



Procurement Department

Invitation for Bids
For
Asbestos Abatement of Marie McGuire Apartments

For
HOUSING AUTHORITY OF THE
CITY OF SAN ANTONIO, TEXAS
AND
AFFILIATED ENTITIES

IFB #: 1106-910-38-3551

Prepared by:

Department of Procurement
of the
The San Antonio Housing Authority
818 South Flores Street
San Antonio, Texas 78204

President and CEO.....Lourdes Castro Ramirez

June 2011

## Invitation for Bids For Marie McGuire Asbestos Abatement

The Housing Authority of the City of San Antonio, Texas and its affiliated entities d/b/a San Antonio Housing Authority ("SAHA") hereby invites Bids from licensed independent contractors for the abatement of asbestos containing materials from the Marie McGuire Apartment building as specified in this Invitation for Bids (IFB).

As a part of our social mission and federal mandate, SAHA is committed to providing economic, training and educational opportunities to the low income individuals in the communities we serve. All contractors are required to recruit and hire low income individuals for new positions and provide training & educational opportunities to the greatest extent feasible for these individuals.

The SAN ANTONIO HOUSING AUTHORITY will hold a **non-mandatory pre-submittal meeting** and will receive Bids for the Abatement of Marie McGuire Apartments at the times, dates and locations specified on the "**IFB Information At A GLANCE**" page. Upon closing all Bids will be publicly opened and the submitters read aloud.

The Invitation for Bids can be obtained by calling 210-477-6059 or online at <http://www.saha.org> or <http://nahro.economicengine.com>.

**Notice:** Contact with members of the SAHA Board of Commissioners, or SAHA officers and employees other than the contact person shown above, by any prospective Bidder, after publication of the IFB and prior to the execution of a contract with the successful bidder(s) could result in disqualification of your bid. In fairness to all prospective bidder(s) during the IFB process, if SAHA meets in person with anyone representing a potential provider of these services to discuss this IFB other than at the pre-submittal meeting, an addendum will be issued to address all questions so as to insure no Bidder has a competitive advantage over another. This does not exclude meetings required to conduct business not related to the IFB, or possible personal presentations after written qualifications have been received and evaluated.

HOUSING AUTHORITY OF THE  
CITY OF SAN ANTONIO, TEXAS

By: \_\_\_\_\_  
Lourdes Castro Ramirez  
President and CEO

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## INTRODUCTION

The San Antonio Housing Authority (SAHA) is a public housing agency created by resolution of the City of San Antonio in 1938 pursuant to the Texas Housing Authorities Law (now Chapter 392 of the Texas Local Government Code) and federal law. SAHA is a unit of government and its functions are essential governmental functions. The property of SAHA is used for essential public and governmental purposes and is exempt from all taxes, including sales tax on all its purchases of supplies and services.

SAHA enters into and executes contracts and other instruments that are necessary and convenient to the exercise of its powers. SAHA maintains contractual arrangements with HUD to manage and operate its low rent public housing program and administers the Section 8 Housing Assistance Payments Programs. SAHA programs are federally funded along with development and modernization grants and rental income.

Its primary activity is the ownership and management of over 6,300 public housing units. It also administers rental assistance for almost 12,000 privately owned rental units through the Section 8 program. It operates and manages its housing developments to provide decent, safe, sanitary and affordable housing to low-income families, the elderly, and the disabled, and implements various programs designed and funded by HUD.

SAHA has created a number of affiliated public facility corporations ("PFCs") pursuant to Chapter 303 of the Texas Local Government Code (the Public Facility Corporation Act). In some instances, these PFCs own projects. In other cases, PFCs or other related entities serve as partners in partnerships that have been awarded low-income housing tax credits. SAHA's affiliated entities own and operate over 3,000 units of affordable housing.

SAHA staff also manages the San Antonio Housing Finance Corporation ("Finance Corporation"), which is primarily a conduit issuer of bonds for developers of affordable housing projects. The Finance Corporation was created pursuant to Chapter 394 of the Texas Local Government Code (the Texas Housing Finance Corporations Act). When used herein, "SAHA" shall include its affiliated entities.

### IFB INFORMATION AT A GLANCE

SAHA CONTACT PERSON	Charles Bode, Asst. Director of Procurement 818 S. Flores San Antonio, TX 78204-1400 e-mail: <a href="mailto:charles_bode@saha.org">charles_bode@saha.org</a> Phone: 210-477-6703 Fax: 210-477-6167
HOW TO OBTAIN THE IFB DOCUMENTS ON THE APPLICABLE INTERNET SITE	<ol style="list-style-type: none"><li>1. Access <a href="http://www.saha.org">www.saha.org</a>.</li><li>2. Drag your pointer over "Business with SAHA" and click on "Current Bids".</li><li>3. Follow the listed directions or</li><li>4. Access <a href="http://nahro.economicengine.com">http://nahro.economicengine.com</a>.</li></ol>
HOW TO FULLY RESPOND TO THIS IFB BY SUBMITTING A BID	Submit 1 original and 1 exact copy of your bid to the SAHA Procurement Dept. following the format as described under Item 5, Bid Format.
DATE ISSUED	June 24, 2011
PRE-SUBMITTAL MEETING	June 30, 2011 at 10:00 A.M. SAHA Central Office, 818 S. Flores, San Antonio, TX 78204
BID SUBMITAL RETURN & DEADLINE	July 11, 2011 at 11:00 A.M. SAHA Procurement Dept. 818 S. Flores, San Antonio, TX 78204
ANTICIPATED APPROVAL BY THE BOARD	August, 2011

## INVITATION FOR BIDS

### 1.0 GENERAL INFORMATION

- 1.1 Statement of Purpose:** The Housing Authority of the City of San Antonio and its affiliated entities (SAHA) are seeking bids from licensed independent contractors with demonstrated professional competence and experience to provide for the abatement of asbestos containing materials from the Marie McGuire Apartment Complex as specified herein.
- 1.2** Prospective bidders acknowledge by downloading and receiving the IFB documents and/or by submitting a bid that the submission of a bid to SAHA is not a right by which to be awarded a contract, but merely is an offer by the prospective bidder to perform the requirements of the IFB documents in the event SAHA decides to consider to award a contract to that bidder.
- 1.3 Definitions:** Throughout this Invitation for Bids and all resulting documents, the terms below shall be defined as follows:
- 1.3.1 “Best Value”** means that SAHA will in an evaluation of each bid submittal, consider factors other than just cost in making the award decision.
  - 1.3.2 “Contracting Officer”** when named within an IFB document shall refer to the President and CEO.
  - 1.3.3 “Contract”** refers to the fully executed written agreement that ensues from the IFB. Whereas all IFB documents, attachments and addenda are included, by reference, as a part of the ensuing contract, when "contract" is referred to within an IFB document; such is referring to both the IFB documents, attachments and addenda and the ensuing contract document which may be designated as the contract agreement and/or purchase order(s).
  - 1.3.4 “Contractor”** and the term "successful bidder" may be used interchangeably.
  - 1.3.5 “Contract Administrator (CA)”** is the SAHA Director of Procurement or his/her designated representative.
  - 1.3.6 “Day(s)”** unless otherwise specified, shall refer to calendar days. Working days are Monday through Friday between the hours of 7:00 a.m. to 6:00 p.m. excluding SAHA observed holidays.
  - 1.3.7 “HUD”** is the United States Department of Housing and Urban Development. HUD is the Federal agency from which SAHA receives funding; however, pertaining to this IFB, correspondences, including bid submittals, received from each bidder must exhaust all provisions contained herein prior to contacting HUD (i.e. in the case of a protest).

- 1.3.8** “**Herein**” shall refer to all documents issued pursuant to the noted IFB, including the IFB documents and the attachments.
- 1.3.9** “**President & CEO**” is the SAHA President and Chief Executive Officer and/or Interim President and Chief Executive Officer.
- 1.3.10** “**Offer**” is the bid submittal that the bidder delivers to SAHA in response to the IFB.
- 1.3.11** “**Offeror**” or “**Offerors**” are the bidder or bidders.
- 1.3.12** “**Parties**” When “the parties,” “both parties” or “either party” is stated within the IFB documents or the contract, such refers to SAHA and the successful bidder(s).
- 1.3.13** “**Bid,**” “**Proposal,**” and/or “**Proposal Submittal**” is the "hard copy" document that the bidder is required to, as detailed within the IFB document, deliver to SAHA.
- 1.3.14** “**Protestant**” is a prospective bidder or bidder(s) who feel(s) that he/she has been treated inequitably by SAHA and wishes SAHA to correct the inequitable condition or situation. To be eligible to file a protest with SAHA pertaining to an IFB or contract, the protestant must have been involved in the IFB process in some manner as a prospective bidder or bidders.
- 1.3.15** “**Prospective Bidder,**” or “**Bidder**” A prospective bidder is a firm or individual who has been notified of the IFB solicitation and/or who has requested and/or received the IFB documents and is considering responding with a bid; a bidder is a firm or individual who has submitted a bid in response to the IFB. All terms and conditions shall apply equally to all prospective bidders as well as bidders, though prospective bidders may not, after the deadline set for receiving bids, receive further notices pertaining to that IFB-meaning, certain notices are only delivered to bidders and not to prospective bidders.
- 1.3.16** “**Invitation for Bids**” (IFB) is the solicitation type used under the sealed bidding method allowed by HUD, especially as defined within Chapter 6 of HUD Procurement Handbook 7460.8 REV 2.
- 1.3.17** “**IFB Document(s)**” When stated in the singular or the plural form, such refers to the body of documents, including attachments and the information posted on the [nahro.economicengine.com](http://nahro.economicengine.com) Internet site and [www.saha.org](http://www.saha.org), that SAHA makes available to all prospective bidders wherein are detailed SAHA's requirements.

- 1.3.18** “SAHA” is the Housing Authority of the City of San Antonio, Texas and all its affiliated entities. Unless otherwise defined herein or within the ensuing contract, whenever the term "SAHA" is used without clearly designating a responsible SAHA staff person, the bidder(s) may assume that responsibility for that item rests with the SAHA CA.
- 1.4 Non-Mandatory Pre-Bid Conference:** The pre-bid conference will be held at the time date and location indicated on the **IFB Information At A Glance** page. The purpose of this conference is to assist prospective bidders in the full understanding of the IFB documents so bidders are confident in submitting an appropriate bid; therefore, at this conference, SAHA will conduct an overview of the IFB documents, including attachments. Because the purpose of this conference is to review the IFB documents, attendees should bring a copy of the IFB documents to this conference. **SAHA will not distribute at this conference any copies of the IFB documents.** Questions concerning the contents of the project and procedural aspects of the IFB may be answered at this time; however, technical questions are required to be delivered in writing prior to a response. Any questions not answered during the conference will be responded to in writing and an addendum posted on SAHA’s website: [www.saha.org](http://www.saha.org) and [nahro.economicengine.com](http://nahro.economicengine.com). All prospective bidders are encouraged to attend; however any questions or requests for additional information must be submitted in writing seven (7) days prior to the bid submission deadline.
- 1.5 Bid Submission:** Refer to the **IFB Information At A Glance** page for submission date, time and location. Late Bids will not be accepted.
- 1.6 Bidder’s Responsibilities-Contact with SAHA:** It is the responsibility of the bidder to address all communication and correspondences pertaining to this IFB only to the contact person listed in the **IFB Information At A Glance** page. Bidders must not make inquiry or communicate with any other SAHA staff member or official (including members of the Board of Commissioners) pertaining to this IFB. Failure to abide by this requirement may be cause for SAHA to not consider a bid submittal received from any bidder who has not followed this directive. During the IFB solicitation process, the SAHA will not conduct any ex parte conversations which may give one prospective bidder an advantage over other prospective bidders.
- 1.7 Type of Contract resulting from IFB & Escalations:** The contract resulting from this solicitation will be a firm fixed price with no escalations. The term of the contract is a firm fixed duration with an extension or extensions possible at the sole discretion of SAHA. The Initial Term shall not exceed 180 days.

## **2.0 SAHA'S RESERVATION OF RIGHTS**

- 2.1** SAHA reserves the right to reject any or all bids, to waive any informality, or to terminate the IFB process at any time, if deemed by SAHA to be in its best interests.
- 2.2** SAHA reserves the right not to award a contract pursuant to this IFB.
- 2.3** SAHA reserves the right to terminate a contract awarded pursuant to this IFB, at any time for its convenience upon 14 days written notice to the successful bidder(s).
- 2.4** SAHA reserves the right to determine the days, hours and locations that the successful bidder(s) shall provide the services called for in this IFB.
- 2.5** SAHA reserves the right to retain all bids submitted and not permit withdrawal for a period of 90 days subsequent to the deadline for receiving bids without the written consent from the CA.
- 2.6** SAHA reserves the right to reject and not consider any bid that does not meet the requirements of this IFB, including but not necessarily limited to incomplete bids and/or bids offering alternate or non-requested services, bids deemed non-responsive, bidders deemed not responsible and conditional bids (ex. "All or None").
- 2.7** SAHA shall have no obligation to compensate any bidder for any costs incurred in responding to this IFB.
- 2.8** SAHA reserves the right to at any time during the IFB or contract process to prohibit any further participation by a bidder or reject any bid submitted that does not conform to any of the requirements detailed herein. Each prospective bidder further agrees that he/she will inform SAHA's CA in writing within five (5) days of the discovery of any item that is issued thereafter by SAHA that he/she feels needs to be addressed. Failure to abide by this timeframe shall relieve SAHA, but not the prospective bidder, of any responsibility pertaining to such issue.
- 2.9** SAHA reserves the right, prior to award, to revise, change, alter or amend any of the instructions, terms, conditions, and/or specifications identified within the IFB documents issued, within any attachment or drawing, or within any addenda issued. All addenda will be posted on SAHA's website [www.saha.org](http://www.saha.org) and [nahro.economicengine.com](http://nahro.economicengine.com). Such changes that are issued before the bid submission deadline shall be binding upon all prospective bidders.
- 2.10** In the case of rejection of all bids, SAHA reserves the right to advertise for new bids or to proceed to do the work otherwise, if in the judgment of SAHA, the best interest of SAHA will be promoted.

- 2.11** SAHA reserves the right to, without any liability; cancel the award of any bid(s) at any time before the execution of the contract documents by all parties.
- 2.12** SAHA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to SAHA, if:
  - 2.12.1** Funding is not available,
  - 2.12.2** Legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,
  - 2.12.3** SAHA's requirements in good faith change after award of the contract.
- 2.13** SAHA reserves the right to require additional information from any bidder to assist in its evaluation. The information shall be submitted in the form required by SAHA within two (2) days of written request or bid shall be non-responsive.
- 2.14** SAHA reserves the right to amend the contract any time prior to contract execution.
- 2.15** SAHA reserves the right to require the Contractor to keep accurate timesheets for all employees assigned to perform any project, task, or assignment resulting from this IFB and any resulting contract.
- 2.16** SAHA reserves the right to contact any individuals, entities, or organizations that have had a business relationship with the bidder regardless of their inclusion in the reference section of the bid submittal.
- 2.17** In the event any resulting contract is breached, prematurely terminated or cancelled due to non-performance, breach, and/or withdrawal by the Contractor, SAHA reserves the right to seek monetary restitution (to include but not limited to withholding of monies owed) from the Contractor to cover costs for interim services and/or cover the difference of a higher cost (difference between existing Contracted rate and new Contract rate) beginning the date of Contractor's termination, breach and/or cancellation through the contract expiration date.
- 2.18** SAHA reserves the right to require the Contractor to replace any employee, subcontractor, or other individuals and/or entities, found to be unacceptable, performing work under any contract resulting from this IFB. Replacement shall occur within 2 days of notification by SAHA.
- 2.19** SAHA must maintain appropriate records (payrolls, work orders, job descriptions, training program materials and apprentice/trainee registrations and any other data related to the employment and utilization of maintenance laborers and mechanics) which must be preserved for no less than three years or until resolution of any dispute. Employers under contract to SAHA to provide maintenance work must submit to SAHA their original employment records as described above or agree to retain the original employment records for three years or until resolution of any dispute subject to this solicitation.

**3.0 GENERAL CONDITIONS:** Contractors shall perform the asbestos abatement of the Marie McGuire Apartment building, located at 211 N. Alamo, San Antonio, TX 78205 as specified in the attached Technical specifications and briefly described as follows:

**3.0.1** The removal of Asbestos Containing Roofing Materials,

**3.0.2** The removal of Asbestos Contaminated Roof Flashing,

**3.0.3** The removal of Asbestos Containing Resilient Floor Tile

**3.0.4** The removal of Asbestos Containing Floor Tile Mastic.

**3.0.5** Contractor shall install a temporary sealing system to insure water tightness of the roof. Seal must be warranted for six months after installation.

**3.1 REGULATORY:** Contractor(s) shall comply with all applicable federal, state and local laws, rules, regulations, ordinances and codes and obtain any licenses or permits required to provide the services under this IFB.

**3.1.1** Abatement shall be done in conformance with applicable Statutes, Regulations and Rules and the attached requirements of SAHA's abatement consultant.

**3.2 LICENSING & CERTIFICATION:**

Contractor shall be licensed and/or certified, if required, by the jurisdiction(s) in which the services are to be performed and the license/certification shall be current and in good standing. Copies of the licenses and certifications shall be placed under Tab 9.

**3.3 PRODUCT QUALITY STANDARD:**

Contractor shall provide goods and/or services that meet or exceed acceptable and applicable industry, government or certifying agency (ASTM, UL etc) standards and in all cases meet or exceed the requirements of HUD and SAHA.

**3.4 HUD Section 3 Program:** Contractor shall utilize Section 3 residents as defined in Attachment D to perform the requirements under this Bid to the greatest extent feasible and shall document such efforts quarterly. There is a 30% goal for hiring Section 3 residents on any contract/s resulting from this IFB. Contractors will be evaluated on his performance at achieving this goal and such evaluation shall be a factor in future awards. **Contractor must submit a detailed Section 3 utilization plan with his/her Bid and the number of expected new hires Contractor expects as a result of an award. FAILURE TO PROVIDE A SECTION 3 PLAN MAY CAUSE THE SUBMITTAL TO BE DISQUALIFIED AS NON-RESPONSIVE.**

**3.5 SMALL, WOMAN, MINORITY BUSINESS ENTERPRISES (S/W/MBE):** The Bidder is required to include a plan identifying the Bidder's good faith efforts to assist SAHA in its responsibility to foster the development of small and historically under-utilized business enterprises including woman owned, minority owned,

disabled veteran owned business enterprises and other business enterprises owned and recognized by HUD as having privileged status. **All** subcontracting opportunities shall be outlined in this plan and any subcontractors listed on the Subcontractor's form provided in Attachment C. **FAILURE TO PROVIDE A S/W/MBE PLAN MAY CAUSE THE SUBMITTAL TO BE DISQUALIFIED AS NON-RESPONSIVE.**

**3.6 PROJECT PERSONNEL:** Contractor shall perform criminal history checks and drug screening tests on all current & prospective employees performing work under this IFB and any resulting contract and provide summaries of the results to SAHA CA if requested. Employees & prospective employees whose criminal history check discloses a misdemeanor or felony involving moral turpitude or harm to persons or property or sexual offenses will not be employed to perform work under this IFB or any resulting contract. Criminal history and drug screening checks will be completed at the sole expense of the Contractor.

**3.7 COMMUNICATIONS:**

**3.7.1 Form:** All claims, notices, demands, requests, instructions, approvals and bids must be submitted in writing.

**3.7.2 Notice to Contractor:** Any Notices or Demands upon the Contractor shall be sufficiently given if delivered at the office of the Contractor stated on the signature page of the Contract or at such other office as he / she may from time to time designate in writing to SAHA or deposited in the United States mail in a sealed, postage-prepaid envelope or if delivered with charges prepaid to any telegraph company for transmission and addressed to the office of the Contractor indicated on the signature page of the contract or such other address as may be subsequently specified in writing to SAHA.

**3.7.3 Notice to SAHA:** All notification papers required to be delivered to SAHA or its designated representative shall, unless otherwise specified in writing to the Contractor, be delivered to Attn: Procurement, SAHA at 818 South Flores, San Antonio, Texas, 78204; and any notice to or demand upon SAHA shall be sufficiently given if so delivered or deposited in the United States mail in a sealed, postage-prepaid envelope or delivered with charges prepaid to any telegraph company for transmission to SAHA at the above address or to such other address as SAHA may subsequently specify in writing to the Contractor for such purpose.

**3.7.4 Receipt:** Any such notice shall be deemed to have been given as of the time of actual delivery; or in the case of mailing, when the same should have been received in due course after the date of surrender to the Post Office; or in the case of telegrams, at the time of actual receipt, as the case may be.

- 3.8 IDENTIFICATION:** Contractor shall provide distinctive ID badges and/or uniforms which clearly identify them and the Contractor, for all employees working on SAHA's properties. No employee will be allowed on SAHA's properties without his/her ID badge and/or uniform on his/her person. Contractor must submit to SAHA's Procurement Department a sample of his/her ID badge/uniform prior to signing a contract if requested.
- 3.9 BONDS: All non-cash (surety) Bonds shall be issued by companies licensed to do business in the State of Texas, approved by the U.S. Treasury and "A" rated or better by A. M. Best. Payment & Performance Bonds shall be provided within ten (10) days after Contract execution by both parties. Individual sureties are not acceptable.**
- 3.5.4.1 Bid Bond:** SAHA will require a Bid Bond for this bid in the amount of 5% of the Base Bid. Must be submitted under Tab 1.
- 3.5.4.2 Performance Bond:** The Contractor must provide SAHA a 100% Performance Bond for total contract value, however if the Contractor is unable to acquire the equitable bonding that is acceptable to SAHA, then the Contractor will be deemed non-responsive for that project.
- 3.5.4.3 Payment Bond:** The Contractor must provide SAHA a 100% Payment Bond for each Project Contract executed by SAHA, however if the Contractor is unable to acquire the equitable bonding that is acceptable to SAHA, then the Contractor will be deemed non-responsive for that project.
- 3.10 Notice to Proceed:** Start work date will be determined by the SAHA Project Manager and Contractor's Manager. Contractor shall not begin work until a Notice to Proceed is received from SAHA signed by the contracting officer.
- 3.11 Responsibility for Subcontractors:** All requirements for the "Prime" contractor shall also apply to any and all subcontractors. It is the Prime Contractors' responsibility to insure the compliance by the subcontractors. At all times the Prime Contractor remains liable to SAHA for the performance and compliance of the subcontractors.
- 3.12 Calculations:** Each Contractor is responsible for field verifying the conditions and quantities required to deliver a complete and functional project. This shall include but is not limited to: demolition, disposal, preparation, installation, overhead, profit, bonding, general liability, labor burden, weather conditions, field verified quantities, and encumbrances. All Bidders' submitted Unit Price Items must include these variables. SAHA shall not pay additional sums for a Bidder's failure to factor these conditions into the Bids. Failure to consider any of the factors listed shall not negate the Contractor's responsibility to perform if awarded a contract under this IFB.

- 3.12.1 Estimated Quantities:** Any quantities provided here in are strictly estimates unless specified otherwise. It is the Bidder's responsibility to determine the exact quantities required to provide a complete, finished, functional, and operational product. Unit prices, if requested, are to be utilized only for additional work requested by SAHA.
- 3.13 Project Occupancy:** For the purposes of this project the development shall be considered to be un-occupied. The project site may also have various construction zones, phasing, mobilization, as well as other Contractors working on-site. Bidders must include these variables in their proposed fees. SAHA shall not pay additional sums for a bidder's failure to factor these conditions into their submittal.
- 3.14 Time For Completion:** The Contractor shall immediately mobilize and commence work at the time stipulated in the Notice to Proceed to the Contractor and shall be fully completed within the specified time. The engineer's estimated time for completion is 20 days; the time for completion shall not exceed 30 days which includes an allocation for severe weather days.
- 3.15 Safety:** Subject to prior approval by SAHA as to size, design, type and location, and to local regulations, the Contractor and his / her subcontractors shall erect Temporary Safety Signs for purposes of identification and controlling traffic. The Contractor shall furnish, erect, and maintain such signs as may be required by safety regulations and as necessary to safeguard life and property.
- 3.16 Builders Risk:** Contractor is encouraged to acquire Builder's Risk Insurance for any project or projects resulting from this solicitation. In any case SAHA will not be responsible for any loss to Contractor's tools, materials, supplies, the building or project or any other coverage normally covered under Builder's Risk Insurance.
- 3.17 Job Offices:** The Contractor shall furnish and maintain a job office during execution of the project with approval by the SAHA Property & Project Managers.
- 3.18 Storage:** The Contractor and his/her subcontractors may maintain with approval by the SAHA Property & Project Managers various Storage Facilities on the site as may be necessary in the proper conduct of the work. These shall be located to cause no interference with any work to be performed on the site by the Contractor or others. The Contractor shall consult with SAHA regarding the location(s) of these facilities on each site.
- 3.19 Removal of Temporary Facilities:** Upon completion of the project, or as directed by SAHA, the Contractor shall remove all such temporary structures and facilities from the site and leave the premises in equal or better condition than it was at turnover.

### **3.20 Final Inspection:**

**3.20.1 Notice:** The Contractor shall provide prompt written notification to SAHA when all work is completed. A final project inspection shall be made when all work is completed. Until the final inspection has been made and project accepted by SAHA, SAHA shall not advance any of the retainage or make the final payment to the Contractor without the approval and concurrence of the Contracting Officer.

**3.20.2 Inspection Date:** Upon receipt of the Contractor's notification of the date when the work has been completed, SAHA shall conduct a final Inspection within 14 calendar days.

**3.20.3 Inspection Participants:** The final inspection shall be conducted by all parties responsible for the job especially SAHA's representative and the Contractor's representative.

**3.20.4 Inspection Conference:** The inspection team shall meet after completing the final inspection to determine whether the work has been completed in accordance with the construction documents and produce a Punch List Schedule which describes any minor items of incomplete or unsatisfactory work (or seasonal work such as planting of shrubs and lawns) and document if there are any major deficiencies which must be corrected by the Contractor and additional inspections scheduled prior to contract settlement.

**3.21 Settlement Documents:** The settlement document shall state that the work was completed in accordance with the construction documents, including change orders except any minor items identified on SAHA's proposed certificate of completion, the total amount due the Contractor and a separately stated amount for each unsettled claim against SAHA. It shall also state that SAHA is released of all liens and all claims except those expressly stated in the Contractor's release and that wages paid to laborers or mechanics were consistent with the wage rate requirements of the contract and there are no outstanding claims for unpaid wages, materials, and supplies.

## **4.0 CONDITIONS TO PROPOSE:**

**4.1 Pre-Qualification of Bidders:** Prospective bidders will not be required to pre-qualify in order to submit a bid except as specified below. All bidders shall submit adequate information showing that the bidder is qualified to perform the required work (i.e. Profile of Firm Form in Attachment C). Failure by any prospective bidder to provide requested information may, at SAHA's discretion, eliminate that bidder from consideration.

## **4.2 IFB Forms, Documents, Specifications and Drawings:**

- 4.2.1** Prior to submitting a bid in response to the IFB, it shall be each prospective bidder's responsibility to examine carefully and, as may be required, properly complete all documents issued pursuant to this IFB.
- 4.2.2** Unless otherwise instructed, specifications and drawings (if provided) do not purport to show all of the exact details of the work. They are intended to illustrate the character and extent of the performance desired under the proposed contract and may be supplemented or revised from time to time. It is the responsibility of the bidder to field verify all existing conditions and potential impediments.
- 4.2.3** "Or Equal" references to catalogs, manufacturer's references, brand names, model numbers etc. are intended to indicate type, quality, and performance desired only unless specifically specified otherwise. bids on brands of like nature, quality and performance will be considered. If proposing other than the referenced item(s), the bid submittal shall show the manufacturer, brand or trade name, model, description, illustration, and specifications of the product offered and must include the supporting data in the bid submittal. Failure to identify the proposed alternate products or provide supporting data shall require Contractor to furnish the brand names, numbers, models, etc. specified.

## **4.3 Submissions and Receipt by SAHA:**

- 4.3.1 Time for Receiving Bids:** Bids received prior to the bid submittal deadline shall be securely kept, unopened, by SAHA. The CA, whose duty it is to open such bids, will decide when the specified time has arrive. No bid received after the designated deadline shall be considered.
- 4.3.1.1** Bidders are cautioned that any bid submittal that is time-stamped as being received by SAHA after the exact time set as the deadline for the receiving of bids shall not be considered. Any bids not submitted in a timely manner that are inadvertently opened shall be ruled invalid. No responsibility will attach to SAHA or any official or employee thereof, for the pre-opening of, or the failure to open a bid not properly addressed and/or identified.
- 4.3.1.2** One (1) original signature copy (marked "ORIGINAL") with a cover and extending tabs, and one (1) exact copy (marked "COPY"). The bid submittal, shall be placed unfolded in a sealed package with the bidder's name and return address and addressed as follows:

IFB # {Insert Number}  
{Insert Exact Title of IFB}  
{Insert Month, day, year, Time of Bid Opening}  
The San Antonio Housing Authority  
Procurement Department  
818 S. Flores  
San Antonio, Texas 78204

**4.3.3 Withdrawal of Bids:** Bids may be withdrawn as detailed within the attached HUD Form(s) and as specified below. Negligence on the part of the bidder in preparing his/her bid confers no right of withdrawal or modification of his/her bid after such bid has been received and opened. SAHA shall not be responsible for any cost associated with the withdrawal including but not limited to postage and/or shipping.

**4.3.3.1 Procedure to withdraw pre-closing:** A request for withdrawal of a bid prior to the specified date and time of the closing shall be submitted in writing and signed by an authorized agent of the company with complete contact information and directing how to return or dispose of the withdrawn bid.

**4.3.3.2 Procedure to withdraw post-closing:** A request for withdrawal of a bid due to a purported error need not be considered by SAHA unless filed in writing by the bidder within 48 hours after the bid deadline. Any such request shall contain a full explanation of any purported error and shall, if requested by SAHA, be supported by the original calculations on which the bid was computed, together with a certification and notarization thereon that such computation is the original and was prepared by the bidder or his/her agent, who must be identified on the notarized form. The foregoing shall not be construed that such withdrawal will be permitted, as SAHA retains the right to accept or reject any proposed withdrawal for a mistake.

#### **4.4 Exceptions to Specifications:**

**4.4.1** A prospective bidder may take exception to any of the bid documents or any part of the information contained therein, by submitting, in writing to the SAHA Contact Person named herein, at least seven (7) days prior to the bid submission deadline, a complete and specific explanation as to what he/she is taking exception. Proposed alternate documents or information must also be included. SAHA reserves the right to agree with the prospective bidder and issue an addendum to the applicable IFB requirements, or may reject the prospective bidder's request.

**4.4.2** When taking exception, prospective bidders must propose services that meet the requirements of the IFB documents. Exceptions to the specification and/or approved "equal" requests may be discussed at the scheduled pre-bid conference (if scheduled). Any verbal communications or instructions provided by **any SAHA** staff shall only become official and binding when issued as an addendum or as a written answer issued by addendum pursuant to receipt of a written question by the SAHA Procurement Department.

**4.4.3 Interpretations:** No official oral interpretation can be made to any bidder as to the meaning of any instruction, condition, specifications, drawing (if any), or any other document issued pertaining to this IFB.

**5.0 FORM OF BID:** The bid shall be submitted in the following manner. Failure to submit the bid in the manner specified may result in a premature opening of, post-opening of, or failure to open and consider that bid, and may, at the discretion of the SAHA CA, eliminate that bidder from consideration for award.

**5.1 Required Forms:** All forms attached to this IFB document issued shall be fully completed and submitted by the bidder. Such forms may be completed in a legible hand-written fashion, by use of a typewriter, or may be downloaded and completed on a computer. If, during the download, a form becomes changed in any fashion, the bidder must "edit" the form back to its original form (for example, signature lines must appear on the page which the line was originally intended).

**5.2 Tabbed Bid Submittal:** SAHA intends to retain the successful Bidder pursuant to a "Low Bid" basis. Therefore, so that SAHA can properly evaluate the bids received, all bids submitted in response to this IFB must be formatted in accordance with the sequence noted below. Each category must be separated by numbered/labeled index dividers and the number/label on the index divider must extend so that each tab can be located without opening the bid and labeled with the corresponding tab reference noted below. None of the proposed services may conflict with any requirement SAHA has published herein or has issued by addendum.

**5.2.1 Tab 1, Bid Forms:** These Forms and Bidder's Profile of Firm Form must be fully completed, and submitted under this tab as a part of the bid submittal. The Fee Bid Form and a Schedule of Values must be completed and/or placed under this tab.

**5.2.2 Tab 2, Form HUD Forms and Conflict of Interest Questionnaire:** These Forms are attached hereto as Attachment B to this IFB document and must be fully completed, executed where provided thereon and submitted under this tab as a part of the bid submittal.

- 5.2.3 Tab 3, Client Information:** The bidder shall submit three former or current clients, preferably other than SAHA, for whom the bidder has performed similar or like services to those being proposed herein within the last three (3) years. The list shall, at a minimum, include for each reference:
- 5.2.4.1** The client's name;
  - 5.2.4.2** The client's current telephone number and address,
  - 5.2.4.3** Description of services provided to the client,
  - 5.2.4.4** Date of services;
  - 5.2.4.5** Change orders and who initiated (Contractor, Owner, etc)
  - 5.2.4.6** Delays and reason for the delays
- 5.2.4 Tab 4, Joint Venture/Partnerships:** The bidder shall identify hereunder if this bid is a joint venture or partnership with another entity. Please remember that all information required from the bidder under the proceeding or subsequent tabs must also be included for any joint venture or partner. One entity must be designated as the primary contact for the joint venture or partnership in the bid. Include the legal documents creating the joint venture or partnership and a completed Profile of Firm form for each entity. If no joint venture or partnership exists or will not be utilized under this IFB, please provide this statement, "NO JOINT VENTURE/PARTNERSHIP", in this section and include the Bidders Profile of Firm form.
- 5.2.5 Tab 5, Subcontractors:** Bidders shall provide SAHA with the name, contact information to include address, phone number, email address, core area of business or trade, and years of expertise for each subcontractor and supplier and its minority status if available intended to be utilized by the Bidder to perform the services requested in this IFB. The Profile of Firm Form attached hereto as Attachment C to this IFB document must be fully completed, executed and submitted under this tab as a part of the bid submittal by each subcontractor. Bidder must realize that the actual usage of the subcontractor will be contingent upon SAHA's prior written approval, and Bidder remains responsible to SAHA for any and all services and goods provided pursuant to this IFB and any resulting contract. If no subcontractors will be utilized, please provide this statement, "NO SUBCONTRACTORS", in this section.
- 5.2.6 Tab 6, Section 3 Business Utilization Plan:** Bidders are required to submit a utilization plan outlining their efforts to employ qualified Section 3 businesses or persons. The plan shall detail the Bidder's good faith effort to hire, train or provide educational opportunities to Section 3 residents and the potential number of new hires if awarded a contract. **FAILURE TO PROVIDE A SECTION 3 UTILIZATION PLAN MAY CAUSE THE SUBMITTAL TO BE DISQUALIFIED AS NON-RESPONSIVE.**

**5.2.7 Tab 7, Small/Minority/Disadvantaged/Veteran Business Enterprise Utilization Plan:** The Bidder is required to include hereunder a plan identifying the Bidder's good faith efforts to assist SAHA in its responsibility to foster the development of small and historically under-utilized business enterprises. All subcontracting opportunities shall be outlined herein and subcontractors listed on the form provided in Attachment C. **FAILURE TO PROVIDE A S/W/MBE PLAN MAY CAUSE THE SUBMITTAL TO BE DISQUALIFIED AS NON-RESPONSIVE.**

**5.2.8 Tab 8, Section 3 Preference:** Any Bidder claiming a Section 3 Business Preference, shall under this tab include the fully completed and executed Section 3 Business Preference Certification Forms and any documentation. Supporting documentation required to verify household income includes but is not limited to completed and signed Applicant Certification forms by each Section 3 employee for which Bidder is seeking the preference. The Bidder shall verify the total number of full-time employees and names of the low-income residents under this tab. **Note: If you qualify as a Section 3 Business Concern, your Bid will receive a preference over other Bids or bids.**

**5.2.9 Tab 9, Company Biography & Other Information:** The Bidder shall complete the company biography page attached to provide a brief company history including: date founded, number of employees, company headquarters location and operating locations, past projects, awards and certifications. Bidder shall include any applicable business licenses required under this tab. The bidder may also provide hereunder any other general information that the bidder believes is appropriate to assist SAHA in its evaluation.

**5.3 Proposed Costs:**

**5.3.1 Fee Costs:** Each bidder must enter the proposed price to SAHA for the listed project, service or goods. Your proposed fee is inclusive of all necessary costs to provide the proposed services or goods, including, but not limited to: employee costs and benefits; clerical support; overhead; profit; supplies; materials; licensing; insurance, bonding (if applicable); etc. Each fee proposed shall be fully "burdened" with profit, overhead and all other associated costs to deliver a complete project as specified herein.

**5.4 Bid Submittal Binding Method:** The bidder must bind the original bid submittal in such a manner that SAHA can, if needed, remove the binding (i.e. "comb-type, etc.) or remove the pages from the cover (i.e. 3-ring binder, etc.) to make copies then return the bid submittal to its original condition.

## **6.0 BID EVALUATION:**

- 6.1 Bid Opening Results:** It is understood by all bidders/prospective bidders that the bids are publicly opened and the results will be a matter of public record. When SAHA has concluded all evaluations, has chosen a final top-rated bidder, has completed the award and is ready to issue such results, SAHA shall notify the successful bidder.
- 6.1.1** All bid documents submitted by the bidders are generally a matter of public record and are subject disclosure.
- 6.2 Evaluation:** Each bid submittal will be evaluated based upon the following information and criteria listed previously:
- 6.2.1 Initial Evaluation-Responsiveness:** Each bid received will first be evaluated for responsiveness (i.e., meeting the minimum requirements as stated in the IFB).
- 6.2.2 Evaluation-Responsibility:** SAHA shall evaluate each of the bids submitted in response to this IFB to determine the bidder's level of responsibility. SAHA will consider capabilities of doing the specified work as described in the bid that may be confirmed orally, by site visits, demonstrations, and references contacted by SAHA and the cost to SAHA.
- 6.3 Irregular Bid Submittal:** A bid shall be considered irregular for any one of the following reasons, any one or more of which may, at SAHA's discretion, be reason for rejection:
- 6.3.1** If the forms furnished by SAHA are not used or are altered or if the proposed costs are not submitted as required and where provided.
- 6.3.2** If all requested completed attachments do not accompany the bid submittal.
- 6.3.3** If there are unauthorized additions, conditional or alternate bids, or irregularities of any kind which may tend to make the bid incomplete, indefinite or ambiguous as to its meaning or give the bidder submitting the same a competitive advantage over other bidders.
- 6.3.4** If the bidder adds any provisions reserving the right to accept or reject any award or to enter into a contract pursuant to an award.
- 6.3.5** If the individual cost bid items submitted by a specific bidder are unbalanced in the sense that the listed price of any cost item departs by more than 25% from SAHA's cost estimate for that item.
- 6.4 Disqualification of Bidders:** Any one or more of the following shall be considered as sufficient for the disqualification of a prospective bidder and the rejection of his/her bid:

- 6.4.1 Evidence of collusion among prospective bidders.
- 6.4.2 More than one bid for the same work from an individual, firm, or corporation under the same or different name(s).
- 6.5.3 Lack of competency, lack of experience and/or lack of adequate machinery, plant and/or other resources.
- 6.5.4 Unsatisfactory performance record as shown by past work for SAHA or with any other local, state or federal agency, judged from the standpoint of workmanship and progress.
- 6.5.5 Incomplete work, which in the judgment of SAHA, might hinder or prevent prompt completion of additional work, if awarded.
- 6.5.6 Failure to pay or satisfactorily settle all bills due on former contracts still outstanding at the time of letting.
- 6.5.7 Failure to comply with any qualification requirements of SAHA.
- 6.5.8 Failure to list, if required, all subcontractors (if subcontractors are allowed by SAHA) who will be employed by the successful bidder(s) to complete the work of the proposed contract.
- 6.5.9 As required by the IFB documents, failure of the successful bidder to be properly licensed by the City, County and/or the State of Texas and/or to be insured by a commercial general liability policy and/or worker's compensation policy and/or business automobile liability policy, as shown below, if applicable.
- 6.5.10 Any reason to be determined in good faith, to be in the best interests of SAHA.

**6.6 Award of Bid(s):** The award shall be to the responsive and responsible bidder(s) determined by the bidder submitting the bid with the lowest cost to SAHA. Bidders shall be recommended for award if in SAHA's opinion, it is in the best interest to accept the bid after preferences for Section 3 business concerns are considered.

**7.0 Insurance:** If a bidder receives an award and unless otherwise waived in the Contract, the Contractor will be required to provide an original Certificate of Insurance confirming the following minimum requirements to SAHA within 10 days of contract signature:

Professional Liability	Required Limits
SAHA and its affiliates must be named as an Additional Insured and be a Certificate Holder. This is required for vendors who render observational services to SAHA such as appraisers, inspectors, attorneys, engineers or consultants.	\$1,000,000
Business Automobile Liability	Required Limits
SAHA and its affiliates must be named as an additional insured and as the certificate holder. Must include both owned and Un-owned vehicles.	\$500,000 combined single limit, per occurrence
Workers Compensation and Employer's Liability	Required Limits
Workers' Compensation coverage is Statutory and has no pre-set limits. Employer's Liability limit is \$500,000 A waiver of Subrogation in favor of SAHA must be included in the Workers' Compensation policy. SAHA and its affiliates must be named as a Certificate Holder.	Statutory \$500,000
Commercial General Liability	Required Limits
This is required for any vendor who will be doing hands on work at SAHA properties. SAHA and its affiliates must be named as an Additional Insured and as the Certificate Holder.	\$1,000,000 per accident \$2,000,000 aggregate

**8.0 Right to Protest:**

**8.1 Rights:** Any prospective or actual bidder, offeror, or contractor who is allegedly aggrieved in connection with the solicitation of a bid or award of a contract, shall have the right to protest. Such right only applies to deviations from laws, rules, regulations, or procedures. Disagreements with the evaluators' judgments as to the number of points scored are not reasons for an appeal. An alleged aggrieved protestant claiming this right is hereby informed that these regulations do not provide for administrative appeal as a matter of right for that alleged aggrieved protestant.

**8.1.1 Definition:** An alleged aggrieved "protestant" is a prospective bidder or bidder who feels that he/she has been treated inequitably by SAHA and wishes SAHA to correct the alleged inequitable condition or situation.

**8.1.2 Eligibility:** To be eligible to file a protest with SAHA pertaining to an IFB or contract, the alleged aggrieved protestant must have been involved in the IFB process in some manner as a prospective bidder (i.e. recipient of the IFB documents) when the alleged situation occurred. SAHA has no obligation to consider a protest filed by any party that does not meet these criteria.

**8.1.3 Procedure:** Any actual or prospective contractor may protest the solicitation or award of a contract for material violation of SAHA's procurement policy. Any protest against a SAHA solicitation must be received before the due date for receipt of Bids or bids and any protest

against the award of a contract must be received within ten calendar days after contract award or the protest will not be considered.

All protests must be in writing and submitted to the Director of Procurement for a written decision. The Director of Procurement shall make a recommendation to the Contracting Officer who shall issue a written decision and findings to the Contractor within 30 days from receipt of the written protest. This decision is then appealable to the Board of Commissioners within 30 days of receipt of the written decision. Appeals which are not timely filed will not be considered and the decision becomes final. All appeals shall be marked and sent to the address as listed in the example below:

APPEAL OF IFB NO. (insert exact number of IFB here)  
San Antonio Housing Authority  
Attn: Stacy Padgett, Director of Procurement  
818 South Flores Street  
San Antonio, TX 78204

**9.0 Disputes under the contract:**

**9.1 Procedures:** In addition to the procedures in the attached HUD documents, in the event that any matter, claim, or dispute arises between the parties, whether or not related to this IFB or any resulting contract, both parties shall be subject to nonbinding mediation if agreed to by both parties within thirty days of either party making a request in writing. The parties further agree that if the matter, claim or dispute is not settled during mediation, it shall thereafter be submitted to binding arbitration. The parties shall make a good-faith attempt to mutually agree upon an arbitrator. If the parties cannot mutually agree upon an arbitrator after reasonable efforts have been exerted, then the matter, claim or dispute shall be submitted to the arbitrator of SAHA's choice for final and binding arbitration. Unless extended by the arbitrator for good cause shown, the final arbitration hearing shall begin no later than two months after selection of the arbitrator.

**10.0 Additional Considerations:**

**10.1 Required Permits and Licenses:** Unless otherwise stated in the IFB documents, all Federal, State or local permits and licenses which may be required to provide the services ensuing from any award of this IFB, whether or not they are known to either the SAHA or the bidders at the time of the bid submittal deadline or the award, shall be the sole responsibility of the successful bidder and all offers submitted by the bidder shall reflect all costs required by the successful bidder to procure and provide such necessary permits or licenses.

**10.2 Taxes:** SAHA, as a governmental entity, is exempt from Texas State Sales and Use Taxes and Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.

- 10.3 Government Standards:** It is the responsibility of the prospective bidder to ensure that all items and services proposed conform to all local, state and federal law concerning safety (OSHA) and environmental control (EPA and Bexar County Pollution Regulations) and any other enacted ordinance, code, law or regulation. The successful bidder shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the successful bidder for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.
- 10.4 Delivery:** All costs submitted by the successful bidder shall reflect the cost of delivering the proposed items and/or services to the locations specified within the IFB documents or within the Agreement. All costs in the bid submittal shall be quoted as FOB Destination, Freight Prepaid and allowed unless otherwise stated in this IFB.
- 10.4.1** The successful bidder agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the successful bidder. Upon default, the successful bidder agrees that SAHA may, at its option, rescind the finalized contract under the termination clause herein and seek compensatory damages as provided by law.
- 10.5 Work on SAHA Property:** If the successful bidder's work under the contract involves operations on SAHA premises, the successful bidder shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and shall immediately return said property to a condition equal to or better than the existing condition prior to the commencement of work at the site at no cost to SAHA.
- 10.6 Estimated Quantities:** Unless otherwise indicated, the quantities shown are estimates only and are used to evaluate the responses and may or may not reflect anticipated purchases. SAHA does not guarantee any minimum purchase quantity.
- 10.7 Warranty:** All items installed/provided under any contract resulting from this IFB must include a minimum of a two (2) year warranty including labor and installation except as specified otherwise herein. This period will begin on the date of "FINAL" acceptance by SAHA.
- 10.7.1** The services provided under the contract shall conform to all information contained within the IFB documents as well as applicable Industry Published Technical Specifications, and if one of the above mentioned Specifications contains more stringent requirements than the other, the more stringent requirements shall apply.

- 10.7.2** In addition to all other warranties, the warranty shall include the warranty for merchantability and the warranty of fitness for a particular purpose.
- 10.7.3 Assignment of Warranty:** Contractor shall assign any warranties and guarantees to SAHA and provide the Contractor's Warranty for labor and Installation to SAHA along with all Manufacturers' Warranty documents.
- 10.8 Official, Agent and Employees of the SAHA Not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the SAHA in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.
- 10.9 Subcontractors:** Unless otherwise stated within the IFB documents, the successful bidder may not use any subcontractors to accomplish any portion of the services described within the IFB documents or the contract without the prior written permission of the SAHA CA. Also, any substitution of subcontractors must be approved in writing by SAHA prior to their engagement.
- 10.10 Salaries and Expenses Relating to the Successful Bidders Employees:** Unless otherwise stated within the IFB documents, the successful bidder shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The successful bidder further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.
- 10.11 Independent Contractor:** Unless otherwise stated within the IFB documents or the contract, the successful bidder is an independent contractor. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.
- 10.12 Severability:** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held invalid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.
- 10.13 Waiver of Breach:** A waiver of either party of any terms or conditions of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.

- 10.14 Time of the Essence:** Time is of the essence as to each provision in which a timeframe for performance is provided in this IFB. Failure to meet these timeframes may be considered a material breach, and SAHA may pursue compensatory and/or liquidated damages under the contract.
- 10.15 Limitation of Liability:** In no event shall SAHA be liable to the successful bidder for any indirect, incidental, consequential or exemplary damages.
- 10.16 Indemnity:** The Contractor shall indemnify and hold harmless SAHA and its officers, agents, representatives, and employees from and against all claims, losses, damages, actions, causes of action and/or expenses resulting from, brought for, or on account of any personal injury or property damage received or sustained by any persons or property growing out of, occurring, or attributable to any work performed under or related to this Agreement, resulting in whole or in part from the negligent acts or omissions of the Contractor, any subcontractor, or any employee, agent or representative of the Contractor or any subcontractor, **AND REGARDLESS OF WHETHER CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF SAHA. CONTRACTOR ACKNOWLEDGES AND AGREES THAT THIS INDEMNITY CONTROLS OVER ALL OTHER PROVISIONS IN THE AGREEMENT, SURVIVES TERMINATION OF THIS AGREEMENT, AND APPLIES TO CLAIMS AND LIABILITY ARISING OUT OF THE SOLE OR CONCURRENT NEGLIGENCE OF SAHA.**
- 10.17 Public/Contracting Statutes.** SAHA is a governmental entity as that term is defined in the procurement statutes. SAHA and this IFB and all resulting contracts are subject to federal, state and local laws, rules, regulations and policies relating to procurement.
- 10.18 Termination:** Any contract resulting from this IFB may be terminated under the following conditions:
- 10.18.1** By mutual consent of both parties, and
  - 10.18.2 Termination For Cause:** As detailed within the attached HUD Forms.
    - 10.18.2.1** SAHA may terminate any and all contracts for default at any time in whole or in part, if the contractor fails to perform any of the provisions of any contract, so fails to pursue the work as to endanger performance in accordance with the terms of the IFB or any resulting contracts, and after receipt of written notice from SAHA, fails to correct such failures within seven (7) days or such other period as SAHA may authorize or require.
      - 10.18.2.1.1** Upon receipt of a notice of termination issued from SAHA, the Contractor shall immediately cease all activities under any contract resulting from this IFB, unless expressly directed otherwise by SAHA in the notice of termination.

**10.18.2.1.2** SAHA may terminate any contract resulting from this IFB in whole or in part, if funding is reduced, or is not obtained and continued at levels sufficient to allow for the expenditure.

**10.18.3 Termination for Convenience:** In the sole discretion of the Contracting Officer, SAHA may terminate any and all contracts resulting from this IFB in whole or part upon fourteen days prior notice to the Contractor when it is determined to be in the best interest of SAHA.

**10.18.4** The rights and remedies of SAHA provided under this section are not exclusive and are in addition to any other rights and remedies provided by law or under any contract.

**10.19.5** In the event the resulting contract from this IFB is terminated for any reason, or upon its expiration, SAHA shall retain ownership of all work products including deliverables, source and object code, microcode, software licenses, and documentation in whatever form that may exist. In addition to any other provision, the Contractor shall transfer title and deliver to SAHA any partially completed work products, deliverables, source and object code, or documentation that the Contractor has produced or acquired in the performance of any resulting contract.

**10.19 Examination and Retention of Contractor's Records:** SAHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three years after final payment under all contracts executed as a result of this IFB, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audits, examinations, excerpts and transcriptions.

**10.20 Invoicing (If applicable):**

**10.20.1** Contractor(s) will only be allowed to invoice for the cost of services/goods in compliance with his/ her bid as accepted by SAHA.

**10.20.2** Invoices must contain a complete description of the work or service that was performed, the contract price for each service, the purchase order number, contract number (if applicable), date of service, and address of service location or delivery address.

**10.20.3** Contractor(s) must submit a separate invoice for each purchase order issued by SAHA unless prior approval is obtained from SAHA.

- 10.20.4** If applicable, SAHA may make progress payments approximately every 30 days as the work proceeds if work meets owner's standards, as approved by the Contracting Officer. SAHA may, subject to written determination and approval of the Contracting Officer, make more frequent payments to contractors which are qualified small businesses in accordance with HUD documents.
- 10.20.5** Upon the Award of Contract, Contractor shall receive a request from SAHA to process all payments electronically to insure prompt and efficient payment of all invoices.
- 10.20.6** If offered by Contractor, SAHA seeks a discount for early payment. SAHA shall only take such a discount if earned.
- 10.20.7** Unless utilizing a progress payment schedule invoices shall be sent to the following address:

San Antonio Housing Authority  
Finance and Accounting  
P.O. Box 830428  
San Antonio, TX 78283-0428  
Or

email invoices to: [AccountsPayable@saha.org](mailto:AccountsPayable@saha.org)

## **10.21 Inter-local Participation**

- 10.21.1** SAHA may from time to time enter into Interlocal Cooperation Purchasing Agreements with other governmental entities or governmental cooperatives (hereafter collectively referred to as "Entity" or "Entities") to enhance SAHA's purchasing power. At SAHA's sole discretion and option, SAHA may inform other Entities that they may acquire items listed in this IFB. Such acquisition(s) shall be at the prices stated herein, and shall be subject to Contractor's acceptance.
- 10.21.2** In no event shall SAHA be considered a dealer, remarketer, agent or other representative of Contractor or Entity. Further, SAHA shall not be considered and is not an agent; partner or representative of the Entity making purchases hereunder, and shall not be obligated or liable for any such order.
- 10.21.3** Purchase orders shall be submitted to Contractor by the individual Entity.
- 10.21.4** SAHA shall not be liable or responsible for any obligation, including but not limited to, payment and for any item or service ordered by an Entity, other than SAHA.

**10.22 Right to data and Patent Rights:** In addition to other ownership & use rights SAHA shall have exclusive ownership of all, proprietary interest in, and the right to full and exclusive possession of all information, materials, documents, software, and all electronic data discovered or produced by Contractor and/or subcontractor(s) pursuant to the terms of any resulting contract, including but not limited to, reports, memoranda or letters concerning the research and reporting tasks of any resulting contract. Both parties agree to comply with HUD Bulletin 909-23, which is the Notice of Assistance Regarding Patent and Copyright Infringement.

**10.23 Lobbying Certification:** By proposing to do business with SAHA or by doing business with SAHA, each bidder certifies the following:

**10.23.1** No Federal appropriated funds have been paid or will be paid, by or on behalf of the bidder, to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of 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 any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

**10.23.2** If any funds other than Federally 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 "Disclosure Form to Report Lobbying", in accordance with its instructions.

**10.23.3** The successful bidder shall require that the language of this certification be included in the award documents for all sub-awards at all tiers, (including but not limited to subcontractors, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

**10.23.4** This clause is a material misrepresentation of fact upon which reliance will be placed when the award is made or a contract is entered into. The signing of a contract or acceptance of award certifies compliance with this certification, which is a prerequisite for making or entering into a contract, which is imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certifications shall be subject to civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

**10.24 Applicable Statutes, Regulations & Orders:** Contractors shall comply with all statutes, rules, regulations, executive orders affecting procurements by Housing Authorities including but not limited to:

- 10.24.1 Executive Order 11246
- 10.24.2 Executive Order 11061
- 10.24.3 Copeland "Anti-Kickback" Act (18 USC 874)
- 10.24.4 Davis Bacon Act (40 USC 276a-276a-7)
- 10.24.5 Clean Air & Water Acts (42 USC 1857(h); 33 USC 1368)
- 10.24.6 Contract Work Hours & Safety Standards Act (40 USC 327-330)
- 10.24.7 Energy Policy & Conservation Act (PL 94-163, 89 STAT 871)
- 10.24.8 Civil Rights Act of 1964, Title VI (PL 88-352)
- 10.24.9 Civil Rights Act of 1968, Title VIII (PL 90-284 Fair Housing Act)
- 10.24.10 Age Discrimination Act of 1975
- 10.24.11 Anti-Drug Abuse Act of 1988 (42 USC 11901 et. Seq.)
- 10.24.12 HUD Information Bulletin 909-23
- 10.24.13 Immigration Reform & Control Act of 1986
- 10.24.14 Fair Labor Standards Act (29 USC 201, et. Seq.)

**10.25 Additional Information:** Each provision of law and each clause, which is required by law to be inserted in this IFB or any contract, shall be deemed to have been inserted herein, and this IFB and any resulting contract shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or correction upon the application of either party. The fore-mentioned statutes, regulations and executive orders are not intended as an indication that such statute, regulation or executive order is necessary applicable nor is an omission of such statute, regulation or executive order intended to indicate that it is not applicable.

**10.26 Conflicting Conditions:** In the even there is a conflict between the documents comprising this IFB and any resulting contracts, the following order of precedence shall govern: (1) the more restrictive terms of either: any and all attached HUD forms and the term/conditions in the body of any resulting contract; (2) the IFB; and (3) Contractor's Response. In the event that a conflict exists between any state statute or federal law the most restrictive terms shall apply.

**10.27 Contract Form:** SAHA will not execute a contract on the successful bidder's form. Contracts will only be executed on SAHA's form. By submitting a bid, the successful bidder agrees to this condition. However, SAHA will consider any contract clauses that the bidder wishes to include therein, but the failure of SAHA to include such clauses does not give the successful bidder the right to refuse to execute SAHA's contract form. It is the responsibility of each prospective bidder to notify SAHA, in writing, with the bid submittal of any contract clauses that he/she is not willing to include in the final executed contract. SAHA will consider such clauses and determine whether or not to amend the Contract.

- 10.28 Liquidated Damages:** Unless otherwise specified herein for each day that performance under a resulting contract from this IFB is delayed beyond the time specified for completion, the successful bidder shall be liable for liquidated damages in the amount of \$1000.00 per day. However, the timeframe for performance may be adjusted at SAHA's discretion in writing and received by the successful bidder prior to default under any resulting contract.
- 10.29 Force Majeure:** Neither SAHA nor Contractor shall be held responsible for delays or default caused by fire, flood, riot, acts of God or war where such cause was beyond, respectively, SAHA or Contractor's reasonable control. Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- 10.30 Most Favored Customer:** The Contractor agrees that if during the term of any resulting contract, the Contractor enters into any agreement with any other governmental customer, or any non-affiliated commercial customer by which it agrees to provide equivalent services at lower prices, or additional services at comparable prices, the resulting Contract will at SAHA's option, be amended to accord equivalent advantage to SAHA.
- 10.31 Lapse in Insurance Coverage:** In the event Contractor fails to maintain insurance as required by a resulting contract, the Contractor shall immediately cure such lapse in insurance coverage at the Contractor's expense, and pay SAHA in full for all costs and expenses incurred by SAHA under this Contract as a result of Contractor's failure to maintain insurance as required, including costs and reasonable attorney's fees relating to SAHA's attempts to cure such lapse in insurance coverage. Such costs and attorney fees, not to exceed fifteen hundred and 00/100 dollars (\$1,500.00), shall be automatically deducted from monies or payments owed to Contractors. Moreover, SAHA shall retain from monies or payments owed to Contractor by SAHA five percent (5%) of the value of the Contract and place this retainage into an account to cover SAHA's potential exposure to liability during the period of such lapse. This retainage shall be held by SAHA until six (6) months after the term of the resulting contract has ended or has otherwise been terminated, cancelled or expired and shall be released if no claims are received or lawsuits filed against SAHA for any matter that should have been covered by the required insurance.

**ATTACHMENT A  
BID FEE FORM  
BIDDER'S CERTIFICATION  
COST ANALYSIS**

**FORM OF BID**

**(Attachment A)**

(This Form must be fully completed and placed under Tab No. 1 of the "hard copy" tabbed bid submittal.)

**Instructions:** Unless otherwise specifically required, the items listed below must be completed and included in the bid submittal. Please complete this form by marking an "X," where provided, to verify that the referenced completed form or information has been included within the "hard copy" bid submittal submitted by the bidder. Also, complete the Section 3 Statement and the Bidder's Statement as noted below:

X=ITEM INCLUDED	SUBMITTAL ITEMS <i>(One (1) Original Signature Copy and one (1) exact copy of bid)</i>
_____	Tab 1 Form of Bid (Attachment A)
_____	Tab 2 HUD Forms & Conflict of Interest Questionnaire(Attachment B)
_____	Tab 3 Client Information
_____	Tab 4 Joint Venture Information
_____	Tab 5 Subcontractor Information & Profile of Firm Forms
_____	Tab 6 Section 3 Business Utilization Plan
_____	Tab 7 S/W/MBE Business Utilization Plan
_____	Tab 8 Section 3 Preference Documentation
_____	Tab 9 Company Biography and other information

**SECTION 3 STATEMENT**

Are you claiming a Section 3 business preference? YES\_\_\_ or NO\_\_\_. If "YES," pursuant to the documentation justifying such submitted under Tab No. 8, which priority are you claiming?

- \_\_\_\_\_ Priority I
- \_\_\_\_\_ Priority II
- \_\_\_\_\_ Priority III
- \_\_\_\_\_ Priority IV

## Fee Form

### Base Bid

Proposed fee for the abatement of asbestos containing materials from the Marie McGuire Apartments as specified herein for a sum not to exceed \$ \_\_\_\_\_.

**Delivery shall not exceed 30 days.**

In performing this contract, the contractor(s) shall comply with any and all applicable federal, state or local laws including but not limited to: Occupational Safety & Health, Equal Employment Opportunity, Immigration and Naturalization, The Americans with Disabilities Act, State Tax and Insurance Law, and the Fair Housing Act. **Initials** \_\_\_\_\_

### Signature & Addenda Acknowledgements

Addendum #1 \_\_\_\_\_ Date \_\_\_\_\_

Addendum #2 \_\_\_\_\_ Date \_\_\_\_\_

Addendum #3 \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
**Signature**

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

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

\_\_\_\_\_  
**Company**

\_\_\_\_\_  
**E-mail address if available**

\_\_\_\_\_  
**Phone**

\_\_\_\_\_  
**Fax**

### Bidder's Certification

By signing below, Bidder certifies that the following statements are true and correct:

1. He/she has full authority to bind Bidder and that no member of Bidder's organization is disbarred, suspended or otherwise prohibited from contracting with any federal, state or local agency,
2. Items for which Bids were provided herein will be delivered as specified in the Bid,
3. In performing this contract, the contractor(s) shall comply with any and all applicable federal, state or local laws including but not limited to: Occupational Safety & Health, Equal Employment Opportunity, Immigration and Naturalization, The Americans with Disabilities Act, State Tax and Insurance Law, and the Fair Housing Act.,
4. Bidder agrees that this bid shall remain open and valid for at least a period of 90 days from the date of the Bid Opening and that this Bid shall constitute an offer, which, if accepted by SAHA and subject to the terms and conditions of such acceptance, shall result in a contract between SAHA and the undersigned Bidder,
5. He/she has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Bid,
6. Bidder, nor the firm, corporation, partnership, or institution represented by the Bidder, or anyone acting for such firm, corporation or institution has violated the antitrust laws of the State of Texas or the Federal Antitrust laws, nor communicated directly or indirectly the Bid made to any competitor or any other person engaged in such line of business,
7. Bidder has not received compensation for participation in the preparation of the specifications for this IFB,
8. **Non-Collusive Affidavit:** The undersigned party submitting this Bid hereby certifies that such Bid is genuine and not collusive and that said Bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any Bidder or person, to put in a sham Bid or to refrain from bidding, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the Bid price of affiant or of any other Bidder, to fix overhead, profit or cost element of said Bid price, or that of any other Bidder or to secure any advantage against SAHA or any person interested in the proposed contract; and that all statements in said Bid are true.
9. **Child Support:** Pursuant to Section 231.006 (d) of the Texas Family Code, regarding child support, the bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.
10. **Lobbying Prohibition:** The Contractor agrees to comply with Section 1352 of Title 31, United States Code which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: 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; or the modification of any Federal contract, grant, loan, or cooperative agreement.

SIGNED: \_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Company Name) (Company Phone & Fax & Email Address)

\_\_\_\_\_  
(Date) (Seal if by Corporation)

**ATTACHMENT B  
HUD FORMS &  
CONFLICT OF INTEREST QUESTIONNAIRE**

**U.S. Department of Housing and  
Urban Development**  
Office of Public and Indian Housing

**Instructions to Bidders for Contracts  
Public and Indian Housing Programs**

# Instructions to Bidders for Contracts

## Public and Indian Housing Programs

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### 1. Bid Preparation and Submission

(a) Bidders are expected to examine the specifications, drawings, all instructions, and, if applicable, the construction site (see also the contract clause entitled **Site Investigation and Conditions Affecting the Work** of the *General Conditions of the Contract for Construction*). Failure to do so will be at the bidders' risk.

(b) All bids must be submitted on the forms provided by the Public Housing Agency/Indian Housing Authority (PHA/IHA). Bidders shall furnish all the information required by the solicitation. Bids must be signed and the bidder's name typed or printed on the bid sheet and each continuation sheet which requires the entry of information by the bidder. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority. (Bidders should retain a copy of their bid for their records.)

(c) Bidders must submit as part of their bid a completed form HUD-5369-A, "Representations, Certifications, and Other Statements of Bidders."

(d) All bid documents shall be sealed in an envelope which shall be clearly marked with the words "Bid Documents," the Invitation for Bids (IFB) number, any project or other identifying number, the bidder's name, and the date and time for receipt of bids.

(e) If this solicitation requires bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words "No Bid" in the space provided for any item on which no price is submitted.

(f) Unless expressly authorized elsewhere in this solicitation, alternate bids will not be considered.

(g) Unless expressly authorized elsewhere in this solicitation, bids submitted by telegraph or facsimile (fax) machines will not be considered.

(h) If the proposed contract is for a Mutual Help project (as described in 24 CFR Part 905, Subpart E) that involves Mutual Help contributions of work, material, or equipment, supplemental information regarding the bid advertisement is provided as an attachment to this solicitation.

### 2. Explanations and Interpretations to Prospective Bidders

(a) Any prospective bidder desiring an explanation or interpretation of the solicitation, specifications, drawings, etc., must request it at least 7 days before the scheduled time for bid opening. Requests may be oral or written. Oral requests must be confirmed in writing. The only oral clarifications that will be provided will be those clearly related to solicitation procedures, i.e., not substantive technical information. No other oral explanation or interpretation will be provided. Any information given a prospective bidder concerning this solicitation will be furnished promptly to all other prospective bidders as a written amendment to the solicitation, if that information is necessary in submitting bids, or if the lack of it would be prejudicial to other prospective bidders.

(b) Any information obtained by, or provided to, a bidder other than by formal amendment to the solicitation shall not constitute a change to the solicitation.

### 3. Amendments to Invitations for Bids

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Bidders shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date on the bid form, or (3) by letter, telegram, or facsimile, if those methods are authorized in the solicitation. The PHA/IHA must receive acknowledgement by the time and at the place specified for receipt of bids. Bids which fail to acknowledge the bidder's receipt of any amendment will result in the rejection of the bid if the amendment(s) contained information which substantively changed the PHA's/IHA's requirements.

(c) Amendments will be on file in the offices of the PHA/IHA and the Architect at least 7 days before bid opening.

### 4. Responsibility of Prospective Contractor

(a) The PHA/IHA will award contracts only to responsible prospective contractors who have the ability to perform successfully under the terms and conditions of the proposed contract. In determining the responsibility of a bidder, the PHA/IHA will consider such matters as the bidder's:

- (1) Integrity;
- (2) Compliance with public policy;
- (3) Record of past performance; and
- (4) Financial and technical resources (including construction and technical equipment).

(b) Before a bid is considered for award, the bidder may be requested by the PHA/IHA to submit a statement or other documentation regarding any of the items in paragraph (a) above. Failure by the bidder to provide such additional information shall render the bidder nonresponsible and ineligible for award.

## 5. Late Submissions, Modifications, and Withdrawal of Bids

(a) Any bid received at the place designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it:

(1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

(2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the PHA/IHA that the late receipt was due solely to mishandling by the PHA/IHA after receipt at the PHA/IHA; or

(3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and observed holidays.

(b) Any modification or withdrawal of a bid is subject to the same conditions as in paragraph (a) of this provision.

(c) The only acceptable evidence to establish the date of mailing of a late bid, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the bid, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, bidders should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(d) The only acceptable evidence to establish the time of receipt at the PHA/IHA is the time/date stamp of PHA/IHA on the proposal wrapper or other documentary evidence of receipt maintained by the PHA/IHA.

(e) The only acceptable evidence to establish the date of mailing of a late bid, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph (c) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, bidders should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and Failure by a bidder to acknowledge receipt of the envelope or wrapper.

(f) Notwithstanding paragraph (a) of this provision, a late modification of an otherwise successful bid that makes its terms more favorable to the PHA/IHA will be considered at any time it is received and may be accepted.

(g) Bids may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before the exact time set for opening of bids; provided that written confirmation of telegraphic or facsimile withdrawals over the signature of the bidder is mailed and postmarked prior to the specified bid opening time. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

## 6. Bid Opening

All bids received by the date and time of receipt specified in the solicitation will be publicly opened and read. The time and place of opening will be as specified in the solicitation. Bidders and other interested persons may be present.

## 7. Service of Protest

(a) Definitions. As used in this provision:

"Interested party" means an actual or prospective bidder whose direct economic interest would be affected by the award of the contract.

"Protest" means a written objection by an interested party to this solicitation or to a proposed or actual award of a contract pursuant to this solicitation.

(b) Protests shall be served on the Contracting Officer by obtaining written and dated acknowledgement from —

Director Of Procurement  
San Antonio Housing Authority  
818 S. Flores  
San Antonio, TX 78204

[Contracting Officer designate the official or location where a protest may be served on the Contracting Officer]

(c) All protests shall be resolved in accordance with the PHA's/IHA's protest policy and procedures, copies of which are maintained at the PHA/IHA.

## 8. Contract Award

(a) The PHA/IHA will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the PHA/IHA considering only price and any price-related factors specified in the solicitation.

(b) If the apparent low bid received in response to this solicitation exceeds the PHA's/IHA's available funding for the proposed contract work, the PHA/IHA may either accept separately priced items (see 8(e) below) or use the following procedure to determine contract award. The PHA/IHA shall apply in turn to each bid (proceeding in order from the apparent low bid to the high bid) each of the separately priced bid deductible items, if any, in their priority order set forth in this solicitation. If upon the application of the first deductible item to all initial bids, a new low bid is within the PHA's/IHA's available funding, then award shall be made to that bidder. If no bid is within the available funding amount, then the PHA/IHA shall apply the second deductible item. The PHA/IHA shall continue this process until an evaluated low bid, if any, is within the PHA's/IHA's available funding. If upon the application of all deductibles, no bid is within the PHA's/IHA's available funding, or if the solicitation does not request separately priced deductibles, the PHA/IHA shall follow its written policy and procedures in making any award under this solicitation.

(c) In the case of tie low bids, award shall be made in accordance with the PHA's/IHA's written policy and procedures.

(d) The PHA/IHA may reject any and all bids, accept other than the lowest bid (e.g., the apparent low bid is unreasonably low), and waive informalities or minor irregularities in bids received, in accordance with the PHA's/IHA's written policy and procedures.

(e) Unless precluded elsewhere in the solicitation, the PHA/IHA may accept any item or combination of items bid.

(f) The PHA/IHA may reject any bid as nonresponsive if it is materially unbalanced as to the prices for the various items of work to be performed. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

(g) A written award shall be furnished to the successful bidder within the period for acceptance specified in the bid and shall result in a binding contract without further action by either party.

#### **9. Bid Guarantee** (applicable to construction and equipment contracts exceeding \$25,000)

All bids must be accompanied by a negotiable bid guarantee which shall not be less than five percent (5%) of the amount of the bid. The bid guarantee may be a certified check, bank draft, U.S. Government Bonds at par value, or a bid bond secured by a surety company acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. In the case where the work under the contract will be performed on an Indian reservation area, the bid guarantee may also be an irrevocable Letter of Credit (see provision 10, Assurance of Completion, below). Certified checks and bank drafts must be made payable to the order of the PHA/IHA. The bid guarantee shall insure the execution of the contract and the furnishing of a method of assurance of completion by the successful bidder as required by the solicitation. Failure to submit a bid guarantee with the bid shall result in the rejection of the bid. Bid guarantees submitted by unsuccessful bidders will be returned as soon as practicable after bid opening.

#### **10. Assurance of Completion**

(a) Unless otherwise provided in State law, the successful bidder shall furnish an assurance of completion prior to the execution of any contract under this solicitation. This assurance may be [Contracting Officer check applicable items] —

(1) a performance and payment bond in a penal sum of 100 percent of the contract price; or, as may be required or permitted by State law;

(2) separate performance and payment bonds, each for 50 percent or more of the contract price;

(3) a 20 percent cash escrow;

(4) a 25 percent irrevocable letter of credit; or,

(5) an irrevocable letter of credit for 10 percent of the total contract price with a monitoring and disbursements agreement with the IHA (applicable only to contracts awarded by an IHA under the Indian Housing Program).

(b) Bonds must be obtained from guarantee or surety companies acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. Individual sureties will not be considered. U.S. Treasury Circular Number 570, published annually in the Federal Register, lists companies approved to act as sureties on bonds securing Government contracts, the maximum underwriting limits on each contract bonded, and the States in which the company is licensed to do business. Use of companies listed in this circular is mandatory. Copies of the circular may be downloaded on the U.S. Department of Treasury website <http://www.fms.treas.gov/c570/index.html>, or ordered for a minimum fee by contacting the Government Printing Office at (202) 512-2168.

(c) Each bond shall clearly state the rate of premium and the total amount of premium charged. The current power of attorney for the person who signs for the surety company must be attached to the bond. The effective date of the power of attorney shall not precede the date of the bond. The effective date of the bond shall be on or after the execution date of the contract.

(d) Failure by the successful bidder to obtain the required assurance of completion within the time specified, or within such extended period as the PHA/IHA may grant based upon reasons determined adequate by the PHA/IHA, shall render the bidder ineligible for award. The PHA/IHA may then either award the contract to the next lowest responsible bidder or solicit new bids. The PHA/IHA may retain the ineligible bidder's bid guarantee.

#### **11. Preconstruction Conference** (applicable to construction contracts)

After award of a contract under this solicitation and prior to the start of work, the successful bidder will be required to attend a preconstruction conference with representatives of the PHA/IHA and its architect/engineer, and other interested parties convened by the PHA/IHA. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract (e.g., Equal Employment Opportunity, Labor Standards). The PHA/IHA will provide the successful bidder with the date, time, and place of the conference.

#### **12. Indian Preference Requirements** (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

(a) HUD has determined that the contract awarded under this solicitation is subject to the requirements of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 7(b) requires that any contract or subcontract entered into for the benefit of Indians shall require that, to the greatest extent feasible

(1) Preferences and opportunities for training and employment (other than core crew positions; see paragraph (h) below) in connection with the administration of such contracts or subcontracts be given to qualified "Indians." The Act defines "Indians" to mean persons who are members of an Indian tribe and defines "Indian tribe" to mean any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and,

(2) Preference in the award of contracts or subcontracts in connection with the administration of contracts be given to Indian organizations and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452). That Act defines "economic enterprise" to mean any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, except that the Indian ownership must constitute not less than 51 percent of the enterprise; "Indian organization" to mean the governing body of any Indian tribe or entity established or recognized by such governing body; "Indian" to mean any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act; and Indian "tribe" to mean any Indian tribe, band, group, pueblo, or community including Native villages and Native groups (including

corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(b) (1) The successful Contractor under this solicitation shall comply with the requirements of this provision in awarding all subcontracts under the contract and in providing training and employment opportunities.

(2) A finding by the IHA that the contractor, either (i) awarded a subcontract without using the procedure required by the IHA, (ii) falsely represented that subcontracts would be awarded to Indian enterprises or organizations; or, (iii) failed to comply with the contractor's employment and training preference bid statement shall be grounds for termination of the contract or for the assessment of penalties or other remedies.

(c) If specified elsewhere in this solicitation, the IHA may restrict the solicitation to qualified Indian-owned enterprises and Indian organizations. If two or more (or a greater number as specified elsewhere in the solicitation) qualified Indian-owned enterprises or organizations submit responsive bids, award shall be made to the qualified enterprise or organization with the lowest responsive bid. If fewer than the minimum required number of qualified Indian-owned enterprises or organizations submit responsive bids, the IHA shall reject all bids and readvertise the solicitation in accordance with paragraph (d) below.

(d) If the IHA prefers not to restrict the solicitation as described in paragraph (c) above, or if after having restricted a solicitation an insufficient number of qualified Indian enterprises or organizations submit bids, the IHA may advertise for bids from non-Indian as well as Indian-owned enterprises and Indian organizations. Award shall be made to the qualified Indian enterprise or organization with the lowest responsive bid if that bid is -

(1) Within the maximum HUD-approved budget amount established for the specific project or activity for which bids are being solicited; and

(2) No more than the percentage specified in 24 CFR 905.175(c) higher than the total bid price of the lowest responsive bid from any qualified bidder. If no responsive bid by a qualified Indian-owned economic enterprise or organization is within the stated range of the total bid price of the lowest responsive bid from any qualified enterprise, award shall be made to the bidder with the lowest bid.

(e) Bidders seeking to qualify for preference in contracting or subcontracting shall submit proof of Indian ownership with their bids. Proof of Indian ownership shall include but not be limited to:

(1) Certification by a tribe or other evidence that the bidder is an Indian. The IHA shall accept the certification of a tribe that an individual is a member.

(2) Evidence such as stock ownership, structure, management, control, financing and salary or profit sharing arrangements of the enterprise.

(f) (1) All bidders must submit with their bids a statement describing how they will provide Indian preference in the award of subcontracts. The specific requirements of that statement and the factors to be used by the IHA in determining the statement's adequacy are included as an attachment to this solicitation. Any bid that fails to include the required statement shall be rejected as nonresponsive. The IHA may require that comparable statements be provided by subcontractors to the successful Contractor, and may require the Contractor to reject any bid or proposal by a subcontractor that fails to include the statement.

(2) Bidders and prospective subcontractors shall submit a certification (supported by credible evidence) to the IHA in any instance where the bidder or subcontractor believes it is infeasible to provide Indian preference in subcontracting. The acceptance or rejection by the IHA of the certification shall be final. Rejection shall disqualify the bid from further consideration.

(g) All bidders must submit with their bids a statement detailing their employment and training opportunities and their plans to provide preference to Indians in implementing the contract; and the number or percentage of Indians anticipated to be employed and trained. Comparable statements from all proposed subcontractors must be submitted. The criteria to be used by the IHA in determining the statement(s)'s adequacy are included as an attachment to this solicitation. Any bid that fails to include the required statement(s), or that includes a statement that does not meet minimum standards required by the IHA shall be rejected as nonresponsive.

(h) Core crew employees. A core crew employee is an individual who is a bona fide employee of the contractor at the time the bid is submitted; or an individual who was not employed by the bidder at the time the bid was submitted, but who is regularly employed by the bidder in a supervisory or other key skilled position when work is available. Bidders shall submit with their bids a list of all core crew employees.

(i) Preference in contracting, subcontracting, employment, and training shall apply not only on-site, on the reservation, or within the IHA's jurisdiction, but also to contracts with firms that operate outside these areas (e.g., employment in modular or manufactured housing construction facilities).

(j) Bidders should contact the IHA to determine if any additional local preference requirements are applicable to this solicitation.

(k) The IHA [ ] does [ ] does not [Contracting Officer check applicable box] maintain lists of Indian-owned economic enterprises and Indian organizations by specialty (e.g., plumbing, electrical, foundations), which are available to bidders to assist them in meeting their responsibility to provide preference in connection with the administration of contracts and subcontracts.

**U.S. Department of Housing  
and Urban Development**  
Office of Public and Indian Housing

**Representations, Certifications,  
and Other Statements of Bidders**  
**Public and Indian Housing Programs**

# Representations, Certifications, and Other Statements of Bidders

## Public and Indian Housing Programs

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### 1. Certificate of Independent Price Determination

(a) The bidder certifies that--

(1) The prices in this bid have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder or competitor relating to (i) those prices, (ii) the intention to submit a bid, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this bid have not been and will not be knowingly disclosed by the bidder, directly or indirectly, to any other bidder or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a competitive proposal solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the bidder to induce any other concern to submit or not to submit a bid for the purpose of restricting competition.

(b) Each signature on the bid is considered to be a certification by the signatory that the signatory--

(1) Is the person in the bidder's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

\_\_\_\_\_ [insert full name of person(s) in the bidder's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the bidder deletes or modifies subparagraph (a)2 above, the bidder must furnish with its bid a signed statement setting forth in detail the circumstances of the disclosure.

[ ] [Contracting Officer check if following paragraph is applicable]

(d) Non-collusive affidavit. (applicable to contracts for construction and equipment exceeding \$50,000)

(1) Each bidder shall execute, in the form provided by the PHA/IHA, an affidavit to the effect that he/she has not colluded with any other person, firm or corporation in regard to any bid submitted in response to this solicitation. If the successful bidder did not submit the affidavit with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the affidavit by that date may render the bid nonresponsive. No contract award will be made without a properly executed affidavit.

(2) A fully executed "Non-collusive Affidavit" [ ] is, [ ] is not included with the bid.

### 2. Contingent Fee Representation and Agreement

(a) Definitions. As used in this provision:

"Bona fide employee" means a person, employed by a bidder and subject to the bidder's supervision and control as to time, place, and manner of performance, who neither exerts, nor proposes to exert improper influence to solicit or obtain contracts nor holds out as being able to obtain any contract(s) through improper influence.

"Improper influence" means any influence that induces or tends to induce a PHA/IHA employee or officer to give consideration or to act regarding a PHA/IHA contract on any basis other than the merits of the matter.

(b) The bidder represents and certifies as part of its bid that, except for full-time bona fide employees working solely for the bidder, the bidder:

(1) [ ] has, [ ] has not employed or retained any person or company to solicit or obtain this contract; and

(2) [ ] has, [ ] has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

(c) If the answer to either (a)(1) or (a)(2) above is affirmative, the bidder shall make an immediate and full written disclosure to the PHA/IHA Contracting Officer.

(d) Any misrepresentation by the bidder shall give the PHA/IHA the right to (1) terminate the contract; (2) at its discretion, deduct from contract payments the amount of any commission, percentage, brokerage, or other contingent fee; or (3) take other remedy pursuant to the contract.

### 3. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (applicable to contracts exceeding \$100,000)

(a) The definitions and prohibitions contained in Section 1352 of title 31, United States Code, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The bidder, by signing its bid, hereby certifies to the best of his or her knowledge and belief as of December 23, 1989 that:

(1) No 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 on his or her behalf in connection with the awarding of a contract resulting from this solicitation;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) 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 on his or her behalf in connection with this solicitation, the bidder shall complete and submit, with its bid, OMB standard form LLL, "Disclosure of Lobbying Activities;" and

(3) He or she will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(d) Indian tribes (except those chartered by States) and Indian organizations as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) are exempt from the requirements of this provision.

#### 4. Organizational Conflicts of Interest Certification

The bidder certifies that to the best of its knowledge and belief and except as otherwise disclosed, he or she does not have any organizational conflict of interest which is defined as a situation in which the nature of work to be performed under this proposed contract and the bidder's organizational, financial, contractual, or other interests may, without some restriction on future activities:

- (a) Result in an unfair competitive advantage to the bidder; or,
- (b) Impair the bidder's objectivity in performing the contract work.

In the absence of any actual or apparent conflict, I hereby certify that to the best of my knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement.

#### 5. Bidder's Certification of Eligibility

(a) By the submission of this bid, the bidder certifies that to the best of its knowledge and belief, neither it, nor any person or firm which has an interest in the bidder's firm, nor any of the bidder's subcontractors, is ineligible to:

(1) Be awarded contracts by any agency of the United States Government, HUD, or the State in which this contract is to be performed; or,

(2) Participate in HUD programs pursuant to 24 CFR Part 24.

(b) The certification in paragraph (a) above is a material representation of fact upon which reliance was placed when making award. If it is later determined that the bidder knowingly rendered an erroneous certification, the contract may be terminated for default, and the bidder may be debarred or suspended from participation in HUD programs and other Federal contract programs.

#### 6. Minimum Bid Acceptance Period

(a) "Acceptance period," as used in this provision, means the number of calendar days available to the PHA/IHA for awarding a contract from the date specified in this solicitation for receipt of bids.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

(c) The PHA/IHA requires a minimum acceptance period of [Contracting Officer insert time period] calendar days.

(d) In the space provided immediately below, bidders may specify a longer acceptance period than the PHA's/IHA's minimum requirement. The bidder allows the following acceptance period: calendar days.

(e) A bid allowing less than the PHA's/IHA's minimum acceptance period will be rejected.

(f) The bidder agrees to execute all that it has undertaken to do, in compliance with its bid, if that bid is accepted in writing within (1) the acceptance period stated in paragraph (c) above or (2) any longer acceptance period stated in paragraph (d) above.

#### 7. Small, Minority, Women-Owned Business Concern Representation

The bidder represents and certifies as part of its bid/ offer that it --

(a)  is,  is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(b)  is,  is not a women-owned business enterprise. "Women-owned business enterprise," as used in this provision, means a business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

(c)  is,  is not a minority business enterprise. "Minority business enterprise," as used in this provision, means a business which is at least 51 percent owned or controlled by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals. For the purpose of this definition, minority group members are:

(Check the block applicable to you)

- |   |   |
|---|---|
| <input type="checkbox"/> Black Americans    | <input type="checkbox"/> Asian Pacific Americans  |
| <input type="checkbox"/> Hispanic Americans | <input type="checkbox"/> Asian Indian Americans   |
| <input type="checkbox"/> Native Americans   | <input type="checkbox"/> Hasidic Jewish Americans |

#### 8. Indian-Owned Economic Enterprise and Indian Organization Representation (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

The bidder represents and certifies that it:

(a)  is,  is not an Indian-owned economic enterprise. "Economic enterprise," as used in this provision, means any commercial, industrial, or business activity established or organized for the purpose of profit, which is at least 51 percent Indian owned. "Indian," as used in this provision, means any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act.

(b)  is,  is not an Indian organization. "Indian organization," as used in this provision, means the governing body of any Indian tribe or entity established or recognized by such governing body. Indian "tribe" means any Indian tribe, band, group, pueblo, or

community including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

**9. Certification of Eligibility Under the Davis-Bacon Act** (applicable to construction contracts exceeding \$2,000)

(a) By the submission of this bid, the bidder certifies that neither it nor any person or firm who has an interest in the bidder's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of the contract resulting from this solicitation shall be subcontracted to any person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

**10. Certification of Nonsegregated Facilities** (applicable to contracts exceeding \$10,000)

(a) The bidder's attention is called to the clause entitled **Equal Employment Opportunity** of the General Conditions of the Contract for Construction.

(b) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

(c) By the submission of this bid, the bidder certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The bidder agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in the contract.

(d) The bidder further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) prior to entering into subcontracts which exceed \$10,000 and are not exempt from the requirements of the Equal Employment Opportunity clause, it will:

(1) Obtain identical certifications from the proposed subcontractors;

(2) Retain the certifications in its files; and

(3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

**Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities**

A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause of the prime contract. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

**Note:** The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

**11. Clean Air and Water Certification** (applicable to contracts exceeding \$100,000)

The bidder certifies that:

(a) Any facility to be used in the performance of this contract [ ] is, [ ] is not listed on the Environmental Protection Agency List of Violating Facilities:

(b) The bidder will immediately notify the PHA/IHA Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the bidder proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and,

(c) The bidder will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

**12. Previous Participation Certificate** (applicable to construction and equipment contracts exceeding \$50,000)

(a) The bidder shall complete and submit with his/her bid the Form HUD-2530, "Previous Participation Certificate." If the successful bidder does not submit the certificate with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the certificate by that date may render the bid nonresponsive. No contract award will be made without a properly executed certificate.

(b) A fully executed "Previous Participation Certificate" [ ] is, [ ] is not included with the bid.

**13. Bidder's Signature**

The bidder hereby certifies that the information contained in these certifications and representations is accurate, complete, and current.

\_\_\_\_\_  
(Signature and Date)

\_\_\_\_\_  
(Typed or Printed Name)

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

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

\_\_\_\_\_  
(Company Address)

# General Conditions for Construction Contracts - Public Housing Programs

U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing  
OMB Approval No. 2577-0157 (exp. 1/31/2014)

**Applicability. This form is applicable to any construction/development contract greater than \$100,000.**

This form includes those clauses required by OMB's common rule on grantee procurement, implemented at HUD in 24 CFR 85.36, and those requirements set forth in Section 3 of the Housing and Urban Development Act of 1968 and its amendment by the Housing and Community Development Act of 1992, implemented by HUD at 24 CFR Part 135. The form is required for construction contracts awarded by Public Housing Agencies (PHAs).

The form is used by Housing Authorities in solicitations to provide necessary contract clauses. If the form were not used, HAs would be unable to enforce their contracts.

Public reporting burden for this collection of information is estimated to average 1.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Responses to the collection of information are required to obtain a benefit or to retain a benefit.

The information requested does not lend itself to confidentiality.

HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB number.

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## 1. Definitions

- (a) "Architect" means the person or other entity engaged by the PHA to perform architectural, engineering, design, and other services related to the work as provided for in the contract. When a PHA uses an engineer to act in this capacity, the terms "architect" and "engineer" shall be synonymous. The Architect shall serve as a technical representative of the Contracting Officer. The Architect's authority is as set forth elsewhere in this contract.
- (b) "Contract" means the contract entered into between the PHA and the Contractor. It includes the forms of Bid, the Bid Bond, the Performance and Payment Bond or Bonds or other assurance of completion, the Certifications, Representations, and Other Statements of Bidders (form HUD-5370), these General Conditions of the Contract for Construction (form HUD-5370), the applicable wage rate determinations from the U.S. Department of Labor, any special conditions included elsewhere in the contract, the specifications, and drawings. It includes all formal changes to any of those documents by addendum, change order, or other modification.
- (c) "Contracting Officer" means the person delegated the authority by the PHA to enter into, administer, and/or terminate this contract and designated as such in writing to the Contractor. The term includes any successor Contracting Officer and any duly authorized representative of the Contracting Officer also designated in writing. The Contracting Officer shall be deemed the authorized agent of the PHA in all dealings with the Contractor.
- (d) "Contractor" means the person or other entity entering into the contract with the PHA to perform all of the work required under the contract.
- (e) "Drawings" means the drawings enumerated in the schedule of drawings contained in the Specifications and as described in the contract clause entitled Specifications and Drawings for Construction herein.
- (f) "HUD" means the United States of America acting through the Department of Housing and Urban Development including the Secretary, or any other person designated to act on its behalf. HUD has agreed, subject to the provisions of an Annual Contributions Contract (ACC), to provide financial assistance to the PHA, which includes assistance in financing the work to be performed under this contract. As defined elsewhere in these General Conditions or the contract documents, the determination of HUD may be required to authorize changes in the work or for release of funds to the PHA for payment to the Contractor. Notwithstanding HUD's role, nothing in this contract shall be construed to create any contractual relationship between the Contractor and HUD.
- (g) "Project" means the entire project, whether construction or rehabilitation, the work for which is provided for in whole or in part under this contract.
- (h) "PHA" means the Public Housing Agency organized under applicable state laws which is a party to this contract.
- (i) "Specifications" means the written description of the technical requirements for construction and includes the criteria and tests for determining whether the requirements are met.
- (l) "Work" means materials, workmanship, and manufacture and fabrication of components.
- (a) The Contractor shall furnish all necessary labor, materials, tools, equipment, and transportation necessary for performance of the work. The Contractor shall also furnish all necessary water, heat, light, and power not made available to the Contractor by the PHA pursuant to the clause entitled Availability and Use of Utility Services herein.
- (b) The Contractor shall perform on the site, and with its own organization, work equivalent to at least [ ] (12 percent unless otherwise indicated) of the total amount of work to be performed under the order. This percentage may be reduced by a supplemental agreement to this order if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the PHA.
- (c) At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the work site a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.
- (d) The Contractor shall be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence, and shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The Contractor shall hold and save the PHA, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.
- (e) The Contractor shall lay out the work from base lines and bench marks indicated on the drawings and be responsible for all lines, levels, and measurements of all work executed under the contract. The Contractor shall verify the figures before laying out the work and will be held responsible for any error resulting from its failure to do so.
- (f) The Contractor shall confine all operations (including storage of materials) on PHA premises to areas authorized or approved by the Contracting Officer.
- (g) The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. After completing the work and before final inspection, the Contractor shall (1) remove from the premises all scaffolding, equipment, tools, and materials (including rejected materials) that are not the property of the PHA and all rubbish caused by its work; (2) leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer; (3) perform all specified tests; and, (4) deliver the installation in complete and operating condition.
- (h) The Contractor's responsibility will terminate when all work has been completed, the final inspection made, and the work accepted by the Contracting Officer. The Contractor will then be released from further obligation except as required by the warranties specified elsewhere in the contract.

## 3. Architect's Duties, Responsibilities, and Authority

- (a) The Architect for this contract, and any successor, shall be designated in writing by the Contracting Officer.

## 2. Contractor's Responsibility for Work

- (b) The Architect shall serve as the Contracting Officer's technical representative with respect to architectural, engineering, and design matters related to the work performed under the contract. The Architect may provide direction on contract performance. Such direction shall be within the scope of the contract and may not be of a nature which: (1) institutes additional work outside the scope of the contract; (2) constitutes a change as defined in the Changes clause herein; (3) causes an increase or decrease in the cost of the contract; (4) alters the Construction Progress Schedule; or (5) changes any of the other express terms or conditions of the contract.
- (c) The Architect's duties and responsibilities may include but shall not be limited to:
- (1) Making periodic visits to the work site, and on the basis of his/her on-site inspections, issuing written reports to the PHA which shall include all observed deficiencies. The Architect shall file a copy of the report with the Contractor's designated representative at the site;
  - (2) Making modifications in drawings and technical specifications and assisting the Contracting Officer in the preparation of change orders and other contract modifications for issuance by the Contracting Officer;
  - (3) Reviewing and making recommendations with respect to - (i) the Contractor's construction progress schedules; (ii) the Contractor's shop and detailed drawings; (iii) the machinery, mechanical and other equipment and materials or other articles proposed for use by the Contractor; and, (iv) the Contractor's price breakdown and progress payment estimates; and,
  - (4) Assisting in inspections, signing Certificates of Completion, and making recommendations with respect to acceptance of work completed under the contract.

#### 4. Other Contracts

The PHA may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with PHA employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by PHA employees

### Construction Requirements

#### 5. Pre-construction Conference and Notice to Proceed

- (a) Within ten calendar days of contract execution, and prior to the commencement of work, the Contractor shall attend a preconstruction conference with representatives of the PHA, its Architect, and other interested parties convened by the PHA. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract. The PHA will provide the Contractor with the date, time, and place of the conference.
- (b) The contractor shall begin work upon receipt of a written Notice to Proceed from the Contracting Officer or designee. The Contractor shall not begin work prior to receiving such notice.

#### 6. Construction Progress Schedule

- (a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring labor, materials, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments or take other remedies under the contract until the Contractor submits the required schedule.
- (b) The Contractor shall enter the actual progress on the chart as required by the Contracting Officer, and immediately deliver three copies of the annotated schedule to the Contracting Officer. If the Contracting Officer determines, upon the basis of inspection conducted pursuant to the clause entitled Inspection and Acceptance of Construction, herein that the Contractor is not meeting the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the PHA. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.
- (c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the Contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the Default clause of this contract.

#### 7. Site Investigation and Conditions Affecting the Work

- (a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to, (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is

reasonably ascertainable from an inspection of the site, including all exploratory work done by the PHA, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the PHA.

- (b) The PHA assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the PHA. Nor does the PHA assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

### 8. Differing Site Conditions

- (a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or (2) unknown physical conditions at the site(s), of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.
- (b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. Work shall not proceed at the affected site, except at the Contractor's risk, until the Contracting Officer has provided written instructions to the Contractor. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, the Contractor shall file a claim in writing to the PHA within ten days after receipt of such instructions and, in any event, before proceeding with the work. An equitable adjustment in the contract price, the delivery schedule, or both shall be made under this clause and the contract modified in writing accordingly.
- (c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in (a) above for giving written notice may be extended by the Contracting Officer.
- (d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

### 9. Specifications and Drawings for Construction

- (a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be

promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

- (b) Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of the Contracting Officer is intended and similarly the words "approved", "acceptable", "satisfactory", or words of like import shall mean "approved by", or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.
- (c) Where "as shown", "as indicated", "as detailed", or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place" that is "furnished and installed".
- (d) "Shop drawings" means drawings, submitted to the PHA by the Contractor, subcontractor, or any lower tier subcontractor, showing in detail (1) the proposed fabrication and assembly of structural elements and (2) the installation (i.e., form, fit, and attachment details) of materials of equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the work required by the contract. The PHA may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.
- (e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with other contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the PHA's reasons therefore. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.
- (f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Architect approves any such variation and the Contracting Officer concurs, the Contracting Officer shall issue an appropriate modification to the contract, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.
- (g) It shall be the responsibility of the Contractor to make timely requests of the PHA for such large scale and full size drawings, color schemes, and other additional information, not already in his possession, which shall be

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required in the planning and production of the work. Such requests may be submitted as the need arises, but each such request shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay.

- (h) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the PHA and one set will be returned to the Contractor. As required by the Contracting Officer, the Contractor, upon completing the work under this contract, shall furnish a complete set of all shop drawings as finally approved. These drawings shall show all changes and revisions made up to the time the work is completed and accepted.
- (i) This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Contractor to ensure that all shop drawings prepared by subcontractors are submitted to the Contracting Officer.

#### 10. As-Built Drawings

- (a) "As-built drawings," as used in this clause, means drawings submitted by the Contractor or subcontractor at any tier to show the construction of a particular structure or work as actually completed under the contract. "As-built drawings" shall be synonymous with "Record drawings."
- (b) As required by the Contracting Officer, the Contractor shall provide the Contracting Officer accurate information to be used in the preparation of permanent as-built drawings. For this purpose, the Contractor shall record on one set of contract drawings all changes from the installations originally indicated, and record final locations of underground lines by depth from finish grade and by accurate horizontal offset distances to permanent surface improvements such as buildings, curbs, or edges of walks.
- (c) This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Contractor to ensure that all as-built drawings prepared by subcontractors are submitted to the Contracting Officer.

#### 11. Material and Workmanship

- (a) All equipment, material, and articles furnished under this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the contract to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of, and as approved by the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.
- (b) Approval of equipment and materials.
  - (1) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the

machinery and mechanical and other equipment. When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

- (2) When required by the specifications or the Contracting Officer, the Contractor shall submit appropriately marked samples (and certificates related to them) for approval at the Contractor's expense, with all shipping charges prepaid. The Contractor shall label, or otherwise properly mark on the container, the material or product represented, its place of origin, the name of the producer, the Contractor's name, and the identification of the construction project for which the material or product is intended to be used.
- (3) Certificates shall be submitted in triplicate, describing each sample submitted for approval and certifying that the material, equipment or accessory complies with contract requirements. The certificates shall include the name and brand of the product, name of manufacturer, and the location where produced.
- (4) Approval of a sample shall not constitute a waiver of the PHA right to demand full compliance with contract requirements. Materials, equipment and accessories may be rejected for cause even though samples have been approved.
- (5) Wherever materials are required to comply with recognized standards or specifications, such specifications shall be accepted as establishing the technical qualities and testing methods, but shall not govern the number of tests required to be made nor modify other contract requirements. The Contracting Officer may require laboratory test reports on items submitted for approval or may approve materials on the basis of data submitted in certificates with samples. Check tests will be made on materials delivered for use only as frequently as the Contracting Officer determines necessary to insure compliance of materials with the specifications. The Contractor will assume all costs of retesting materials which fail to meet contract requirements and/or testing materials offered in substitution for those found deficient.
- (6) After approval, samples will be kept in the Project office until completion of work. They may be built into the work after a substantial quantity of the materials they represent has been built in and accepted.
- (c) Requirements concerning lead-based paint. The Contractor shall comply with the requirements concerning lead-based paint contained in the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as implemented by 24 CFR Part 35.

#### 12. Permits and Codes

- (a) The Contractor shall give all notices and comply with all applicable laws, ordinances, codes, rules and regulations. Notwithstanding the requirement of the Contractor to comply with the drawings and specifications in the contract, all work installed shall comply with all applicable codes and regulations as amended by any

waivers. Before installing the work, the Contractor shall examine the drawings and the specifications for compliance with applicable codes and regulations bearing on the work and shall immediately report any discrepancy it may discover to the Contracting Officer. Where the requirements of the drawings and specifications fail to comply with the applicable code or regulation, the Contracting Officer shall modify the contract by change order pursuant to the clause entitled Changes herein to conform to the code or regulation.

- (b) The Contractor shall secure and pay for all permits, fees, and licenses necessary for the proper execution and completion of the work. Where the PHA can arrange for the issuance of all or part of these permits, fees and licenses, without cost to the Contractor, the contract amount shall be reduced accordingly.

### 13. Health, Safety, and Accident Prevention

- (a) In performing this contract, the Contractor shall:
- (1) Ensure that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and/or safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation;
  - (2) Protect the lives, health, and safety of other persons;
  - (3) Prevent damage to property, materials, supplies, and equipment; and,
  - (4) Avoid work interruptions.
- (b) For these purposes, the Contractor shall:
- (1) Comply with regulations and standards issued by the Secretary of Labor at 29 CFR Part 1926. 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 U.S.C. 3701 et seq.; and
  - (2) Include the terms of this clause in every subcontract so that such terms will be binding on each subcontractor.
- (c) The Contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment, and shall report this data in the manner prescribed by 29 CFR Part 1904.
- (d) The Contracting Officer shall notify the Contractor of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to the Contractor or the Contractor's representative at the site of the work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to take corrective action promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.
- (e) The Contractor shall be responsible for its subcontractors' compliance with the provisions of this clause. The Contractor shall take such action with respect to any subcontract as the PHA, the Secretary of Housing and Urban Development, or the Secretary of Labor shall direct as a means of enforcing such provisions.

### 14. Temporary Heating

The Contractor shall provide and pay for temporary heating, covering, and enclosures necessary to properly protect all work and materials against damage by dampness and cold, to dry out the work, and to facilitate the completion of the work. Any permanent heating equipment used shall be turned over to the PHA in the condition and at the time required by the specifications.

### 15. Availability and Use of Utility Services

- (a) The PHA shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies, as specified in the contract. Unless otherwise provided in the contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the PHA or, where the utility is produced by the PHA, at reasonable rates determined by the Contracting Officer. The Contractor shall carefully conserve any utilities furnished without charge.
- (b) The Contractor, at its expense and in a manner satisfactory to the Contracting Officer, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges. Before final acceptance of the work by the PHA, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.

### 16. Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements

- (a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed under this contract, and which do not unreasonably interfere with the work required under this contract.
- (b) The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during performance of this contract, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.
- (c) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. Prior to disturbing the ground at the construction site, the Contractor shall ensure that all underground utility lines are clearly marked.
- (d) The Contractor shall shore up, brace, underpin, secure, and protect as necessary all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be affected by the excavations or other operations connected with the construction of the project.
- (e) Any equipment temporarily removed as a result of work under this contract shall be protected, cleaned, and replaced in the same condition as at the time of award of this contract.

- (f) New work which connects to existing work shall correspond in all respects with that to which it connects and/or be similar to existing work unless otherwise required by the specifications.
- (g) No structural members shall be altered or in any way weakened without the written authorization of the Contracting Officer, unless such work is clearly specified in the plans or specifications.
- (h) If the removal of the existing work exposes discolored or unfinished surfaces, or work out of alignment, such surfaces shall be refinished, or the material replaced as necessary to make the continuous work uniform and harmonious. This, however, shall not be construed to require the refinishing or reconstruction of dissimilar finishes previously exposed, or finished surfaces in good condition, but in different planes or on different levels when brought together by the removal of intervening work, unless such refinishing or reconstruction is specified in the plans or specifications.
- (i) The Contractor shall give all required notices to any adjoining or adjacent property owner or other party before the commencement of any work.
- (j) The Contractor shall indemnify and save harmless the PHA from any damages on account of settlement or the loss of lateral support of adjoining property, any damages from changes in topography affecting drainage, and from all loss or expense and all damages for which the PHA may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.
- (k) The Contractor shall repair any damage to vegetation, structures, equipment, utilities, or improvements, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

#### **17. Temporary Buildings and Transportation of Materials**

- (a) Temporary buildings (e.g., storage sheds, shops, offices, sanitary facilities) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the PHA. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.
- (b) The Contractor shall, as directed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any federal, state, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

#### **18. Clean Air and Water**

The contractor shall comply with the Clean Air Act, as amended, 42 USC 7401 et seq., the Federal Water Pollution Control Water Act, as amended, 33 U.S.C. 1251 et seq., and standards issued pursuant thereto in the facilities in which this contract is to be performed.

#### **19. Energy Efficiency**

The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under the contract is performed.

#### **20. Inspection and Acceptance of Construction**

- (a) Definitions. As used in this clause -
  - (1) "Acceptance" means the act of an authorized representative of the PHA by which the PHA approves and assumes ownership of the work performed under this contract. Acceptance may be partial or complete.
  - (2) "Inspection" means examining and testing the work performed under the contract (including, when appropriate, raw materials, equipment, components, and intermediate assemblies) to determine whether it conforms to contract requirements.
  - (3) "Testing" means that element of inspection that determines the properties or elements, including functional operation of materials, equipment, or their components, by the application of established scientific principles and procedures.
- (b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. All work is subject to PHA inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.
- (c) PHA inspections and tests are for the sole benefit of the PHA and do not: (1) relieve the Contractor of responsibility for providing adequate quality control measures; (2) relieve the Contractor of responsibility for loss or damage of the material before acceptance; (3) constitute or imply acceptance; or, (4) affect the continuing rights of the PHA after acceptance of the completed work under paragraph (j) below.
- (d) The presence or absence of the PHA inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specifications without the Contracting Officer's written authorization. All instructions and approvals with respect to the work shall be given to the Contractor by the Contracting Officer.
- (e) The Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The PHA may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The PHA shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

- (f) The PHA may conduct routine inspections of the construction site on a daily basis.
- (g) The Contractor shall, without charge, replace or correct work found by the PHA not to conform to contract requirements, unless the PHA decides that it is in its interest to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.
- (h) If the Contractor does not promptly replace or correct rejected work, the PHA may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor, or (2) terminate for default the Contractor's right to proceed.
- (i) If any work requiring inspection is covered up without approval of the PHA, it must, if requested by the Contracting Officer, be uncovered at the expense of the Contractor. If at any time before final acceptance of the entire work, the PHA considers it necessary or advisable, to examine work already completed by removing or tearing it out, the Contractor, shall on request, promptly furnish all necessary facilities, labor, and material. If such work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray all the expenses of the examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, the Contracting Officer shall make an equitable adjustment to cover the cost of the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.
- (j) The Contractor shall notify the Contracting Officer, in writing, as to the date when in its opinion all or a designated portion of the work will be substantially completed and ready for inspection. If the Architect determines that the state of preparedness is as represented, the PHA will promptly arrange for the inspection. Unless otherwise specified in the contract, the PHA shall accept, as soon as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines and designates can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the PHA's right under any warranty or guarantee.

## 21. Use and Possession Prior to Completion

- (a) The PHA shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the PHA intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The PHA's possession or use shall not be deemed an acceptance of any work under the contract.
- (b) While the PHA has such possession or use, the Contractor shall be relieved of the responsibility for (1) the loss of or damage to the work resulting from the PHA's possession or use, notwithstanding the terms of the clause entitled Permits and Codes herein; (2) all maintenance costs on the areas occupied; and, (3) furnishing heat, light, power, and water used in the areas

occupied without proper remuneration therefore. If prior possession or use by the PHA delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

## 22. Warranty of Title

The Contractor warrants good title to all materials, supplies, and equipment incorporated in the work and agrees to deliver the premises together with all improvements thereon free from any claims, liens or charges, and agrees further that neither it nor any other person, firm or corporation shall have any right to a lien upon the premises or anything appurtenant thereto.

## 23. Warranty of Construction

- (a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (j) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or workmanship performed by the Contractor or any subcontractor or supplier at any tier. This warranty shall continue for a period of \_\_\_\_\_ (one year unless otherwise indicated) from the date of final acceptance of the work. If the PHA takes possession of any part of the work before final acceptance, this warranty shall continue for a period of (one year unless otherwise indicated) from the date that the PHA takes possession.
- (b) The Contractor shall remedy, at the Contractor's expense, any failure to conform, or any defect. In addition, the Contractor shall remedy, at the Contractor's expense, any damage to PHA-owned or controlled real or personal property when the damage is the result of—
  - (1) The Contractor's failure to conform to contract requirements; or
  - (2) Any defects of equipment, material, workmanship or design furnished by the Contractor.
- (c) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for (one year unless otherwise indicated) from the date of repair or replacement.
- (d) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect or damage.
- (e) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the PHA shall have the right to replace, repair or otherwise remedy the failure, defect, or damage at the Contractor's expense.
- (f) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall:
  - (1) Obtain all warranties that would be given in normal commercial practice;
  - (2) Require all warranties to be executed in writing, for the benefit of the PHA; and,
  - (3) Enforce all warranties for the benefit of the PHA.
- (g) In the event the Contractor's warranty under paragraph (a) of this clause has expired, the PHA may bring suit at its own expense to enforce a subcontractor's, manufacturer's or supplier's warranty.

- (h) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defect of material or design furnished by the PHA nor for the repair of any damage that results from any defect in PHA furnished material or design.
- (i) Notwithstanding any provisions herein to the contrary, the establishment of the time periods in paragraphs (a) and (c) above relate only to the specific obligation of the Contractor to correct the work, and have no relationship to the time within which its obligation to comply with the contract may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to its obligation other than specifically to correct the work.
- (j) This warranty shall not limit the PHA's rights under the Inspection and Acceptance of Construction clause of this contract with respect to latent defects, gross mistakes or fraud.

**24. Prohibition Against Liens**

The Contractor is prohibited from placing a lien on the PHA's property. This prohibition shall apply to all subcontractors at any tier and all materials suppliers.

**Administrative Requirements**

**25. Contract Period**

The Contractor shall complete all work required under this contract within \_\_\_\_\_ calendar days of the effective date of the contract, or within the time schedule established in the notice to proceed issued by the Contracting Officer.

**26. Order of Provisions**

In the event of a conflict between these General Conditions and the Specifications, the General Conditions shall prevail. In the event of a conflict between the contract and any applicable state or local law or regulation, the state or local law or regulation shall prevail; provided that such state or local law or regulation does not conflict with, or is less restrictive than applicable federal law, regulation, or Executive Order. In the event of such a conflict, applicable federal law, regulation, and Executive Order shall prevail.

**27. Payments**

- (a) The PHA shall pay the Contractor the price as provided in this contract.
- (b) The PHA shall make progress payments approximately every 30 days as the work proceeds, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer. The PHA may, subject to written determination and approval of the Contracting Officer, make more frequent payments to contractors which are qualified small businesses.
- (c) Before the first progress payment under this contract, the Contractor shall furnish, in such detail as requested by the Contracting Officer, a breakdown of the total contract price showing the amount included therein for each principal category of the work, which shall substantiate the payment amount requested in order to provide a

- basis for determining progress payments. The breakdown shall be approved by the Contracting Officer and must be acceptable to HUD. If the contract covers more than one project, the Contractor shall furnish a separate breakdown for each. The values and quantities employed in making up this breakdown are for determining the amount of progress payments and shall not be construed as a basis for additions to or deductions from the contract price. The Contractor shall prorate its overhead and profit over the construction period of the contract.
- (d) The Contractor shall submit, on forms provided by the PHA, periodic estimates showing the value of the work performed during each period based upon the approved breakdown of the contract price. Such estimates shall be submitted not later than \_\_\_\_\_ days in advance of the date set for payment and are subject to correction and revision as required. The estimates must be approved by the Contracting Officer with the concurrence of the Architect prior to payment. If the contract covers more than one project, the Contractor shall furnish a separate progress payment estimate for each.
- (e) Along with each request for progress payments and the required estimates, the Contractor shall furnish the following certification, or payment shall not be made: I hereby certify, to the best of my knowledge and belief, that:
  - (1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;
  - (2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements; and,
  - (3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract.

\_\_\_\_\_  
Name:

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

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

- (f) Except as otherwise provided in State law, the PHA shall retain ten (10) percent of the amount of progress payments until completion and acceptance of all work under the contract; except, that if upon completion of 50 percent of the work, the Contracting Officer, after consulting with the Architect, determines that the Contractor's performance and progress are satisfactory, the PHA may make the remaining payments in full for the work subsequently completed. If the Contracting Officer subsequently determines that the Contractor's performance and progress are unsatisfactory, the PHA shall reinstate the ten (10) percent (or other percentage as provided in State law) retainage until such time as the Contracting Officer determines that performance and progress are satisfactory.
- (g) The Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration when computing progress payments.

Material delivered to the Contractor at locations other than the site may also be taken into consideration if the Contractor furnishes satisfactory evidence that (1) it has acquired title to such material; (2) the material is properly stored in a bonded warehouse, storage yard, or similar suitable place as may be approved by the Contracting Officer; (3) the material is insured to cover its full value; and (4) the material will be used to perform this contract. Before any progress payment which includes delivered material is made, the Contractor shall furnish such documentation as the Contracting Officer may require to assure the protection of the PHA's interest in such materials. The Contractor shall remain responsible for such stored material notwithstanding the transfer of title to the PHA.

- (h) All material and work covered by progress payments made shall, at the time of payment become the sole property of the PHA, but this shall not be construed as (1) relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or, (2) waiving the right of the PHA to require the fulfillment of all of the terms of the contract. In the event the work of the Contractor has been damaged by other contractors or persons other than employees of the PHA in the course of their employment, the Contractor shall restore such damaged work without cost to the PHA and to seek redress for its damage only from those who directly caused it.
- (i) The PHA shall make the final payment due the Contractor under this contract after (1) completion and final acceptance of all work; and (2) presentation of release of all claims against the PHA arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. Each such exception shall embrace no more than one claim, the basis and scope of which shall be clearly defined. The amounts for such excepted claims shall not be included in the request for final payment. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned.
- (j) Prior to making any payment, the Contracting Officer may require the Contractor to furnish receipts or other evidence of payment from all persons performing work and supplying material to the Contractor, if the Contracting Officer determines such evidence is necessary to substantiate claimed costs.
- (k) The PHA shall not; (1) determine or adjust any claims for payment or disputes arising there under between the Contractor and its subcontractors or material suppliers; or, (2) withhold any moneys for the protection of the subcontractors or material suppliers. The failure or refusal of the PHA to withhold moneys from the Contractor shall in no wise impair the obligations of any surety or sureties under any bonds furnished under this contract.

## 28. Contract Modifications

- (a) Only the Contracting Officer has authority to modify any term or condition of this contract. Any contract modification shall be authorized in writing.
- (b) The Contracting Officer may modify the contract unilaterally (1) pursuant to a specific authorization stated in a contract clause (e.g., Changes); or (2) for administrative matters which do not change the rights or

responsibilities of the parties (e.g., change in the PHA address). All other contract modifications shall be in the form of supplemental agreements signed by the Contractor and the Contracting Officer.

- (c) When a proposed modification requires the approval of HUD prior to its issuance (e.g., a change order that exceeds the PHA's approved threshold), such modification shall not be effective until the required approval is received by the PHA.

## 29. Changes

- (a) The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract including changes:
  - (1) In the specifications (including drawings and designs);
  - (2) In the method or manner of performance of the work;
  - (3) PHA-furnished facilities, equipment, materials, services, or site; or,
  - (4) Directing the acceleration in the performance of the work.
- (b) Any other written order or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances and source of the order and (2) that the Contractor regards the order as a change order.
- (c) Except as provided in this clause, no order, statement or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.
- (d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for a adjustment based on defective specifications, no proposal for any change under paragraph (b) above shall be allowed for any costs incurred more than 20 days (5 days for oral orders) before the Contractor gives written notice as required. In the case of defective specifications for which the PHA is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.
- (e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause, or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting a written statement describing the general nature and the amount of the proposal. If the facts justify it, the Contracting Officer may extend the period for submission. The proposal may be included in the notice required under paragraph (b) above. No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.
- (f) The Contractor's written proposal for equitable adjustment shall be submitted in the form of a lump sum proposal supported with an itemized breakdown of all increases and decreases in the contract in at least the following details:

- (1) Direct Costs. Materials (list individual items, the quantity and unit cost of each, and the aggregate cost); Transportation and delivery costs associated with materials; Labor breakdowns by hours or unit costs (identified with specific work to be performed); Construction equipment exclusively necessary for the change; Costs of preparation and/ or revision to shop drawings resulting from the change; Worker's Compensation and Public Liability Insurance; Employment taxes under FICA and FUTA; and, Bond Costs when size of change warrants revision.
- (2) Indirect Costs. Indirect costs may include overhead, general and administrative expenses, and fringe benefits not normally treated as direct costs.
- (3) Profit. The amount of profit shall be negotiated and may vary according to the nature, extent, and complexity of the work required by the change.

The allowability of the direct and indirect costs shall be determined in accordance with the Contract Cost Principles and Procedures for Commercial Firms in Part 31 of the Federal Acquisition Regulation (48 CFR 1-31), as implemented by HUD Handbook 2210.18, in effect on the date of this contract. The Contractor shall not be allowed a profit on the profit received by any subcontractor. Equitable adjustments for deleted work shall include a credit for profit and may include a credit for indirect costs. On proposals covering both increases and decreases in the amount of the contract, the application of indirect costs and profit shall be on the net-change in direct costs for the Contractor or subcontractor performing the work.

- (g) The Contractor shall include in the proposal its request for time extension (if any), and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the contract in its entirety.
- (h) The Contracting Officer shall act on proposals within 30 days after their receipt, or notify the Contractor of the date when such action will be taken.
- (i) Failure to reach an agreement on any proposal shall be a dispute under the clause entitled Disputes herein. Nothing in this clause, however, shall excuse the Contractor from proceeding with the contract as changed.
- (j) Except in an emergency endangering life or property, no change shall be made by the Contractor without a prior order from the Contracting Officer.

### 30. Suspension of Work

- (a) The Contracting Officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the PHA.
- (b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified (or within a reasonable time if not specified) in this contract an adjustment shall be made for any increase in the cost of performance of the contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have

been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or for which any equitable adjustment is provided for or excluded under any other provision of this contract.

- (c) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and, (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

### 31. Disputes

- (a) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under the contract, unlike a claim relating to the contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.
- (b) Except for disputes arising under the clauses entitled Labor Standards - Davis Bacon and Related Acts, herein, all disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.
- (c) All claims by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the PHA against the Contractor shall be subject to a written decision by the Contracting Officer.
- (d) The Contracting Officer shall, within 60 (unless otherwise indicated) days after receipt of the request, decide the claim or notify the Contractor of the date by which the decision will be made.
- (e) The Contracting Officer's decision shall be final unless the Contractor (1) appeals in writing to a higher level in the PHA in accordance with the PHA's policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within (30 unless otherwise indicated) days after receipt of the Contracting Officer's decision.
- (f) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

### 32. Default

- (a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within this time, the Contracting Officer may, by written notice to the Contractor, terminate the right to

proceed with the work (or separable part of the work) that has been delayed. In this event, the PHA may take over the work and complete it, by contract or otherwise, and may take possession of and use any materials, equipment, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the PHA resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the PHA in completing the work.

- (b) The Contractor's right to proceed shall not be terminated or the Contractor charged with damages under this clause if—
- (1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (i) acts of God, or of the public enemy, (ii) acts of the PHA or other governmental entity in either its sovereign or contractual capacity, (iii) acts of another contractor in the performance of a contract with the PHA, (iv) fires, (v) floods, (vi) epidemics, (vii) quarantine restrictions, (viii) strikes, (ix) freight embargoes, (x) unusually severe weather, or (xi) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and
  - (2) The Contractor, within days (10 days unless otherwise indicated) from the beginning of such delay (unless extended by the Contracting Officer) notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, time for completing the work shall be extended by written modification to the contract. The findings of the Contracting Officer shall be reduced to a written decision which shall be subject to the provisions of the Disputes clause of this contract.
- (c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been for convenience of the PHA.

### 33. Liquidated Damages

- (a) If the Contractor fails to complete the work within the time specified in the contract, or any extension, as specified in the clause entitled Default of this contract, the Contractor shall pay to the PHA as liquidated damages, the sum of \$\_\_\_\_\_ [Contracting Officer insert amount] for each day of delay. If different completion dates are specified in the contract for separate parts or stages of the work, the amount of liquidated damages shall be assessed on those parts or stages which are delayed. To the extent that the Contractor's delay or nonperformance is excused under another clause in this contract, liquidated damages shall not be due the PHA. The Contractor remains liable for damages caused other than by delay.
- (b) If the PHA terminates the Contractor's right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final

completion of the work together with any increased costs occasioned the PHA in completing the work.

- (c) If the PHA does not terminate the Contractor's right to proceed, the resulting damage will consist of liquidated damages until the work is completed or accepted.

### 34. Termination for Convenience

- (a) The Contracting Officer may terminate this contract in whole, or in part, whenever the Contracting Officer determines that such termination is in the best interest of the PHA. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which the performance of the work under the contract is terminated, and the date upon which such termination becomes effective.
- (b) If the performance of the work is terminated, either in whole or in part, the PHA shall be liable to the Contractor for reasonable and proper costs resulting from such termination upon the receipt by the PHA of a properly presented claim setting out in detail: (1) the total cost of the work performed to date of termination less the total amount of contract payments made to the Contractor; (2) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, payment for which has not been made by the PHA to the Contractor or by the Contractor to the subcontractor or supplier; (3) the cost of preserving and protecting the work already performed until the PHA or assignee takes possession thereof or assumes responsibility therefore; (4) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the PHA; and (5) an amount constituting a reasonable profit on the value of the work performed by the Contractor.
- (c) The Contracting Officer will act on the Contractor's claim within days (60 days unless otherwise indicated) of receipt of the Contractor's claim.
- (d) Any disputes with regard to this clause are expressly made subject to the provisions of the Disputes clause of this contract.

### 35. Assignment of Contract

The Contractor shall not assign or transfer any interest in this contract; except that claims for monies due or to become due from the PHA under the contract may be assigned to a bank, trust company, or other financial institution. Such assignments of claims shall only be made with the written concurrence of the Contracting Officer. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership as approved by the Contracting Officer.

### 36. Insurance

- (a) Before commencing work, the Contractor and each subcontractor shall furnish the PHA with certificates of insurance showing the following insurance is in force and will insure all operations under the Contract:
- (1) Workers' Compensation, in accordance with state or Territorial Workers' Compensation laws.
  - (2) Commercial General Liability with a combined single limit for bodily injury and property damage of not less than \$\_\_\_\_\_ [Contracting Officer insert amount]

per occurrence to protect the Contractor and each subcontractor against claims for bodily injury or death and damage to the property of others. This shall cover the use of all equipment, hoists, and vehicles on the site(s) not covered by Automobile Liability under (3) below. If the Contractor has a "claims-made" policy, then the following additional requirements apply: the policy must provide a "retroactive date" which must be on or before the execution date of the Contract; and the extended reporting period may not be less than five years following the completion date of the Contract.

- (3) Automobile Liability on owned and non-owned motor vehicles used on the site(s) or in connection therewith for a combined single limit for bodily injury and property damage of not less than \$\_\_\_\_\_ [Contracting Officer insert amount] per occurrence.

(b) Before commencing work, the Contractor shall furnish the PHA with a certificate of insurance evidencing that Builder's Risk (fire and extended coverage) Insurance on all work in place and/or materials stored at the building site(s), including foundations and building equipment, is in force. The Builder's Risk Insurance shall be for the benefit of the Contractor and the PHA as their interests may appear and each shall be named in the policy or policies as an insured. The Contractor in installing equipment supplied by the PHA shall carry insurance on such equipment from the time the Contractor takes possession thereof until the Contract work is accepted by the PHA. The Builder's Risk Insurance need not be carried on excavations, piers, footings, or foundations until such time as work on the superstructure is started. It need not be carried on landscape work. Policies shall furnish coverage at all times for the full cash value of all completed construction, as well as materials in place and/or stored at the site(s), whether or not partial payment has been made by the PHA. The Contractor may terminate this insurance on buildings as of the date taken over for occupancy by the PHA. The Contractor is not required to carry Builder's Risk Insurance for modernization work which does not involve structural alterations or additions and where the PHA's existing fire and extended coverage policy can be endorsed to include such work.

(c) All insurance shall be carried with companies which are financially responsible and admitted to do business in the State in which the project is located. If any such insurance is due to expire during the construction period, the Contractor (including subcontractors, as applicable) shall not permit the coverage to lapse and shall furnish evidence of coverage to the Contracting Officer. All certificates of insurance, as evidence of coverage, shall provide that no coverage may be canceled or non-renewed by the insurance company until at least 30 days prior written notice has been given to the Contracting Officer.

### 37. Subcontracts

(a) Definitions. As used in this contract -

- (1) "Subcontract" means any contract, purchase order, or other purchase agreement, including modifications and change orders to the foregoing, entered into by a subcontractor to furnish supplies, materials, equipment, and services for the performance of the prime contract or a subcontract.

(2) "Subcontractor" means any supplier, vendor, or firm that furnishes supplies, materials, equipment, or services to or for the Contractor or another subcontractor.

- (b) The Contractor shall not enter into any subcontract with any subcontractor who has been temporarily denied participation in a HUD program or who has been suspended or debarred from participating in contracting programs by any agency of the United States Government or of the state in which the work under this contract is to be performed.
- (c) The Contractor shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the Contractor.
- (d) The Contractor shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this contract insofar as they are applicable to the work of subcontractors.
- (e) Nothing contained in this contract shall create any contractual relationship between any subcontractor and the PHA or between the subcontractor and HUD.

### 38. Subcontracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms

The Contractor shall take the following steps to ensure that, whenever possible, subcontracts are awarded to small business firms, minority firms, women's business enterprises, and labor surplus area firms:

- (a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (b) Ensuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
- (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- (d) Establishing delivery schedules, where the requirements of the contract permit, which encourage participation by small and minority businesses and women's business enterprises; and
- (e) Using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and State and local governmental small business agencies.

### 39. Equal Employment Opportunity

During the performance of this contract, the Contractor agrees as follows:

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or handicap.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, or handicap. Such action shall include, but not be limited to, (1) employment, (2) upgrading, (3) demotion, (4) transfer, (5) recruitment or recruitment advertising, (6) layoff or termination, (7) rates of pay or other forms of compensation, and (8) selection for training, including apprenticeship.

- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, 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, national origin, or handicap.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or Federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.
- (j) Compliance with the requirements of this clause shall be to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act and the Indian Preference clause of this contract.
- 40. Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.**
- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- (g) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

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#### 41. Interest of Members of Congress

No member or delegate to the Congress of the United States of America shall be admitted to any share or part of this contract or to any benefit that may arise therefrom.

#### 42. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or employee of the PHA, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

#### 43. Limitations on Payments made to Influence Certain Federal Financial Transactions

- (a) The Contractor agrees to comply with Section 1352 of Title 31, United States Code which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: 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; or the modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) The Contractor further agrees to comply with the requirement of the Act to furnish a disclosure (OMB Standard Form LLL, Disclosure of Lobbying Activities) if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) 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 a Federal contract, grant, loan, or cooperative agreement.

#### 44. Royalties and Patents

The Contractor shall pay all royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and shall save the PHA harmless from loss on account thereof; except that the PHA shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified and the Contractor has no reason to believe that the specified design, process, or product is an infringement. If, however, the Contractor has reason to believe that any design, process or product specified is an infringement of a patent, the Contractor shall promptly notify the Contracting Officer. Failure to give such notice shall make the Contractor responsible for resultant loss.

#### 45. Examination and Retention of Contractor's Records

- (a) The PHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.
- (b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.
- (c) The periods of access and examination in paragraphs (a) and (b) above for records relating to (1) appeals under the Disputes clause of this contract, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the PHA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

#### 46. Labor Standards - Davis-Bacon and Related Acts

If the total amount of this contract exceeds \$2,000, the Federal labor standards set forth in the clause below shall apply to the development or construction work to be performed under the contract.

- (a) Minimum Wages.
  - (1) All laborers and mechanics employed under this contract in the development or construction of the project(s) involved 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 regular 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 in 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

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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.

- (2) (i) Any class of laborers or mechanics, including helpers, 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 all the following criteria have been met: (A) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (B) The classification is utilized in the area by the construction industry; and (C) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) 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, Employee Standards Administration, U.S. Department of Labor, Washington, DC 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.
- (iii) 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 of the Wage and Hour Division 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.
- (iv) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (a)(2)(ii) or (iii) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in classification.
- (3) 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.
- (4) 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.

- (b) Withholding of funds. 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 in the construction or development of the project, all or part of the wages required by the contract, HUD or its designee may, after written notice to the Contractor, 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.
- (c) Payrolls and basic records.
- (1) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working in the construction or development of the project. 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 1(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 costs reasonably anticipated in providing benefits under a plan or program described in section 1(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.

- (2) (i) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer 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 subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1214-0149.)
- (ii) 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:
- (A) That the payroll for the payroll period contains the information required to be maintained under paragraph (c) (1) of this clause and that such information is correct and complete;
- (B) 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; and
- (C) 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.
- (iii) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance" required by subparagraph (c)(2)(ii) of this clause.
- (iv) 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 3729 of Title 31 of the United States Code.
- (3) The Contractor or subcontractor shall make the records required under subparagraph (c)(1) available for inspection, copying, or transcription by authorized representatives of HUD or its designee, the Contracting Officer, 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, 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.

- (d) (1) 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 and Training, Employer and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS, 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 OATELS 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 in this paragraph, 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 journeyman 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 of the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, 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.
- (2) 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 in 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 in 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 in the wage determination for the classification of 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 in 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.

- (3) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.
- (e) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.
- (f) Contract termination; debarment. A breach of this contract clause may be grounds for termination of the contract and for debarment as a Contractor and a subcontractor as provided in 29 CFR 5.12.
- (g) 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.
- (h) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this clause 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 the PHA, HUD, the U.S. Department of Labor, or the employees or their representatives.
- (i) Certification of eligibility.

(1) 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 contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

- (2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a United States Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (3) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.
- (j) Contract Work Hours and Safety Standards Act. 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, including watchmen and guards, 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 provisions set forth in subparagraph (j)(1) of this clause, 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 provisions set forth in subparagraph (j)(1) of this clause, 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 provisions set forth in subparagraph (j)(1) of this clause.
  - (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 Federal contract with the same prime Contractor, 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 provisions set forth in subparagraph (j)(2) of this clause.
- (k) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this clause, and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.

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#### **47. Non-Federal Prevailing Wage Rates**

- (a) Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State or tribal law to be prevailing, with respect to any employee in any trade or position employed under the contract, is inapplicable to the contract and shall not be enforced against the Contractor or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate exceeds:
  - (1) The applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141 et seq.) to be prevailing in the locality with respect to such trade;
- (b) An applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the U.S. Department of Labor (DOL) or a DOL-recognized State Apprenticeship Agency; or
- (c) An applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

#### **48. Procurement of Recovered Materials.**

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.
- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

# Previous Participation Certification

U.S. Department of Housing and Urban Development  
Office of Housing/Federal Housing Commissioner

U.S. Department of Agriculture  
Farmers Home Administration

OMB Approval No. 2502-0118  
(exp. 9/30/2009)

**Part I To be completed by Principals of Multifamily Projects. See Instructions Reason for Submitting Certification**

**For HUD HQ/FmHA use only**

1. Agency Name and City where the application is filed

2. Project Name, Project Number, City and Zip Code contained in the application

3. Loan or Contract Amount

4. Number of Units or Beds

5. Section of Act

6. Type of Project (check one)

Existing

Rehabilitation

Proposed (New)

**List of All Proposed Principal Participants**

7. Names and Addresses of All Known Principals and Affiliates (people, businesses & organizations) proposing to participate in the project described above. (list names alphabetically; last, first, middle initial)

8. Role of Each Principal in Project

9. Expected % Ownership Interest in Project

10. Social Security or IRS Employer Number

**Certifications:** I (meaning the individual who signs as well as the corporations, partnerships or other parties listed above who certify) hereby apply to HUD or USDA-FmHA, as the case may be, for approval to participate as a principal in the role and project listed above based upon my following previous participation record and this Certification.

I certify that all the statements made by me are true, complete and correct to the best of my knowledge and belief and are made in good faith, including the data contained in Schedule A and Exhibits signed by me and attached to this form.

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

I further certify that:

1. Schedule A contains a listing of every assisted or insured project of HUD, USDA-FmHA and State and local government housing finance agencies in which I have been or am now a principal.

2. For the period beginning 10 years prior to the date of this certification, and except as shown by me on the certification.

- a. No mortgage on a project listed by me has ever been in default, assigned to the Government or foreclosed, nor has mortgage relief by the mortgagee been given;
- b. I have not experienced defaults or noncompliances under any Conventional Contract or Turnkey Contract of Sale in connection with a public housing project;
- c. To the best of my knowledge, there are no unresolved findings raised as a result of HUD audits, management reviews or other Governmental investigations concerning me or my projects;
- d. There has not been a suspension or termination of payments under any HUD assistance contract in which I have had a legal or beneficial interest;
- e. I have not been convicted of a felony and am not presently, to my knowledge, the subject of a complaint or indictment charging a felony.

(A felony is defined as any offense punishable by imprisonment for a term exceeding one year, but does not include any offense classified as a misdemeanor under the laws of a State and punishable by imprisonment of two years or less);

- f. I have not been suspended, debarred or otherwise restricted by any Department or Agency of the Federal Government or of a State Government from doing business with such Department or Agency.
- g. I have not defaulted on an obligation covered by a surety or performance bond and have not been the subject of a claim under an employee fidelity bond.
- 3. **All** the names of the parties, known to me to be principals in this project(s) in which I propose to participate, are listed above.
- 4. I am not a HUD/FmHA employee or a member of a HUD/FmHA employee's immediate household as defined in Standards of Ethical Conduct for Employees of the Executive Branch in 5 C.F.R. Part 2635 (57 FR 35006) and HUD's Standard of Conduct in 24 C.F.R. Part O and

USDA's Standard of Conduct in 7 C.F.R. Part O Subpart B.

- 5. I am not a principal participant in an assisted or insured project as of this date on which construction has stopped for a period in excess of 20 days or which has been substantially completed for more than 90 days and documents for closing, including final cost certification have not been filed with HUD or FmHA.
- 6. To my knowledge I have not been found by HUD or FmHA to be in noncompliance with any applicable civil rights laws.
- 7. I am not a Member of Congress or a Resident Commissioner nor otherwise prohibited or limited by law from contracting with the Government of the United States of America.
- 8. Statements above (if any) to which I cannot certify have been deleted by striking through the words with a pen. I have initialed each deletion (if any) and have attached a true and accurate signed statement (if applicable) to explain the facts and circumstances which I think helps to qualify me as a responsible principal for participation in this project.

Typed or Printed Name of Principal	Signature of Principal	Certification Date (mm/dd/yyyy)	Area Code and Telephone No.

This form was prepared by (Please print name)

Area Code and Telephone No.

**Schedule A: List of Previous Projects and Section 8 Contracts.** By my name below is the complete list of my previous projects and my participation history as a principal; in Multifamily Housing programs of HUD/FmHA, State, and Local Housing Finance Agencies. **Note:** Read and follow the instruction sheet carefully. Abbreviate where possible. Make full disclosure. Add extra sheets if you need more space. Double check for accuracy. If you have no previous projects write, by your name, **"No previous participation, First Experience."**

1. List each Principal's Name (list in alphabetical order, last name first)	2. List Previous Projects (give the I.D. number, project name, city location, & government agency involved if other than HUD)	3. List Principals' Role(s) (indicate dates participated, and if fee or identity of interest participant)	4. Status of Loan (current, defaulted, assigned, or foreclosed)	5. Was Project ever in Default, during your participation?		6. Last Mgmt. and/or Physical Inspc'tn Rating
				Yes	No If "Yes," explain	

**Part II – For HUD Internal Processing Only**

Received and checked by me for accuracy and completeness; recommend approval or transferral to Headquarters as checked below:

Date (mm/dd/yyyy)	Telephone Number and Area Code	<input type="checkbox"/> A. No adverse information; form HUD-2530 approval is recommended.	<input type="checkbox"/> C. Disclosure or Certification problem
Staff	Processing and Control	<input type="checkbox"/> B. Name match in system	<input type="checkbox"/> D. Other, our memorandum is attached.
Supervisor	Director of Housing / Director, Multifamily Division	Approved <input type="checkbox"/> Yes <input type="checkbox"/> No	Date (mm/dd/yyyy)

## Instructions for Completing the Previous Participation Certificate, form HUD-2530

Carefully read these instructions and the applicable regulations. A copy of those regulations published at 24 C.F.R. 200.210 to 200.245 can be obtained from the Multifamily Housing Representative at any HUD Office. Type or print neatly in ink when filling out this form. Mark answers in all blocks of the form. If the form is not filled completely, it will delay approval of your application.

Attach extra sheets as you need them. Be sure to indicate "Continued on Attachments" wherever appropriate. Sign each additional page that you attach if it refers to you or your record. If you have many projects to list (20 or more) and expect to be applying frequently for participation in HUD projects, you should consider filing a Master List. See Master List instructions below under "Instructions for Completing Schedule A."

**Carefully read the certification before you sign it.** Any questions regarding the form or how to complete it can be answered by your HUD Office Multifamily Housing Representative.

**Purpose:** This form provides HUD with a certified report of all previous participation in HUD multifamily housing projects by those parties making application. The information requested in this form is used by HUD to determine if you meet the standards established to ensure that all principal participants in HUD projects will honor their legal, financial and contractual obligations and are acceptable risks from the underwriting standpoint of an insurer, lender or governmental agency. HUD requires that you certify your record of previous participation in HUD/USDA-FmHA, State and Local Housing Finance Agency projects by completing and signing this form, before your project application or participation can be approved.

HUD approval of your certification is a necessary precondition for your participation in the project and in the capacity that you propose. If you do not file this certification, do not furnish the information requested accurately, or do not meet established standards, HUD will not approve your certification.

**Note** that approval of your certification does not obligate HUD to approve your project application, and it does not satisfy all other HUD program requirements relative to your qualifications.

## Who Must Sign and File Form HUD-2530:

Form HUD-2530 must be completed and signed by all parties applying to become principal participants in HUD multifamily housing projects, including those who have no previous participation. The form must be signed and filed by all principals and their affiliates who propose participating in the HUD project. Use a separate form for each role in the project unless there is an identity of interest.

Principals include all individuals, joint ventures, partnerships, corporations, trusts, non-profit organizations, any other public or private entity, that will participate in the proposed project as a sponsor, owner, prime contractor, turnkey developer, managing agent, nursing home administrator or operator, packager, or consultant. Architects and attorneys who have any interest in the project other than an arms length fee arrangement for professional services are also considered principals by HUD.

In the case of partnerships, all general partners regardless of their percentage interest and limited partners having a 25 percent or more interest in the partnership are considered principals. In the case of public or private corporations or governmental entities, principals include the president, vice president, secretary, treasurer and all other executive officers who are directly responsible to the board of directors, or any equivalent governing body, as well as all directors and each stockholder having a 10 percent or more interest in the corporation.

Affiliates are defined as any person or business concern that directly or indirectly controls the policy of a principal or has the power to do so. A holding or parent corporation would be an example of an affiliate if one of its subsidiaries is a principal.

**Exception for Corporations** – All principals and affiliates must personally sign the certificate except in the following situation. When a corporation is a principal, all of its officers, directors, trustees and stockholders with 10 percent or more of the common (voting) stock need not sign personally if they all have the same record to report. The officer who is authorized to sign for the corporation or agency will list the names and title of those who elect not to sign. However, any person who has a record of participation in HUD projects that is separate from that of his or her organization must report that activity on this form and sign his or her name. The objective is full disclosure.

**Exemptions** – The names of the following parties do not need to be listed on form HUD-2530: Public Housing Agencies, tenants, owners of less than five condominium or cooperative units and all others whose interests were acquired by inheritance or court order.

**Where and When Form HUD-2530 Must Be Filed:** The original of this form must be submitted to the HUD Office where your project application will be processed at the same time you file your initial project application. This form must be filed with applications for projects, or when otherwise required in the situations listed below:

- Projects to be financed with mortgages insured under the National Housing Act (FHA).
- Projects to be financed according to Section 202 of the Housing Act of 1959 (Elderly and Handicapped).
- Projects in which 20 percent or more of the units are to receive a subsidy as described in 24 C.F.R. 200.213.
- Purchase of a project subject to a mortgage insured or held by the Secretary of HUD.
- Purchase of a Secretary-owned project.
- Proposed substitution or addition of a principal, or principal participation in a different capacity from that previously approved for the same project.
- Proposed acquisition by an existing limited partner of an additional interest in a project resulting in a total interest of 25 percent or more, or proposed acquisition by a corporate stockholder of an additional interest in a project resulting in a total interest of 10 percent or more.
- Projects with U.S.D.A., Farmers Home Administration, or with state or local government housing finance agencies that include rental assistance under Section 8 of the Housing Act of 1937. For projects of this type, form HUD-2530 should be filed with the appropriate applications directly to those agencies.

**Review of Adverse Determination:** If approval of your participation in a HUD project is denied, withheld, or conditionally granted on the basis of your record of previous participation, you will be notified by the HUD Office. You may request reconsideration by the HUD Review Committee. Alternatively, you may request a hearing before a Hearing Officer. Either request must be made in writing within 30 days from your receipt of the notice of determination.

If you do request reconsideration by the Review Committee and the reconsideration results in an adverse determination, you may then request a hearing before a Hearing Officer. The Hearing Officer will issue a report to the Review Committee. You will be notified of the final ruling by certified mail.

## Specific Line Instructions:

**Reason for submitting this Certification:** e.g., refinance, management, change in ownership, transfer of physical assets, etc.

**Block 1:** Fill in the name of the agency to which you are applying. For example: HUD Office, Farmers Home Administration District office, or the name of a State or local housing finance agency. Below that, fill in the name of the city where the office is located.

**Block 2:** Fill in the name of the project, such as "Greenwood Apts." If the name has not yet been selected, write "Name unknown." Below that, enter the HUD contract or project identification number, the Farmers Home Administration project number, or the State or local housing finance agency project or contract number. Include all project or contract identification numbers that are relevant to the project. Also enter the name of the city in which the project is located, and the ZIP Code of the site location.

**Block 3:** Fill in the dollar amount requested in the proposed mortgage, or the annual amount of rental assistance requested.

**Block 4:** Fill in the number of apartment units proposed, such as "40 units." For hospital projects or nursing homes, fill in the number of beds proposed, such as "100 beds."

**Block 5:** Fill in the section of the Housing Act under which the application is filed.

**Block 7:** Definitions of all those who are considered principals and affiliates are given above in the section titled "Who Must Sign and File...."

**Block 8:** Beside the name of each principal, fill in the role that each will perform. The following are possible roles that the principals may perform: Sponsor, Owner, Prime Contractor, Turnkey Developer, Managing Agent, Packager, Consultant, General Partner, Limited Partner (include percentage), Executive Officer, Director, Trustee, Major Stockholder, or Nursing Home Administrator. Beside the name of each affiliate, write the name of the person or firm of affiliation, such as "Affiliate of Smith Construction Co."

**Block 9:** Fill in the percentage of ownership in the proposed project that each principal is expected to have. Also specify if the participant is a general or limited partner. Beside the name of those parties who will not be owners, write "None."

**Block 10:** Fill in the Social Security Number or IRS employer number of every party listed, including affiliates.

**Instructions for Completing Schedule A:**

Be sure that Schedule A is filled-in completely, accurately and the certification is properly dated and signed, because it will serve as a legal record of your previous experience. All Multifamily Housing projects involving HUD/FmHA, and State and local Housing Finance Agencies in which you have previously participated **must** be listed. Applicants are reminded that previous participation pertains to the individual principal within an entity as well as the entity itself. A newly formed company may not have previous participation, but the principals within the company may have had extensive participation and disclosure of that activity is required. To avoid duplication of disclosure, list the project and then the entities or individuals involved in that project. You may use the name or a number code to denote the entity or individual that participated. The number code can then be used in column 3 to denote role.

**Column 2** List the project or contract identification of each previous project **All previous projects must be included or your certification cannot be processed.** Include the name of all projects, the cities in which they are located and the government agency (HUD, USDA-FmHA or State or local housing finance agency) that was involved. At the end of your list of projects, draw a straight line across the page to separate your record of projects from that of others signing this form who have a different record to report.

**Column 3** List the role(s) of your participation, dates participated, and if fee or identity of interest with owners.

**Column 4** Indicate the current status of the loan. Except for current loans, the date associated with the status is required. Loans under a workout arrangement are considered assigned. An explanation of the circumstances surrounding the status is required for all non-current loans.

**Column 5** Explain any project defaults during your participation.

**Column 6** Enter the latest Management and/or Physical Inspection Review rating. If either of the ratings are below average, the report issued by HUD is required to be submitted along with the applicant's explanation of the circumstances surrounding the rating.

**No Previous Record:** Even if you have never participated in a HUD project before, you must complete form HUD-2530. If you have no record of previous projects to list, fill in your name in column 1 of Schedule A, and write across the form by your name – "No previous participation, first experience."

**Master List System:** If you expect to file this form frequently and you have a long list of previous projects to report on Schedule A, you should consider filing a Master List. By doing so, you will avoid having to list all your previous projects each time you file a new application.

To make a Master List, use form HUD-2530. On page 1, in block 1, enter (in capital letters) the words "**Master List.**" In blocks 2 through 6 enter in "N.A." meaning Not Applicable. Complete blocks 7 through 10.

In the box below the statement of certification, fill in the names of all parties who wish to file a Master List together (type or print neatly). Beside each name, every party must sign the form. In the box titled "Proposed Role," fill in "N.A." Also, fill in the date you sign the form

and provide a telephone number where you can be reached during the day. No determinations will be made on these certificates.

File one copy of the Master List with each HUD Office where you do business and mail one copy to the following address:

**HUD-2530 Master List  
Participation and Compliance  
Division – Housing  
U.S. Department of Housing and  
Urban Development  
451 Seventh Street, S.W.  
Washington, D.C. 20410**

Once you have filed a Master List, you do not need to complete Schedule A when you submit form HUD-2530. Instead, write the name of the participant in column 1 of Schedule A and beside that write "See Master List on file." Also give the date that appears on the Master List that you submitted. Below that, report all changes and additions that have occurred since that date. Be sure to include any mortgage defaults, assignments or foreclosures not listed previously.

**If you have withdrawn from a project** since the date the Master List was filed, be sure to name the project. Give the project identification number, the month and year your participation began and/or ended.

**Certification:**

After you have completed all other parts of form HUD-2530, including Schedule A, read the Certification carefully. In the box below the statement of certification, fill in the name of all principals and affiliates (type or print neatly). Beside the name of each principal and affiliate, each party must sign the form, with the exception in some cases of individuals associated with a corporation (see "Exception for Corporations" in the section of the instructions titled "Who Must Sign and File form

HUD-2530"). Beside each signature, fill in the role of each party (the same as shown in block 8). In addition, each person who signs the form should fill in the date that he or she signs, as well as providing a telephone number where he or she can be reached during business hours. By providing a telephone number where you can be reached, you will help to prevent any possible delay caused by mailing and processing time in the event HUD has any questions.

If you cannot certify and sign the certification as it is printed because some statements do not correctly describe your record, use a pen and strike through those parts that differ with your record, then sign and certify to that remaining part which does describe you or your record.

Attach a signed letter, note or an explanation of the items you have struck out on the certification and report the facts of your correct record. Item A(2)(e) relates to felony convictions within the past 10 years. If you have been convicted of a felony within 10 years, strike out all of A(2)(e) on the certificate and attach your statement giving your explanation. A felony conviction will not necessarily cause your participation to be disapproved unless there is a criminal record or other evidence that your previous conduct or method of doing business has been such that your participation in the project would make it an unacceptable risk from the underwriting standpoint of an insurer, lender or governmental agency.

The Department of Housing and Urban Development (HUD) is authorized to collect this information by law (42 U.S.C. 3535(d) and 24 C.F.R. 200.217) and by regulation at 24 CFR 200.210. This information is needed so that principals applying to participate in multifamily programs can become HUD-approved participants. The information you provide will enable HUD to evaluate your record with respect to established standards of performance, responsibility and eligibility. Without prior approval, a principal may not participate in a proposed or existing multifamily project. HUD uses this information to evaluate whether or not principals pose an unsatisfactory underwriting risk. The information is used to evaluate the potential principals and approve only individuals and organizations who will honor their legal, financial and contractual obligations.

**Privacy Act Statement:** The Housing and Community Development Act of 1987, 42 U.S.C. 3543 requires persons applying for a Federally-insured or guaranteed loan to furnish his/her Social Security Number (SSN). HUD must have your SSN for identification of your records. HUD may use your SSN for automated processing of your records and to make requests for information about you and your previous record with other public agencies and private sector sources. HUD may disclose certain information to Federal, State and local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. It will not be otherwise disclosed or released outside of HUD, except as required and permitted by law. You must provide all of the information requested in this application, including your SSN.

**Public reporting burden** for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

A response is mandatory. Failure to provide any of the information will result in your disapproval for participation in this HUD program.

# CONFLICT OF INTEREST QUESTIONNAIRE

## FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor

### OFFICE USE ONLY

Date Received

**1** Name of person who has a business relationship with local governmental entity.

**2**  Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

**3** Name of local government officer with whom filer has employment or business relationship.

\_\_\_\_\_  
Name of Officer

This section (item 3 including sub parts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

Yes       No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

Yes       No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

Yes       No

D. Describe each employment or business relationship with the local government officer named in this section.

**4**

\_\_\_\_\_  
Signature of person doing business with the governmental entity

\_\_\_\_\_  
Date

**ATTACHMENT C  
PROFILE OF FIRM FORM  
SUBCONTRACTOR LISTING FORM**

**PROFILE OF FIRM FORM (Page 1 of 2)**

(This Form must be fully completed and placed under Tab No. 3 submittal.)

(1) Prime \_\_\_\_ Joint Venture/Partner \_\_\_\_ Sub-contractor \_\_\_\_ (This form shall be completed by and for each).

(2) Name of Firm: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

(3) Street Address, City, State, Zip: \_\_\_\_\_

(4) Identify Principals/Partners in Firm (Provide resumes for each under Tab No. 3)

NAME	TITLE	% OF OWNERSHIP

(5) Please indicate the operating structure of your company.

- Publicly Held Corporation  
  Privately Held Corporation  
  Government Agency  
  Non-Profit Organization  
  Partnership  
  Sole Proprietorship

(6) Bidder's Diversity Statement: You must check all of the following that apply to the ownership of this firm and enter where provided the correct percentage (%) of ownership of each:

Minority- (MBE), or Woman-Owned (WBE) Business Enterprises qualify by virtue of 51% or more ownership and active management by one or more of the following:

- African American \_\_\_\_\_%  
  \*\*Native American \_\_\_\_\_%  
  Hispanic American \_\_\_\_\_%  
  Asian/Pacific American \_\_\_\_\_%  
  Hasidic Jew \_\_\_\_\_%  
  Asian/Indian American \_\_\_\_\_%

- Woman-Owned (MBE) \_\_\_\_\_%  
  Woman-Owned (Caucasian) \_\_\_\_\_%  
  Disabled Veteran \_\_\_\_\_%  
  Caucasian American (Male) \_\_\_\_\_%  
  Other (Specify): \_\_\_\_\_%

Is the business 51% or more owned by a public housing resident? \_\_\_\_ Yes \_\_\_\_ No. If yes, provide name and address of the public housing facility:

Facility Name: \_\_\_\_\_

Facility Address: \_\_\_\_\_ City: \_\_\_\_\_

SWMBE Certification Number: \_\_\_\_\_

Certification Agency: \_\_\_\_\_

(NOTE: A CERTIFICATION/NUMBER IS NOT REQUIRED – ENTER IF AVAILABLE)

**PROFILE OF FIRM FORM (Page 2 of 2)**

(This Form must be fully completed and placed under Tab No. 3 of the submittal.)

- (8) Federal Tax ID Number: \_\_\_\_\_
- (9) City of San Antonio Business License No.: \_\_\_\_\_
- (10) State of Texas License Type and No.: \_\_\_\_\_
- (11) Has your firm or any member of your firm been a party to litigation with a public entity? If yes, when, with whom and state the circumstances and any resolution.
- (12) Has your firm or any member of your firm ever sued or been sued by the San Antonio Housing Authority or its affiliated entities? If yes, when and state the circumstances and any resolution of the lawsuit.
- (13) Has your firm or any member of your firm ever had a claim brought against because of breach of contract or nonperformance? If yes, when and state the circumstances and any resolution of the matter.
- (14) Debarred Statement: Has this firm, or any principal(s) ever been debarred from providing any services by the Federal Government, any state government, the State of Texas, or any local government agency within or without the State of Texas? Yes  No  **Initials** \_\_\_\_\_  
If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.
- (15) Disclosure Statement: Does this firm or any principals thereof have any current, past personal or professional relationship with any Commissioner or Officer of SAHA? Yes  No  **Initials** \_\_\_\_\_  
If "Yes," please attach a full detailed explanation, including dates, circumstances and current status.
- (16) Non-Collusive Affidavit: The undersigned party submitting this bid hereby certifies that such bid is genuine and not collusive and that said Offerer has not colluded, conspired, connived or agreed, directly or indirectly, with any Offerer or person, to put in a sham bid or to refrain from proposing, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or of any other Offerer, to fix overhead, profit or cost element of said bid price, or that of any other Offerer or to secure any advantage against the SAHA or any person interested in the proposed contract; and that all statements in said bid are true. **Initials** \_\_\_\_\_
- (17) Verification Statement: The undersigned Offerer hereby states that by completing and submitting this form he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and agrees that if the SAHA discovers that any information entered herein is false, that shall entitle the SAHA to not consider nor make award or to cancel any award with the undersigned party. **Initials** \_\_\_\_\_
- (18) In performing this contract, the contractor(s) shall comply with any and all applicable federal, state or local laws including but not limited to: Occupational Safety & Health, Equal Employment Opportunity, Immigration and Naturalization, The Americans with Disabilities Act, State Tax and Insurance Law, and the Fair Housing Act. **Initials** \_\_\_\_\_

\_\_\_\_\_  
**Signature**

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

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

\_\_\_\_\_  
**Company**

**Note: A completed Profile of Firm Form must be submitted for each subcontractor.**

Proposed Subcontractors					
Item	Company Name	Address	Phone	Specialty	S/W/M/V BE
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
I understand and agree that if awarded a contract as a result of this solicitation that the use of the above subcontractors is subject to the approval of SAHA and becomes a part of the contract. I further understand that any change in subcontractors also requires the pre-approval of SAHA.			_____ (Signature)		
			_____ (Printed Name & Title)		

**Note: A completed Profile of Firm Form must be submitted for each subcontractor and placed under Tab 6.**

# **ATTACHMENT D SECTION 3 GUIDELINES AND FORMS**

# **ATTACHMENT E**

## **Company Biography**

## Company Biography

Company Name: \_\_\_\_\_

Headquarters Location: \_\_\_\_\_

Field Office Locations: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Business Specialty or Focus: \_\_\_\_\_

Number of Full Time Staff: \_\_\_\_\_

Founding Date and Brief History: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name of Parent Company: \_\_\_\_\_

Texas Projects and/or Clients: \_\_\_\_\_

(past & current)

\_\_\_\_\_

\_\_\_\_\_

Previous Housing Authority Experience: YES NO

List the Authorities: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## **Attachment F Technical Specifications & Drawings**

**ASBESTOS REMOVAL WORK PLAN**

**For**

**MARIE MCGUIRE APARTMENTS  
211 N. ALAMO STREET  
SAN ANTONIO, TEXAS 78205**

**Prepared for**

*San Antonio Housing Authority  
1310 S. Brazos Street  
San Antonio, Texas 78207*


**Prepared by**

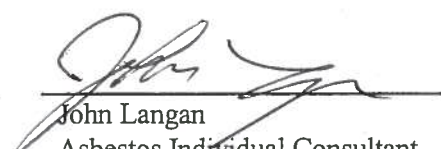
**PROFESSIONAL SERVICE INDUSTRIES, INC. (PSI)  
Three Burwood Lane  
San Antonio, Texas 78216  
(210)342-9377**

**PSI Project No. 0435673**

**June 15, 2011 (Revised)**

PREPARED BY:

  
\_\_\_\_\_  
Guy L. Roberts  
Asbestos Individual Consultant  
DSHS License No. 10-5465  
Expiration Date: November 3, 2011

  
\_\_\_\_\_  
John Langan  
Asbestos Individual Consultant.  
DHS License No. 10-5576  
Expiration Date: October 11, 2011

cc: 0435673

Guy L. Roberts  
TDSHS AIC # 105465  
Expires 11/03/11

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## SECTION 1.0 - SCOPE OF WORK

### 1.1 Purpose

This Asbestos Abatement Guide or Work Plan gives general methods and work procedures to be used by the San Antonio Housing Authority selected Asbestos Abatement Contractor for the safe removal of asbestos-containing materials (ACMs). This plan is to be used in coordination with all applicable federal, state, and local regulations as well as the general abatement specifications as found in the *Texas Department of State Health Services (TDSHS) Texas Asbestos Health Protection Rules (TAHPR) in Title 25 of the Texas Administrative Code Part 295.31 – 295.73 (25 TAC 295.31 – 295.73)*, *United States Environmental Protection Agency (EPA) Asbestos Hazard Emergency Response Act (AHERA) in Title 40 of the Code of Federal Regulations Part 73 Subpart E (40 CFR 763 Subpart E)*, *EPA National Emission Standard for Hazardous Air Pollutants (NESHAP) in 40 CFR 61 Subpart M*, *United States Department of Labor Occupational Safety and Health Administration (OSHA) Asbestos in Construction Standard for Class I, II, III, IV Asbestos Work operations in 29 CFR 1926.1101* and the *Resilient Floor Covering Institute (RFCI) guidelines*.

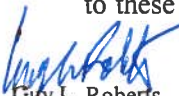
### 1.2 Scope

This project includes removal of ACMs as identified in this specification or as directed by the Owner's contract documents. These operations shall be in compliance with OSHA Class I and II, EPA AHERA and TDSHS guidelines. The scope of work is as follows:

a. Contractor shall submit pre-work submittals (1 copy) for review, prior to work. The submittals shall contain, but not limited to, all licenses, personnel information, performance, labor and payment bonds (if required) and TDSHS/EPA Notification. Contractor is directed to fill out and submit the TDSHS Notification for the Owner based on the timetable as set forth by the Owner's schedule.

b. Contractor shall supply all the necessary tools, equipment, labor, construction/abatement activity materials, waste transporter/can (enclosed disposal unit) and delivery of the waste to an appropriate waste disposal facility to complete the work as specified by these guidelines and/or by the contract agreement.

c. Owner shall supply a source of water and electrical power for the project. The asbestos regulated units (ARUs) shall be paid by the Owner. Contractor, as a minimum, shall isolate the work areas in accordance with appropriate sections of *25 TAC 295.60 and CFR 1926.1101(g)* as well as this work plan. A temporary airtight barrier, as required, shall be constructed to separate the work areas from the occupied areas in order to maintain service to these areas of the building. This barrier shall be constructed of polyethylene sheeting and

  
Gary L. Roberts  
TDSHS AIC # 105465  
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wood framing or equivalent. Penetrations through the barrier shall be sealed with appropriate sealant.

d. Contractor shall remove and dispose of the following ACMs as indicated on the reference drawings and as directed by the Owner's representative:

- Approximately 32,500 square feet of asbestos-containing and asbestos-contaminated 12"x12" floor tile and associated mastic located throughout the majority of the building. The abatement areas are further described on Drawing Name: 0435673-01, 0435673-02, 0435673-03, 0435673-04, 0435673-05, and 0435673-06.
- Approximately 250 square feet of asbestos-containing sheet vinyl flooring located in the bathrooms for Apartment Units 201, 207, 209, 210, 302, 307, and 404. The abatement areas are further described on Drawing Name: 0435673-02 0435673-03 and 0435673-04.
- Asbestos-containing roof flashing with gray mastic located on the Fifth Floor roof of the building .The abatement areas are further described on Drawing Name: 0435673-06.

*Note: The abatement of the interior and roof flashing ACM shall be conducted concurrently. A temporary weather barrier will be required along the roof flashing abatement area to protect exposed building components from weather conditions. This barrier material must have a life span of at least six (6) months.*


- e. Contractor shall protect all electrical and thermostat components throughout the building.
- f. Contractor shall construct a three-chamber wet decontamination unit for the interior work areas. The decontamination chamber shall be equipped with a shower capable of delivering hot and cold water. An adequate supply of soap, shampoo and disposable towels shall be maintained for workers at egress. A remote three-chamber decontamination unit shall be utilized for the NESHAP activities regarding the exterior ACM roof flashing.
- g. All small movable objects shall be removed and stored by others. Large moveable objects left inside each work area shall be covered by a minimum of one layer of 4-mil polyethylene sheeting.
- h. Replacement will be conducted by others or as directed by the Owner's contract agreement.

  
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- i. Contractor is to begin work from the start date as noted on the TDSHS Notification or as amended by the Owner's contract. Work schedule is estimated to be a normal 8 hour day. The Contractor may opt to work a 10-12 hour day; however, the Contractor must inform the Consultant 24 hours in advance prior to change in work schedule. The Consultant and the Owner must approve any changes in the work schedule.
- j. Contractor personnel shall not consume food, alcoholic beverages or smoke on project site premises during any activity. Personnel shall restrict themselves to work hours and park only in designated areas. No admittance to the premises is permitted unless escorted by an Owner's Representative or approved Asbestos Contractor/Supervisor.
- k. Contractor shall coordinate all work times with the Owner's Asbestos Individual Consultant (AIC) or Project Manager and is directed to submit, adjust and amend the TDSHS Notification for the Owner based on his accessibility.
- l. Contractor is to submit close out documents within 15 days of completion, to include, but not limited to, waste manifest(s), personal testing (PEL/STEL), licenses and project logs.

This project shall be performed in accordance with this work plan as well as *40 CFR 763 Subpart E, 25 TAC 295, 29 CFR 1926.1101, the Texas Commission on Environmental Quality (TCEQ) rules in 30 TAC 330.136*, and any other applicable, local, State of Texas and EPA/OSHA/other federal codes, regulations, standards, and requirements. Prior to initiating work, proper written notification shall be submitted to the TDSHS per the requirements in 25 TAC 295.34(f) and 295.61.

END OF SECTION 1.0



Guy L. Roberts  
TDSHS AIC # 105465  
Expires 11/03/11

## SECTION 2.0 - PROTECTIVE CLOTHING AND EQUIPMENT

### 2.1 Protective Clothing

- A. Contractor is to ensure that each authorized person involved in asbestos removal will wear protective disposable coveralls, coated canvas or rubber gloves, head covering and non-skid foot coverings whenever the person within the regulated area.. The protective clothing shall be made of a material impervious to asbestos fibers.

### 2.2 Respirators

- A. Contractor shall comply with *29 CFR 1926.1101(h) and the OSHA General Industry Respirator Protection Standard in CFR 1910.134* and initiate appropriate respirator program. A minimum of half-mask air purifying respirators with dual HEPA (High Efficiency Particulate Air) filters shall be used during work area preparation and removal of non-friable materials, Approved organic canisters shall be utilized in conjunction with the asbestos filters during mastic removal.
- B. All respirators shall be approved by the National Institute of Occupational Safety and Health (NIOSH) for use in asbestos-containing atmospheres.
- C. Each worker must perform positive and negative air pressure fit tests each time a respirator is put on or as respirator designs permit.
- D. No one wearing a beard or other facial hair which will prevent a proper respirator seal shall be allowed to wear a respirator or enter the regulated area.

END OF SECTION 2.0

## **SECTION 3.0 - EMERGENCY PLANNING**

### **3.1 Procedures**

- A. The contractor shall develop emergency planning procedures prior to abatement initiation. This plan shall consist of, but not be limited to, emergency exit plans, notification procedures, and fire extinguisher locations. Both the contractor and the Owner shall agree on these procedures.
  
- B. Telephone numbers of all emergency response personnel shall be predominately posted in the clean room and equipment room. The location of the nearest telephone shall also be given.

END OF SECTION 3.0

## SECTION 4.0 - SITE PREPARATION FOR ASBESTOS REMOVAL

### 4.1 Worksite Enclosure

- A. The contractor shall isolate the regulated area per *EPA regulation 40 CFR 61.145 (c) (3) (B)*, *OSHA Standard 29 CFR 1926.1101(e)* *TDSHS regulations, paragraph 295.60*. The regulated areas shall be roped off and marked with clearly written warning labels in order to keep unauthorized personnel out of the regulated area. The regulated area shall encompass the whole area expected to have an airborne fiber concentration greater than 0.01 fibers per cubic centimeter (f/cc) as a result of the removal activities and not the other non-related activities conducted in the building.
- B. All movable objects shall be removed from the containment area in the cafeteria. Cleaning of contaminated items shall be performed if the items are to be salvaged or reused. Otherwise, they shall be properly disposed of as asbestos waste. All non-movable objects that remain in the containment area shall be covered with a minimum of 4-mil plastic sheeting, secured in place.
- C. Regulated areas within which asbestos abatement is to be conducted shall be separated from adjacent areas by impermeable barriers such as plastic sheeting attached securely in place. All openings between containment areas and adjacent area, including but not limited to windows, doorways, elevator openings, corridor entrances, ventilation openings, drains, ducts, grills, grates, diffusers, and skylights shall be sealed. All penetrations that could permit air infiltration or air leaks through the barrier shall be sealed, with the exception of the make-up air provisions and the means of entry and exit.
- D. Prep all walls with one layer of 6-mil plastic at least four (4) feet high from the floor. Where a fire hazard exists, all plastic sheeting will be certified by the Underwriters Laboratory (UL) as being fire retardant. Where feasible, when containment walls exceed 260 linear feet must be constructed, a viewing window will be included in the wall for each 260 linear feet or fraction of that distance which will permit the viewing of at least 51% of the abatement work area. The window shall be constructed of plexiglass which measures approximately 18 inches by 18 inches. The bottom of the window will be at a reasonable viewing height from the outside floor.
- E. Contractor shall provide enough negative air units to ensure four air exchanges inside the regulated area at all times. Contractor shall supply a sufficient quantity of negative pressure units equipped with *ANSI 29.2-79 Local Exhaust Ventilation Requirement* and EPA guidance document *EPA 560/5-83-002 Guidance for Controlling Friable Asbestos-Containing Materials in Buildings*. The documents recommend 0.02 inches of water pressure differential between outside and inside the enclosure. Openings made in the enclosure to accommodate these units shall be air tight. The unit should be placed at the best location so that air is forced to move most optimally across the entire enclosure.

## 4.2 Decontamination Facility

The enclosure shall consist of an enclosed work area and a decontamination area which consists of a clean room, shower, and an equipment room immediately adjacent to and contiguous with the work area. Waste water shall be filtered through a cascade filter system containing a 5 micron and 20 micron filters prior to being released into a sanitary sewer system.

END OF SECTION 4.0

## **SECTION 5.0 - ASBESTOS REMOVAL AND DISPOSAL PROCEDURES**

### **5.1 Class I Work**

Class I Work means activities involving the removal of TSI and surfacing ACM and presumed asbestos-containing material (PACM). The scope of work does not include any Class I Work.

### **5.2 Class II Work**

Class II Work means activities involving the removal of ACM that is not TSI or surfacing material. This includes, but is not limited to, the removal of asbestos-containing wallboard, floor tile and sheeting, roofing and siding shingles, fire doors, construction mastics and window caulking. This scope of work requires the removal of the following:

- Asbestos-containing and asbestos-contaminated 12"x12" floor tile and associated mastic located throughout the majority of the building. The abatement areas are further described on Drawing Name: 0435673-01, 0435673-02, 0435673-03, 0435673-04, 0435673-05 and 0435673-06.
- Approximately 250 square feet of asbestos-containing sheet vinyl flooring located in the bathrooms for Apartment Units 201, 207, 209, 210, 302, 307, and 404. The abatement areas are further described on Drawing Name: 0435673-02, 0435673-03 and 0435673-04.
- Asbestos-containing roof flashing with gray mastic located on the Fifth Floor roof of the building. The abatement areas are further described on Drawing Name: 0435673-06.

#### **5.2.1 Class II Work**

The following steps are intended to cover the removal of asbestos-containing/contaminated sheet vinyl flooring, floor tile and associated mastics. The RFCI removal method of flooring may be used only if the Contractor is properly trained and can demonstrate a prior successful work history.

- a. Regulate the work area where airborne concentrations of asbestos exceed, or there is a reasonable possibility they may exceed, the PEL.
- b. Demarcate the work area with signs and barrier tape.
- c. Access to regulated areas shall be limited to authorized personnel only.
- d. All persons entering a regulated area are required to wear respirators. The minimum respiratory protection for this scope of work is ½ mask air purifying respirator with

HEPA filters unless fiber concentrations require greater protection. The Contractor is responsible for proper and appropriate respirator selection.

- e. A Competent Person shall supervise all asbestos work.
- f. Use only vacuum cleaners equipped with HEPA filters to collect debris and dust containing ACM or PACM.
- g. Use wet methods, or wetting agents, to control employee exposure during asbestos handling, mixing, removal, cutting, application, and cleanup, except when there is an electrical hazard or other hazard.
- h. Critical barriers shall be placed over all openings to the regulated area.
- i. Shut down and lockout the HVAC system.
- j. All objects within the regulated area shall be covered with impermeable drop cloths or plastic sheeting that is secured by duct tape or equivalent.
- k. Prep all walls with one layer of 6-mil plastic at least four (4) feet high from the floor.
- l. Construct decontamination and load-out units.
- m. Establish negative pressure.
- n. Conduct pre-abatement visual inspection with the Project Manager.
- o. Any impermeable objects that are not ACM must be HEPA vacuumed or wet wiped, then passed through the bag out as non-ACM waste.
- p. Remove floor tile along with amended water. Materials should be removed intact, unless the contractor demonstrates that intact removal is not possible.
- q. Promptly cleanup and dispose of wastes and debris contaminated with asbestos in leak-tight containers. Vacuums equipped with HEPA filter, disposable dust bag, and metal floor tool (no brush) shall be used to clean floors.
- r. Wet wipe and clean the entire work area.
- s. Conduct final visual inspection with the Project Manager.
- t. Encapsulate the entire work area.

The following steps are intended to cover the removal of asbestos-containing roof flashing on the building exteriors:

- A. Regulate the work area where airborne concentrations of asbestos exceed, or there is a reasonable possibility they may exceed, the PEL.
- B. Demarcate the work area with signs and barrier tape.
- C. Secure two layers of 6-mil polyethylene sheeting on the ground beneath the ACM flashing perimeters.
- D. Access to the regulated areas shall be limited to authorized personnel only.
- E. All personnel entering a regulated area are required to wear respirators. The minimum respiratory protection for the scope of work half-face air purifying respirator with HEPA filters unless fiber concentrations require greater protection. The contractor is responsible for proper and adequate respirator selection.
- F. A competent person shall supervise all asbestos work.
- G. Use only vacuum cleaners equipped with HEPA filters to collect all dust containing ACM or PACM.
- H. Use wet methods, or wetting agents, to control employee exposure during asbestos handling, mixing, removal, cutting, application, and cleanup, except where there is an electrical hazard or other hazard.
- I. Conduct pre-abatement visual inspection with Project Manager.
- J. Exterior ACM roof flashing shall be removed in an intact state to the extent possible.
- K. Asbestos-containing material that has been removed shall not be dropped or thrown to the ground. The material is to be placed in ACM bags and carried or passed to the ground by hand as soon as practicable.
- L. Upon being lowered to the ground, ACM bags shall be transferred to a closed receptacle as soon as is practicable.
- M. Promptly cleanup and dispose of wastes and debris contaminated with asbestos in leak tight containers, Vacuums equipped with HEPA filter, disposable dust bags, and metal floor tool (no brush) shall be used on window/door frames.
- N. Conduct final visual inspection with Project Manager.

### 5.3 Waste Disposal

- a. Disposal bags shall be 6-mil polyethylene bags, or Texas DSHS approved equivalent, that are preprinted with labels as required by the applicable *Occupational Safety and Health Administration (OSHA) regulation* and *EPA NESHAPS Standard 40 CFR Part*

61, Subpart M. All asbestos waste shall be double-bagged and goose necked at the top to prevent fiber release.

- b. The contractor shall take care to prevent asbestos material from clinging to the outside of the filled bags or containers. The bags shall be HEPA vacuumed and/or wet-wiped prior to leaving the work area.
- c. The waste transporter shall have a Texas Department of State Health Services (DSHS) asbestos transporter license.
- d. Authorized persons shall be protected by disposable clothing and a minimum of half-face respirator while loading asbestos waste.
- e. The enclosed cargo area of the truck or dumpster shall be lined with 6-mil polyethylene sheeting to prevent contamination from leaking containers. Trucks and dumpsters shall have lockable enclosed cargo areas.
- f. Waste containers shall not be thrown into or out of the truck cargo area or dumpster.
- g. Asbestos waste shall be disposed of in an approved landfill according to current state requirements.
- h. A proper manifest shall be required of all off-site asbestos shipments per *Texas Commission on Environmental Quality (TCEQ) regulations 21 TAC 335.10* and *EPA NESHAPS Standard 40 CFR Part 61, Subpart M*. The Owner shall be responsible for signing the waste manifest. PSI shall review the manifest prior to removal of waste from the site. PSI will not be responsible for signing the waste manifests.
- i. A copy of the waste manifest shall be sent to Professional Service Industries, Inc. (PSI) and the Owner upon completion of the project.

END OF SECTION 5.0

## **SECTION 6.0 - CLEANUP PROCEDURES**

### **6.1 Work Area Cleanup**

The work area and the decontamination area shall be thoroughly cleaned after all work is finished.

### **6.2 Method of Clean-up**

The area shall be cleaned with a HEPA vacuum and/or wet-wiped.

### **6.3 Clean-up of Polyethylene Sheeting**

After vacuuming and/or wet-wiping, all of plastic sheeting shall be sprayed with an encapsulant and then disposed of as asbestos-waste.

### **6.4 Post Clearance Clean-up**

Contractor shall remove all waste materials and equipment from job site within 24 hours of completion of the project (Final Clearance Notification verbally or written from the Consultant)

END SECTION 6.0

## SECTION 7.0 - AIR MONITORING PLAN

### 7.1 General Procedures

Monitoring of airborne concentrations of asbestos fibers shall be in general accordance with *OSHA regulation 29 CFR 1926.1101(f) and Appendices A and B, and EPA-AHERA regulation 40 CFR 763.90 Subpart E* and as specified in this plan. The Contractor shall employ his own Consultant for personal air monitoring and submit the results to the Owner's Representative.

### 7.2 Monitoring Prior to Abatement

Area monitoring shall be conducted in the ACM work area prior to abatement operations in order to establish the airborne asbestos fiber concentrations in the work area prior to the commencement of removal operations. This result will establish an airborne fiber concentration in the work area during normal environmental conditions.

### 7.3 Monitoring During Abatement

Area and personal monitoring shall be conducted to determine airborne fiber concentrations in and around the working environment. All air samples shall be referenced in the daily log. .

#### 7.3.1 Area Sampling

Monitoring of the areas inside and surrounding the abatement site shall be performed on a daily basis. A minimum of two (2) general area samples shall be collected inside the regulated area and three (3) outside the regulated area. The outside samples shall be located at the negative air exhaust, in the adjacent space, and at the decontamination unit. The amount of air sampled shall be approximately 1250 liters per sample. Reduction in air sample volumes may be necessary based on work activities and time constraints. If air monitoring outside of the regulated area shows air concentrations greater than the permissible exposure limit ( PEL - 0.1 fibers/cc Time Weighted Average), the contractor's supervisor will be immediately notified.

#### 7.3.2 Personal Sampling

Monitoring of workers shall be conducted as requires by the *OSHA regulation 29 CFR 1926.1101 (f) and Appendices A and B*. Personal sampling is the responsibility of the Contractor.

### 7.4 Final Clearance

### 7.5

All project activity, except operations and maintenance (O&M), shall be cleared by using aggressive air sampling. Aggressive air sampling is the use of an air blower, such as a leaf blower with the force of air unaltered and operating as it comes from the factory, directed at all surfaces in order to cause loose asbestos fibers to become airborne.

#### 7.4 Final Clearance-continued

Final clearance phase contrast microscopy (PCM) sampling shall be conducted after a final inspection by the on-site project manager. A minimum of 1,250 liters to a maximum of 3,850 liters of air shall be collected from each containment area greater than 160 square feet. Areas less than 160 square feet shall have at least three samples collected per containment area and analyzed via phase contrast microscopy (PCM). The results of the PCM analysis for each sample shall be below 0.01 f/cc. Contractor shall reimburse the OWNER for all additional monitoring due to failed clearance. The cost will be \$500.00 per clearance set (time + 3PCM samples).

#### 7.5 Air Sample Analysis

PCM air samples shall be analyzed in accordance with the TDSHS-required "NIOSH 7400 Analytical Method for Asbestos and Other Fibers by PCM" by a Proficiency Analytical Testing/Asbestos Analytical Registry (PAT/AAR) certified and TDSHS licensed laboratory. Collecting and analyzing samples, as well as inspecting the site, will be the responsibility of PSI, Three Burwood Lane, San Antonio, Texas. The laboratory results will be available within 24 hours after completion of the sampling.

END OF SECTION 7.0

## SECTION 8.0 - SUBMITTALS

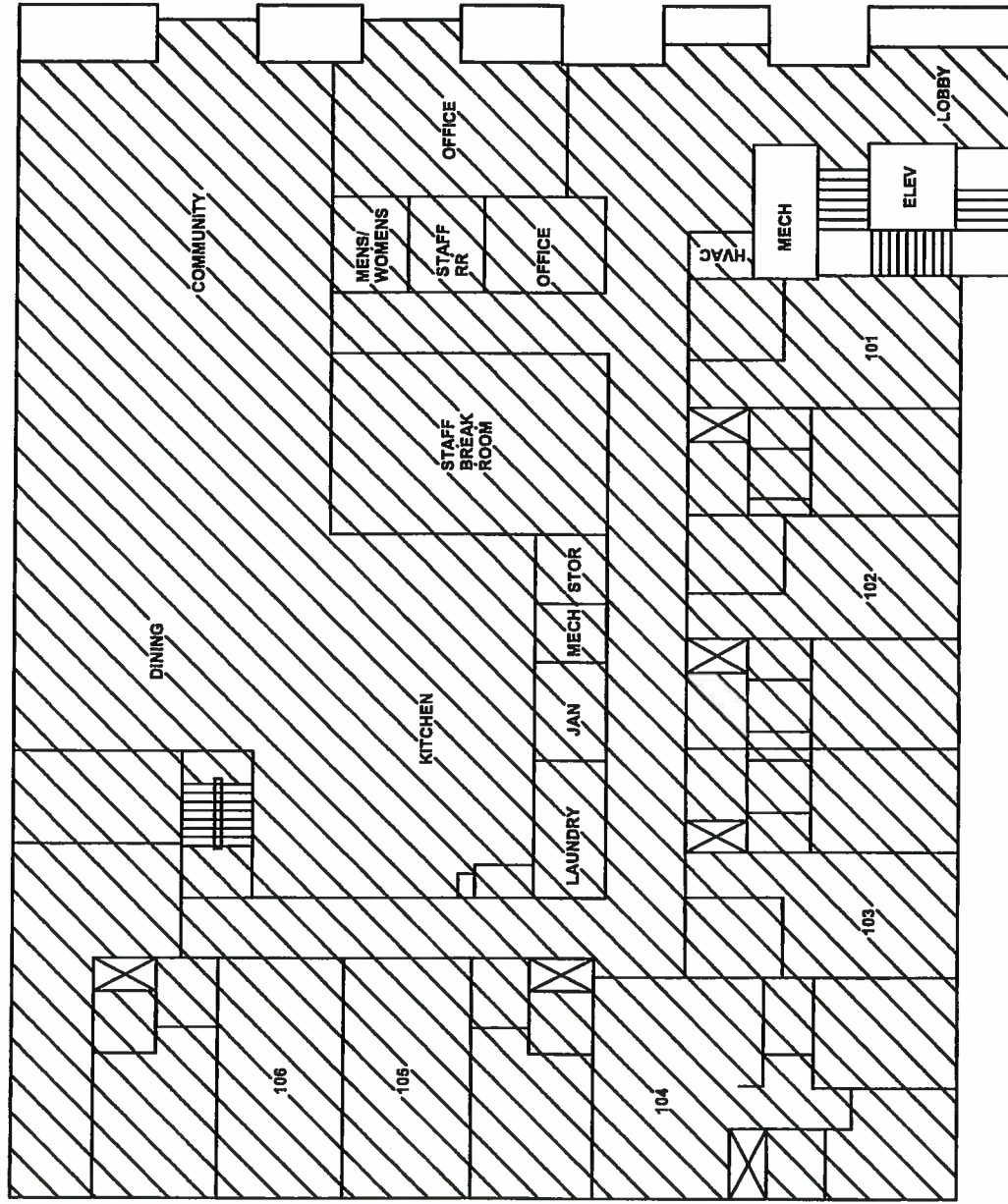
### 8.1 Contractor's Construction Schedule

- A. Before the start of work, the contractor shall provide a proposed detailed schedule including work dates, work shift time, number of employees, date of start and completion including dates of preparation work, removal and final inspection dates.
- B. Submit the following to the Owner's representative for review of project coordination.
  - 1. Contingency Plans for emergency action.
  - 2. Telephone Numbers and location of emergency services.
  - 3. Notifications sent to emergency service agencies.
  - 4. Resume of Supervisor.
  - 5. Accreditation Training certificate for Asbestos Abatement Supervisor.
  - 6. Copy of medical examination for Asbestos Abatement Supervisor.
  - 7. Texas DSHS License for Asbestos Abatement Supervisor.
- C. Submittals related to Regulatory Requirements:
  - 1. Notices: Submit notices required by federal, state and local regulations together with proof of timely transmittal to agency requiring the notice.
  - 2. Permits: Submit copies of current valid permits required by state and local regulations.
  - 3. Licenses: Submit copies of all state and local licenses and permits necessary to carry out the work of this contract.
- D. Before the start of work, submit the following to the Owner's representative for review:
  - 1. Copies of certification from an EPA approved AHERA abatement workers course, Texas Department of State Health Services (DSHS) Asbestos Worker's registration and a current copy of medical examination for each worker.
- D. At the completion of the project, submit two (2) copies of all the above referenced items to the Owner's representative as the project close-out documents.

END OF SECTION 8.0

**APPENDIX A**  
**PROJECT DRAWINGS**

SCALE: NONE



FIRST FLOOR

PREPARED BY:

*Guy L. Roberts*

Guy L. Roberts  
 Individual Asbestos Consultant  
 DSHS License No. 10-5465  
 Expiration Date: November 03, 2011



REMOVE ASBESTOS-CONTAINING/CONTAMINATED FLOOR TILE & MASTIC AS ACM

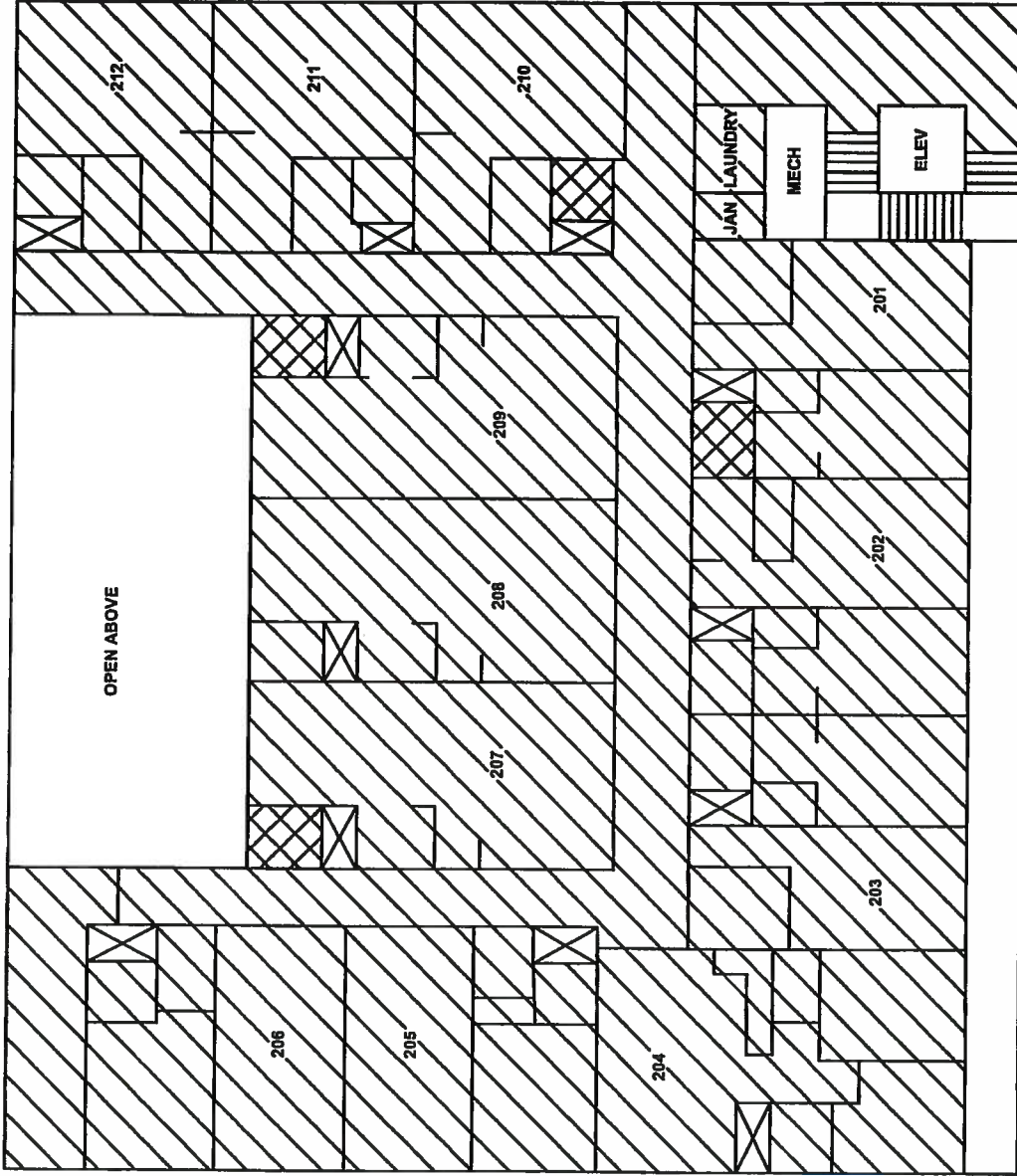
DATE:	05/09/11
DRAWN BY:	J. LEAL
PROJECT #:	0435673
DRAWING NAME:	0435673-01

**SAN ANTONIO HOUSING AUTHORITY**  
**MARIE MCGUIRE APARTMENTS**  
 211 N. ALAMO STREET  
 SAN ANTONIO, TEXAS

**ASBESTOS**  
**ABATEMENT**

**[psi]** Information  
 To Build On  
 Engineering • Consulting • Testing  
 THREE BURWOOD LANE  
 SAN ANTONIO, TEXAS 78216

SCALE: NONE




SECOND FLOOR

REMOVE ASBESTOS-CONTAINING/CONTAMINATED FLOOR TILE & MASTIC AS ACM



REMOVE ASBESTOS-CONTAINING LINOLEUM



PREPARED BY:   
 Guy L. Roberts  
 Individual Asbestos Consultant  
 DSHS License No. 10-5465  
 Expiration Date: November 03, 2011

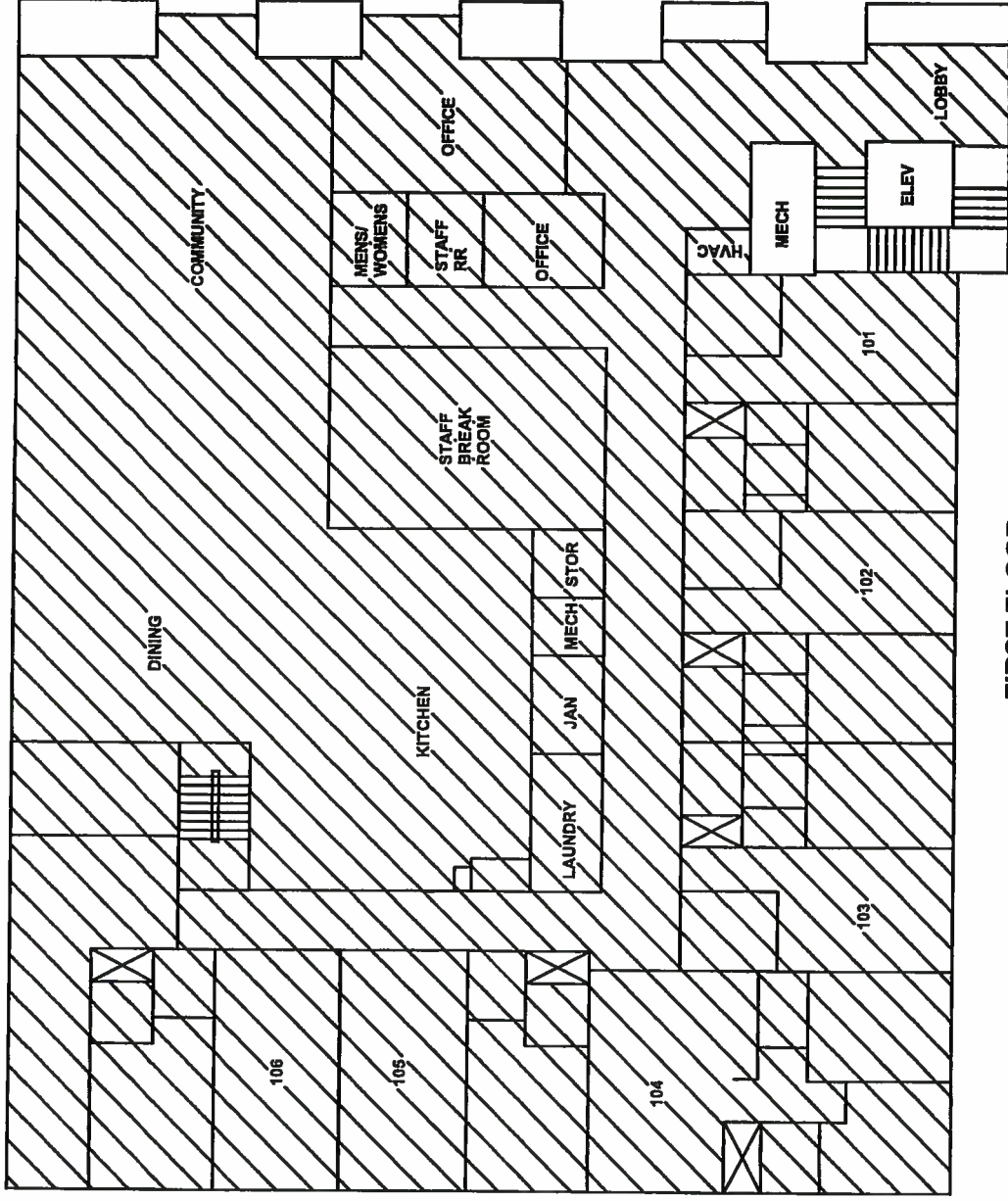
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DRAWN BY:	J. LEAL
PROJECT #:	0435673
DRAWING NAME:	0435673-02

SAN ANTONIO HOUSING AUTHORITY  
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 SAN ANTONIO, TEXAS

ASBESTOS  
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 SAN ANTONIO, TEXAS 78216


SCALE: NONE



FIRST FLOOR

REMOVE ASBESTOS-CONTAINING/CONTAMINATED FLOOR TILE & MASTIC AS ACM



PREPARED BY:   
 Guy L. Roberts  
 Individual Asbestos Consultant  
 DSHS License No. 10-5485  
 Expiration Date: November 03, 2011

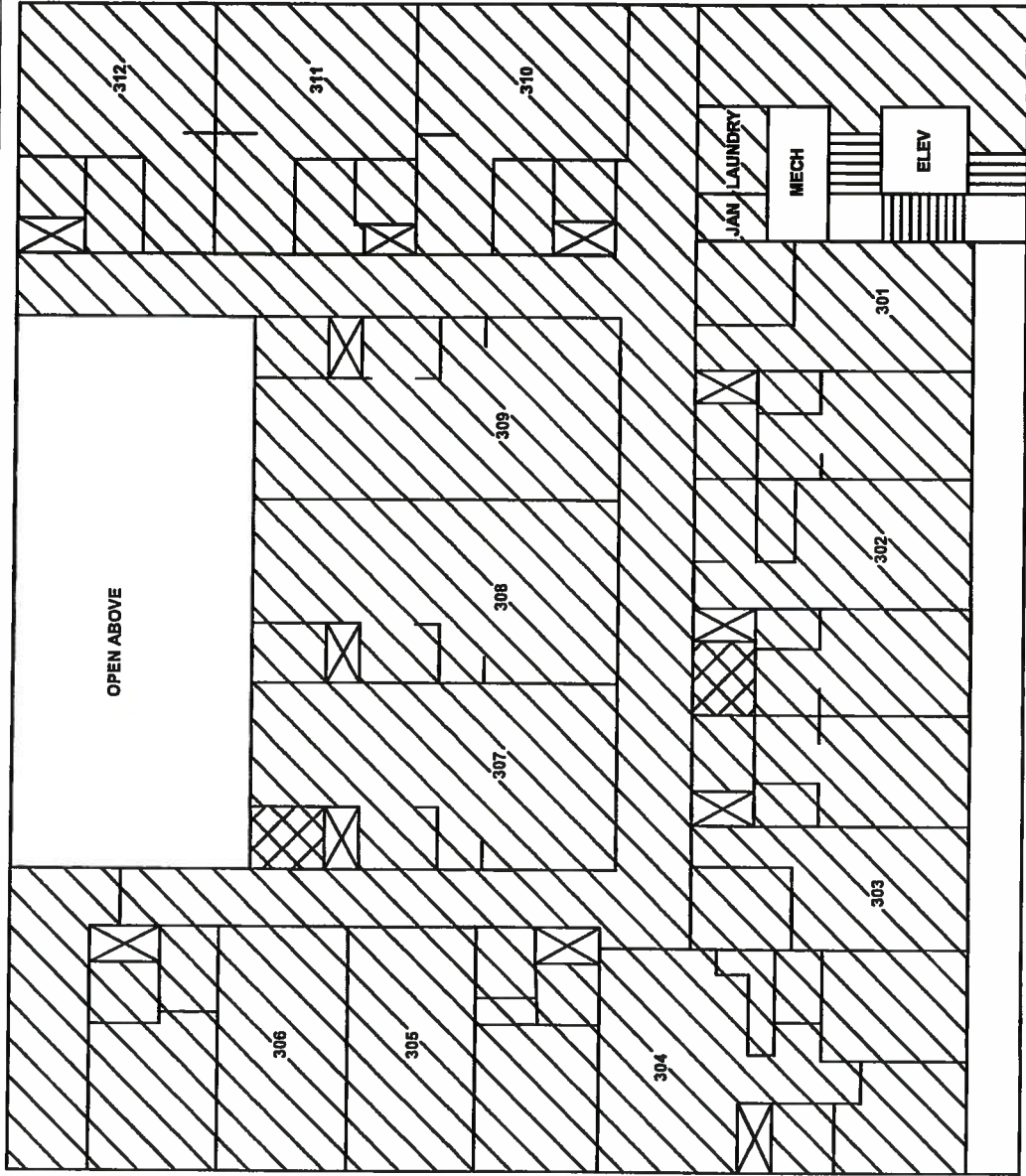
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DRAWN BY:	J. LEAL
PROJECT #:	0435673
DRAWING NAME:	0435673-01

**SAN ANTONIO HOUSING AUTHORITY**  
**MARIE MCGUIRE APARTMENTS**  
 211 N. ALAMO STREET  
 SAN ANTONIO, TEXAS

**ASBESTOS**  
**ABATEMENT**


**[psi]** Information  
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 SAN ANTONIO, TEXAS 78216

SCALE: NONE



THIRD FLOOR

-  REMOVE ASBESTOS-CONTAINING/CONTAMINATED FLOOR TILE & MASTIC AS ACM
-  REMOVE ASBESTOS-CONTAINING LINOLEUM

PREPARED BY:   
 Guy L. Roberts  
 Individual Asbestos Consultant  
 DSHS License No. 10-5465  
 Expiration Date: November 03, 2011

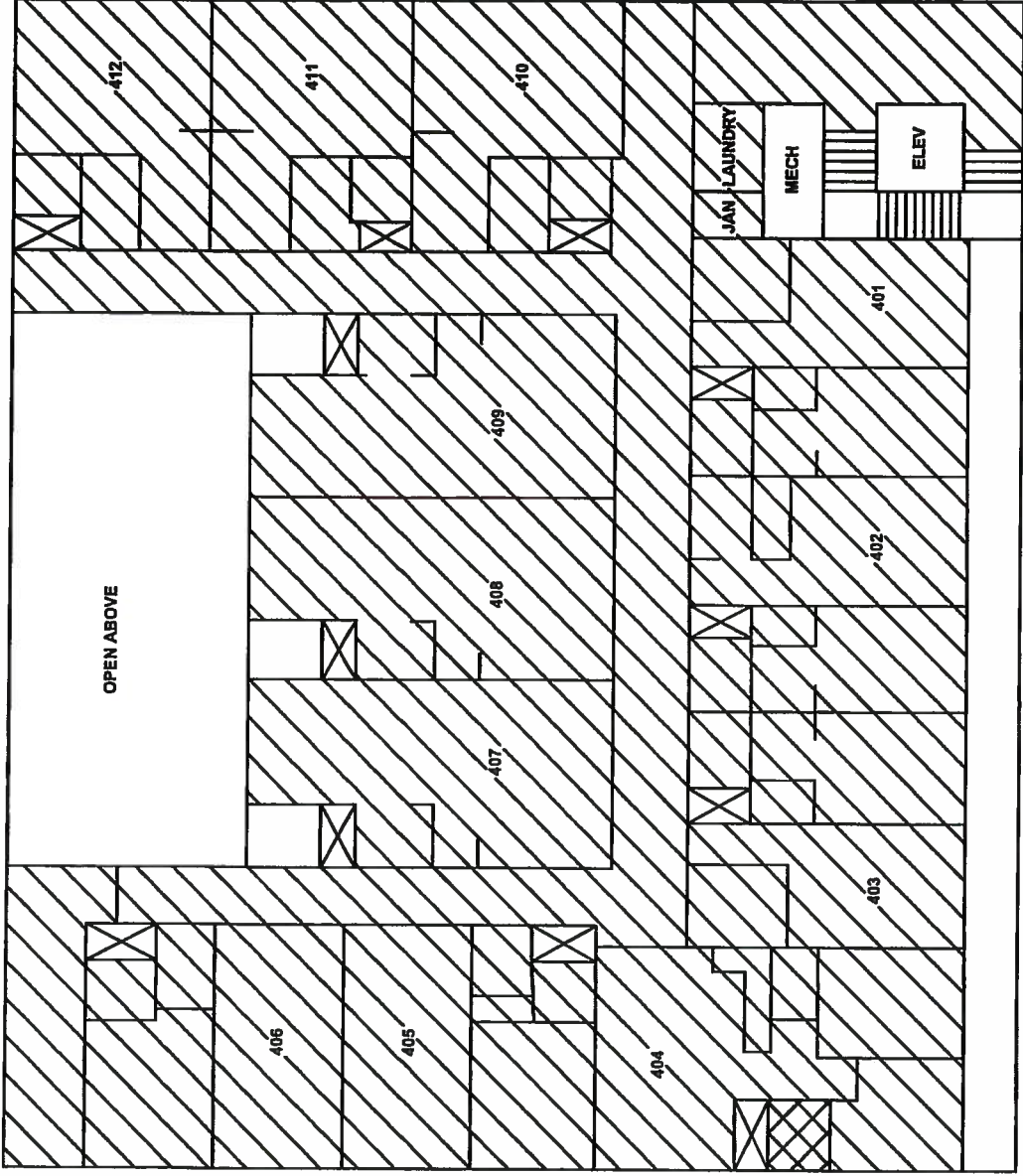
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DRAWN BY:	J. LEAL
PROJECT #:	0435873
DRAWING NAME:	0435873-03

**SAN ANTONIO HOUSING AUTHORITY**  
**MARIE MCGUIRE APARTMENTS**  
 241 N. ALAMO STREET  
 SAN ANTONIO, TEXAS

**ASBESTOS**  
**ABATEMENT**


**[psi] Information**  
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 SAN ANTONIO, TEXAS 78216

SCALE: NONE



FORTH FLOOR

-  REMOVE ASBESTOS-CONTAINING/CONTAMINATED FLOOR TILE & MASTIC AS ACM
-  REMOVE ASBESTOS-CONTAINING LINOLEUM

PREPARED BY:   
 Gay L. Roberts  
 Individual Asbestos Consultant  
 DSHS License No. 10-5485  
 Expiration Date: November 03, 2011

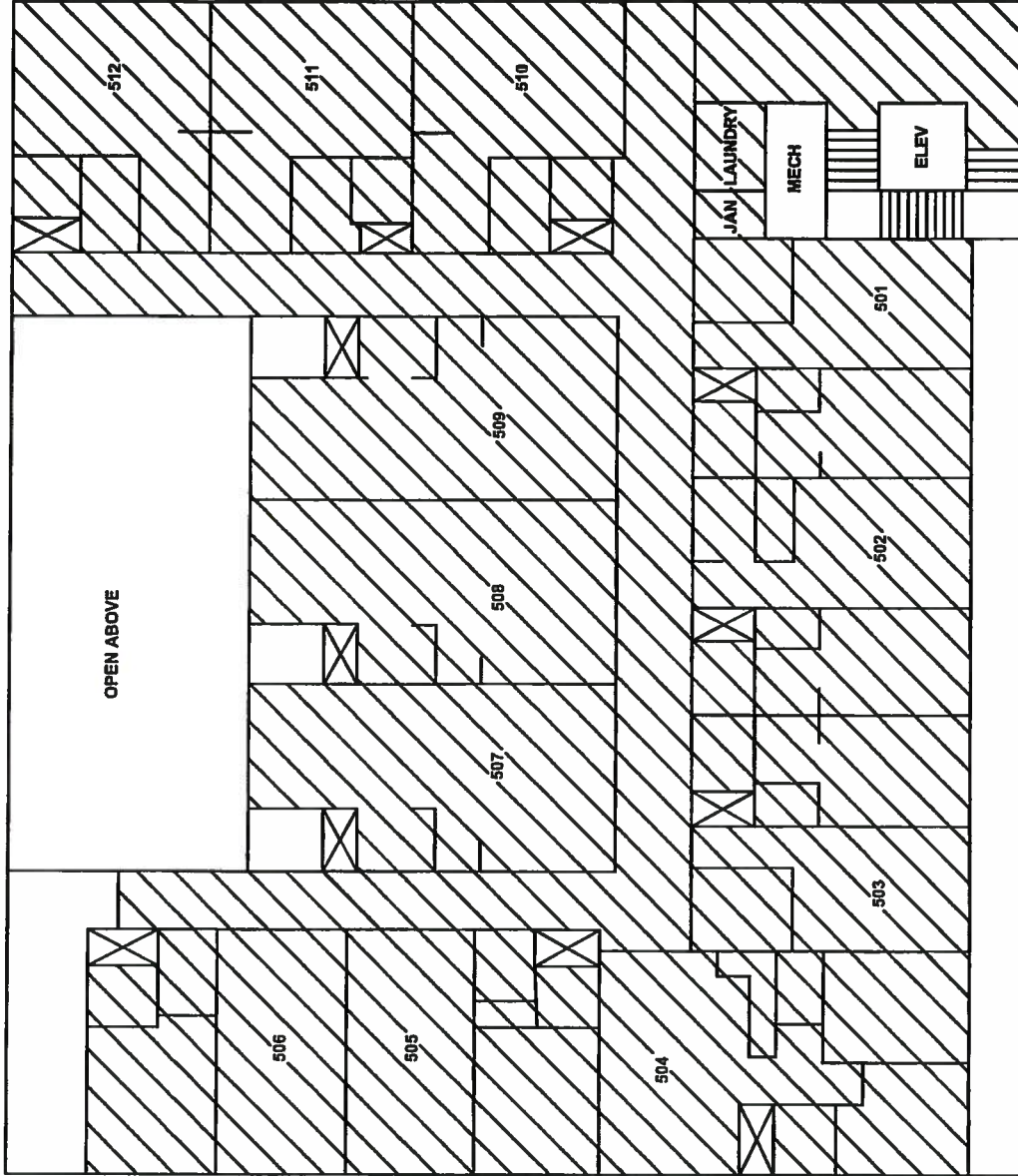
DATE:	05/09/11
DRAWN BY:	J. LEAL
PROJECT #:	0435873
DRAWING NAME:	0435873-04

**SAN ANTONIO HOUSING AUTHORITY**  
**MARIE MCGUIRE APARTMENTS**  
 211 N. ALAMO STREET  
 SAN ANTONIO, TEXAS

**ASBESTOS**  
**ABATEMENT**


**[psi]** Information  
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 THREE BURWOOD LANE  
 SAN ANTONIO, TEXAS 78216

SCALE: NONE



FIFTH FLOOR

REMOVE ASBESTOS-CONTAINING/CONTAMINATED FLOOR TILE & MASTIC AS ACM

PREPARED BY:   
 Guy L. Roberts  
 Individual Asbestos Consultant  
 DSHS License No. 10-5465  
 Expiration Date: November 03, 2011



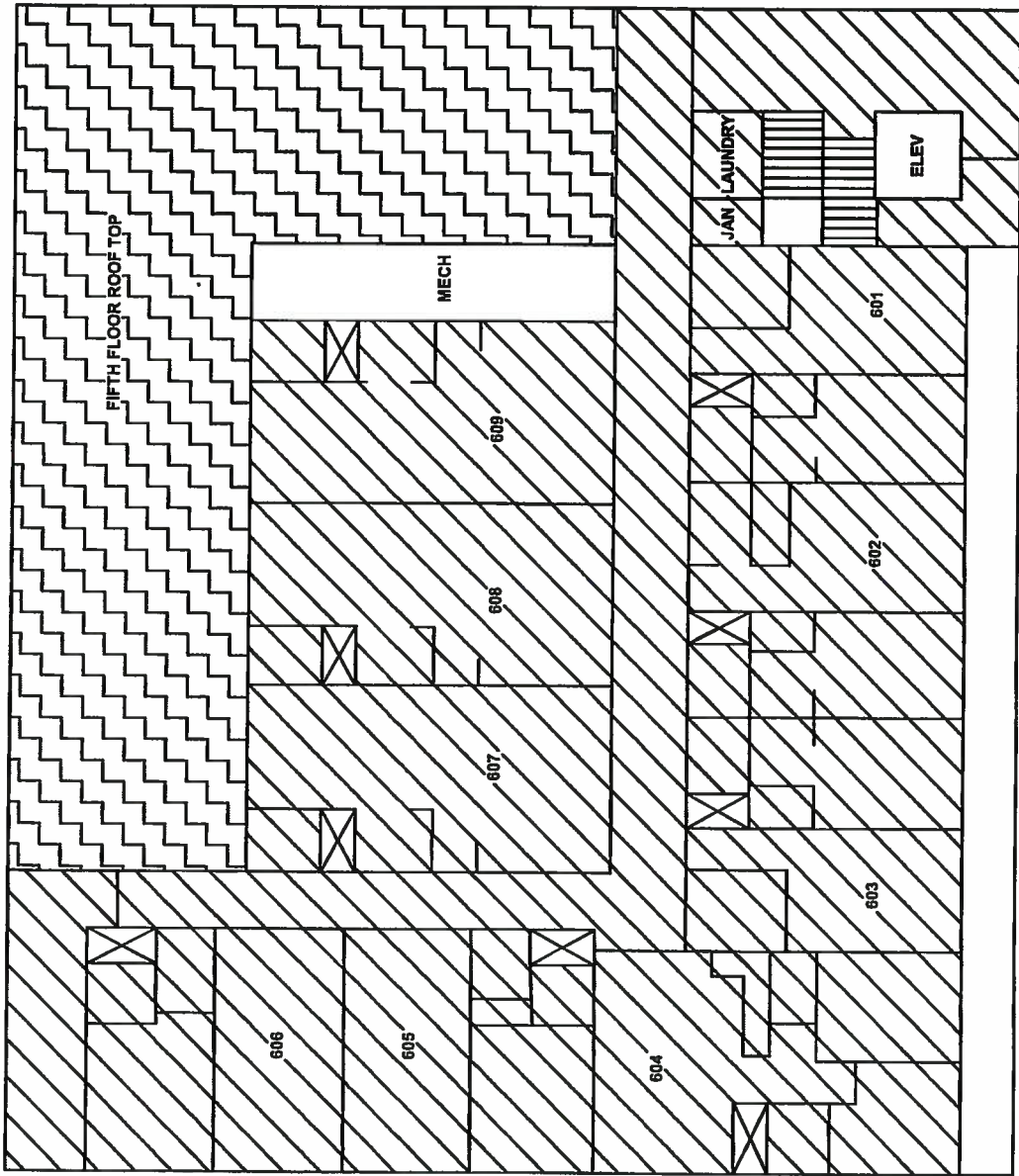
DATE:	05/09/11
DRAWN BY:	J. LEAL
PROJECT #:	0435673
DRAWING NAME:	0435673-05

**SAN ANTONIO HOUSING AUTHORITY**  
**MARIE MCGUIRE APARTMENTS**  
 211 N. ALAMO STREET  
 SAN ANTONIO, TEXAS



**ASBESTOS**  
**ABATEMENT**

**[psi]** Information  
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 THREE BURWOOD LANE  
 SAN ANTONIO, TEXAS 78216

SCALE: NONE



SIXTH FLOOR

-  REMOVE ASBESTOS-CONTAINING/CONTAMINATED FLOOR TILE & MASTIC AS ACM
-  REMOVE ASBESTOS-CONTAINING ROOF FLASHING & ROOF MASTIC FROM ROOF PENETRATIONS, SKY LIGHTS & PARAPET WALLS

PREPARED BY:   
 Guy L. Roberts  
 Individual Asbestos Consultant  
 DSHS License No. 10-5465  
 Expiration Date: November 03, 2011

DATE:	05/09/11
DRAWN BY:	J. LEAL
PROJECT #:	0435673
DRAWING NAME:	0435673-08

**SAN ANTONIO HOUSING AUTHORITY**  
**MARIE MCGUIRE APARTMENTS**  
 211 N. ALAMO STREET  
 SAN ANTONIO, TEXAS

**ASBESTOS**  
**ABATEMENT**

**[psi] Information**  
**To Build On**  
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 THREE BURWOOD LANE  
 SAN ANTONIO, TEXAS 78216

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## **APPENDIX B**

### **LICENSES**



# TEXAS DEPARTMENT OF STATE HEALTH SERVICES

## PROFESSIONAL SERVICE INDUSTRIES INC

*is certified to perform as a*

### Asbestos Consultant Agency

*in the State of Texas within the purview of Texas Occupations Code, chapter 1954, so long as this license is not suspended or revoked and is renewed according to the rules adopted by the Texas Board of Health.*

A handwritten signature in cursive script, appearing to read "David Lahey MD".

DAVID LAKEY, M.D.  
COMMISSIONER OF HEALTH

License Number: 100047

Control Number: 96303

Expiration Date: 3/19/2012

(Void After Expiration Date)

VOID IF ALTERED      NON-TRANSFERABLE



**Texas Department of  
State Health Services**

**Asbestos Individual Consultant**

**GUY L ROBERTS**

**License No. 105465**

**Control No. 95847**

**Expiration Date: 11/3/2011**



## **Attachment G Wage Decision**

General Decision Number: TX100003 04/01/2011 TX3

Superseded General Decision Number: TX20080003

State: Texas Construction Type: Building County: Bexar County in Texas.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

Modification Number	Publication Date
0	03/12/2010
1	06/04/2010
2	07/02/2010
3	07/30/2010
4	08/13/2010
5	01/07/2011
6	04/01/2011

ASBE0087-001 01/01/2009	Rates	Fringes
Asbestos/Insulator Worker (Includes application of all insulating materials, protective coverings, coatings, and finishings to all types of mechanical systems.).....	\$ 21.17	7.40
-----		
BRTX0001-004 05/01/2009	Rates	Fringes
BRICKLAYER.....	\$ 24.50	1.73
-----		
ELEC0060-001 06/01/2010	Rates	Fringes
CABLE SPLICER.....	\$ 25.20	3.75+12%
ELECTRICIAN.....	\$ 24.95	3.75+12%
-----		
ELEC0060-002 06/01/2009	Rates	Fringes
ELECTRICIAN (Low Voltage including pulling & installing cable through conduit).....	\$ 19.51	8%+4.92
-----		
ELEV0081-001 01/01/2010	Rates	Fringes
Elevator Constructor MECHANIC.....	\$ 33.35	20.235+A

FOOTNOTE; A = UNDER 5 YEARS EMPLOYMENT, 6% BHR; OVER 5 YEARS EMPLOYMENT, 8% BHR. PAID HOLIDAYS : New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving Day, Christmas Day, and Veterans Day.

	Rates	Fringes
ENGI0450-001 07/01/2009		
Power equipment operators: Cranes.....	\$ 29.75	8.75
-----		
IRON0066-001 06/01/2009	Rates	Fringes
IRONWORKER (Excluding metal building erectors)		
Structural.....	\$ 18.50	5.15
-----		
MARB0002-001 07/01/2005	Rates	Fringes
TILE SETTER.....	\$ 18.50	6.10
-----		
PLUM0142-001 07/01/2010	Rates	Fringes
Plumbers and Pipefitters (Including HVAC WORK)....	\$ 28.78	9.10
-----		
* SFTX0669-001 04/01/2011	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers).....	\$ 25.40	16.00
-----		
SHEE0067-001 04/01/2009	Rates	Fringes
Sheet metal worker (Including HVAC Duct Work)....	\$ 25.18	10.75
-----		
SUTX1988-002 11/01/1988	Rates	Fringes
Acoustical Ceiling Installer.....	\$ 12.26	
CARPENTER (Excluding Acoustical Ceiling Installer & Drywall Hanger).....	\$ 10.64	
CEMENT MASON/CONCRETE FINISHER...	\$ 11.46	
DRYWALL HANGER.....	\$ 11.88	
GLAZIER.....	\$ 10.78	1.40
IRONWORKER (Excluding Metal Building Assemblers) Reinforcing.....	\$ 10.19	3.57
Laborers:		
Mason Tenders.....	\$ 8.36	1.78
Mortar Mixers.....	\$ 8.99	
PLASTERER'S TENDERS.....	\$ 8.68	
Unskilled.....	\$ 7.25	
LATHER.....	\$ 15.25	
PAINTER (Excluding Tapers/Finishers).....	\$ 8.01	
PLASTERER.....	\$ 15.25	
Power equipment operators:Front End Loader.....	\$ 7.36	
Roofers:		
Kettlemen.....	\$ 8.85	
Roofers.....	\$ 8.14	
Waterproofers.....	\$ 7.25	
Sheet Metal Worker - Other Work.....	\$ 11.62	
Taper/Finisher.....	\$ 7.99	
TRUCK DRIVER.....	\$ 7.25	
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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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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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In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

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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