwealth does not have poor compliance or questionable status in Massachusetts.

The Stop Work Order issued by the Commonwealth's Department of Industrial Accidents on 3/4/10 which resulted in the debarment of US Elevator in Massachusetts was rescinded on 9/8/10 through an Order of Remand from Superior Court. We are therefore not aware of any compliance issues with this firm in Massachusetts.

Allegation: The reason for the lack of bids is that the scope of work could not be completed in the required timeline set in the bid documents.

*Updates from 12/7/11 are in **bold.**

FACT: The work **is underway at Manning Apartments** and was completed in the required timeline **at 116 Norfolk Street**. The bid documents required the contractor to limit the elevator shutdown at Norfolk Street to 14 consecutive calendar days. US Elevator met this schedule. The elevator was taken out of service on 4/28/11 and required work was completed on 5/9/11. The work passed state inspection on 5/12/11. **This modernized elevator has been running effectively for over six months with only one instance of interrupted service.**

Allegation: After this contractor was awarded the work, the scope of work was dramatically changed. This reduced the time necessary to complete the project and made the scope of work more realistic after the bid.

Fact: The bid documents anticipated testing of the hydraulic jack unit at the start of the construction period to determine if it required replacement.

Specifically, *Section 01230 – Alternates, part 3.1* of the bid documents states:

> "Alternate No. 1: Remove all scope relative to replacement of hydraulic jack unit, and retain and refurbish (scone piston, re-pack head) existing jack."

The hydraulic jack unit was tested and did not require replacement. Therefore, CHA opted to accept the price in US Elevators' bid for deleting this from the contract ($18,000), which was in the public's best interest. There was no change in the 14 day timeframe for the elevator shutdown because a change in the time of completion for the project was not part of the Alternate in the bid documents. All contractors had the opportunity to bid on the same set of contract documents, which contained the same alternate.

Allegation: Revised documents that went out for bid in February 2010 were never posted in the Central Register. Thus local contractors who employ local residents never had an opportunity to view and bid on the revised plans.

Fact: The CHA advertised the first bid opening of 2/4/10 in the Central Register and received no bids. Due the American Recovery and

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Reinvestment Act (ARRA) funding deadlines, CHA submitted a waiver request to DCAM for relief from the advertising requirement in the Central Register for the reposting of the revised bid documents in February. CHA proposed and DCAM approved advertising in the Boston Globe, ComPASS and publishing companies. DCAM's approval of CHA's request reflected the fact that CHA risked losing the federal stimulus funds if the grant could not be put to use within the fed's very tight timeline for obligating stimulus funds.

In addition, CHA sent the revised bid documents out to the 12 firms that requested bid documents for the first bid opening. These firms included: Advanced Elevator, Embry Elevator, Otis Elevator, Three Phase Elevator, Kone, US Elevator, United Elevator, Eagle Elevator, Associated Elevator, Stanley Elevator, ThyssenKrupp Elevator and Draper Elevator.

Allegation: Was the so-called independent consultant the same consultant that created the original documents?

Fact: No. As detailed in the information supplied to IUEC by CHA, the CHA hired an independent engineering firm to review the bid documents prepared by B Squared Engineering, the engineering firm under contract for the elevator modernization project. These are two different firms that have no contractual relationship – that's why CHA's initial statement used the word "independent" to describe the consultant hired to evaluate the bid documents.

The independent review concluded that CHA's bid documents "exceeded the standards of engineering work" and conformed to the requirements of MGL Chapter 149.

Allegation: US Elevator has admitted to wage violations in New York.

Fact: CHA was not aware of any such violations and **was not able to obtain any substantiating** information from the NY Department of Labor. However, all work that has been performed at 116 Norfolk Street **and Manning Apartments** under our contract with US Elevator has been in conformance with Davis Bacon wage requirements.

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Allegation: A non-licensed elevator mechanic is doing rigging at Manning Apartments.

Fact: No. A licensed elevator mechanic is doing the rigging at Manning Apartments.

Allegation: A US Elevator employee has taken up residence at Manning Apartments.

Fact: US Elevator is using Apartment 16-E as a construction field office and for storing equipment. This is typical of many construction projects in occupied buildings.

In addition, to keep up with the project's accelerated schedule, a US elevator employee sleeps in the apartment that is already offline because it is being used to store equipment. Having someone on site allows US Elevator to respond immediately to any mechanical issues with the building's only operating elevator (one of two elevators will be offline throughout construction).

Keeping an elevator working at all times is critically important in this building which only houses elderly and disabled residents.

CHA Respond to Concerns Raised at 12/5/11 City Council Meeting:

Concern: A 19-story with elderly and disabled households should not have one of two elevators out of service for modernization.

Unfortunately, there is no way short of adding a third elevator or relocating residents to other locations around the City to deal with the replacement of antiquated elevator equipment. In 2005, CHA solicited bids for installation of a third elevator at Millers Rivers (304 units, 19 stories). The low bid was $2,200,000 which grossly exceeded the budget, so the effort had to be abandoned. We later modernized both existing elevators at Millers, as well as D.F. Burns and LBJ Apartments by taking one car out of service at a time. This left each building with only one working elevator for an extended period of time, but short of relocating all residents to alternate locations, it is the only practicable option.

Concern: A third-party, independent consultant should be hired to review the elevator work at Manning Apartments.

*Updates from 12/7/11 are in **bold.**

CHA commissioned an independent third-party review of the elevator modernization at Manning and 116 Norfolk Street in April 2010. A second review was conducted in September 2011. The CHA is satisfied with the quality of construction work to date at both sites.

Concern: CHA has accused IUEC Local 4 of sabotaging the elevators at Manning Apartments.

There have been two incidents of vandalism at Manning Apartments which have resulted in loss of service and/or intermittent elevator service for an extended period. These incidents occurred on or about 6/2/11 and 11/27/11 and were reported to CPD. The CHA has no evidence that Local 4 had any involvement and has never made any accusations that they were involved.

Concern: CHA needs to do a better job communicating with the City Council and the residents of Manning Apartments about the problems with the elevators.

CHA has made a concerted effort to update residents and explain all new information regarding the status of the elevators on a regular basis. Regular meetings are held in the building, the Resident Council is updated as soon as information is available (sometimes on a daily basis) and an elevator update phone line has been established so that residents can get up to the minute information on service interruptions.

CHA has information on the elevator modernization on its website: www.cambridge-housing.org and has delivered written copies of this information to the City Council in April 2011, May 2011 and June 2011. The CHA holds public meetings on the second and fourth Wednesdays of each month and CHA Board agendas are posted at City Hall and on the CHA website.

Concern: The work performed by US Elevator at Manning Apartments is suspect, since the elevator failed state inspection on three separate occasions.

The elevator had three inspections by the same inspector and each time, different code issues were cited. Each time, the work previously cited was corrected and the inspector found something new. The two substantive inspection issues were:

*Updates from 12/7/11 are in **bold.**

1. **Duct work in the room below the elevator penthouse had to be covered with drywall, even though this was a grandfathered condition and had passed numerous elevator inspections since initial occupancy of the building. This was not in the scope of work with US Elevator and work was completed by CHA.**

2. **There was an issue with the overhead clearance for the car and counterweight - - even though this design had been reviewed and approved by the State Elevator Inspection Division prior to the start of construction. This issue was resolved after an appeal to the Commissioner of Public Safety and a subsequent meeting with the Chief of Inspection-Elevators. The original design, as approved prior to construction, was found to be code compliant.**

In total, the car was ready for inspection on 9/3/11 and was finally passed by the State on 11/18/11. This delayed the project almost three months - - and was not due in any way to the quality of workmanship by US Elevator. The elderly and disabled residents of Manning Apartments bore the brunt of this delay.

Concern: What happened on 11/29/11. Why were both elevators at Manning out of service twice?

The new elevator car at Manning was vandalized on 11/27/11, resulting in a partially severed traveling cable (CHA filed a report with Cambridge Police Department (CPD)). This took the elevator out of service on 11/27/11 and resulted in intermittent service on 11/28 and 11/29. At the same time, there was an issue with the fire service connection to the new elevator and the old car, which is antiquated and has been under heavy service since construction began on 6/18/11, which caused it to go out of service twice that day.

While both elevators were down on 11/29, Cambridge Fire Department (CFD) response was outstanding. CHA staff ran errands for residents and had food and water available for individuals who were stuck on the first floor. Everyone involved understood it was a terrible inconvenience for the residents. The elevator was back in service by 7 pm. CFD stayed on site overnight as a precaution, along with US Elevator.

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CHA staff met with representatives from Inspectional Services Department (ISD) and CFD on 11/30 to establish a contingency plan and options for temporary evacuation of the building, if it ever becomes necessary.

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