

**A REGULAR MEETING OF THE
BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF
SAN BERNARDINO**

TO BE HELD TELEPHONICALLY
December 8, 2020 AT 3:00 P.M.

Zoom Meeting – Board of Commissioners will be forwarded instructions
Members of the public may call:
Call In Number (669) 900-6833
Meeting ID: 818 8471 1680
Password: 051513

This meeting is being held in accordance with the Brown Act as currently in effect under the State of Emergency Services Act, the Governor's Emergency Declaration related to COVID-19 and the Governor's Executive Order N-29-20 issued on March 17, 2020, that allows attendance by the Board of Commissioners, Housing Authority staff, and the public to participate and conduct the meeting by teleconference, videoconference, or both.

Members of the public wishing to participate should call in using the teleconference information stated above. Public comments, limited to 250 words or less, can only be submitted via web at <http://ww2.hacsb.com/contact/public-comments-for-board-meetings> and/or via email at publiccomment@hacsb.com and will be read into the record, limited to 3 minutes per comment. Some comments may not be read due to time limitations.

AGENDA

PUBLIC SESSION

- 1) Call to Order and Roll Call
- 2) Additions or deletions to the agenda
- 3) General Public Comment - Any member of the public may address the Board of Commissioners on any matter not on the agenda that is within the subject matter jurisdiction of the Board. To make a comment on a specific agenda item, please submit your comments via email or online by 1:00 p.m. on the Tuesday of the Board meeting. Comments should be limited to 250 words or less. Please submit your comments via web at <http://ww2.hacsb.com/contact/public-comments-for-board-meetings> and email at publiccomment@hacsb.com. Your comments will be placed into the record at the meeting. Efforts will be made to read the comments into the record, but some comments may not be read due to time limitations.

DISCUSSION CALENDAR

(Public comment is available for each item on the discussion calendar)

- 4) Receive the Executive Director's Report for December 8, 2020. (Page 1)
- 5) Receive the board building presentation for December 8, 2020, regarding an overview of the Housing Authority of the County of San Bernardino's new website. (Page 2)
- 6) Discuss the Local Payment Standards for the Moving to Work Housing Choice Voucher program and provide direction to staff on next steps. (Pages 3)
- 7) Adopt Resolution No. 101 declaring the COVID-19 pandemic a local disaster under the Housing Authority of the County of San Bernardino Local Disaster Short-Term Rental Assistance Program Moving to Work Activity. (Pages 4-7)
- 8) 1 - Approve Resolution No. 102:
 - a. Authorizing an amendment of the funding request in the joint application with the Mountain Homeless Coalition to the California Department of Housing and Community Development for Homekey grant funds to an amount not to exceed \$1,101,678 for capital expenditures and capitalized operating subsidy.
 - b. Authorize and direct the Executive Director, upon consultation with Legal Counsel, to execute and deliver all documents and agreements necessary to implement the Homekey project including the Standard Agreement with the State of California, and other ancillary documents necessary to carry out and close the acquisition of the multifamily rental property at 402 Georgia Street in Big Bear Lake, California in collaboration with the Mountain Homeless Coalition, and to approve any non-substantive revisions necessary to complete the transaction. (Pages 8-12)
- 9) 1 – Adopt Resolution No. 103 extending authorization of the Executive Director and designees to waive internal policies and modify operations as necessary in response to the COVID-19 global pandemic, as proclaimed in a State of Emergency by the Governor of the State of California until December 31, 2021.

2 – Direct the Executive Director to create and deliver to the Board of Commissioners a summary report of all instances where this waiver is utilized, including specifying policies waived, the reason for the waiver and the estimated financial impact. the report shall be included in each Board of Commissioners regular meeting agenda for the duration of the State of California emergency declaration. (Pages 353-356)
- 10) 1 – Approve a data use agreement, retroactive to June 1, 2020, between the Housing Authority of the County of San Bernardino, Inland Empire Health Plan, San Bernardino County Department of Behavioral Health, Valley Star Behavioral Health, Inc., Step Up on Second Street, Inc., Brilliant Corners, Jewish Family Service of San Diego, and Lighthouse Social Service Centers for the permanent supportive housing development, Desert Haven Apartments, for a five-year term through May 31, 2025.

2 – Authorize and direct the Executive Director to execute and deliver the agreement to Inland Empire Health Plan, San Bernardino County Department of Behavioral Health, Valley Star Behavioral Health, Inc., Step Up on Second Street, Inc., Brilliant Corners,

Jewish Family Service of San Diego, and Lighthouse Social Service Centers and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction. (Pages 13-36)

- 11)
 - 1 – Approve a data use agreement, retroactive to June 1, 2020, between the Housing Authority of the County of San Bernardino, Inland Empire Health Plan, San Bernardino County Department of Behavioral Health, Mental Health Systems, Inc., Step Up on Second Street, Inc., Brilliant Corners, Jewish Family Service of San Diego, and Lighthouse Social Service Centers for the permanent supportive housing development, Golden Apartments, for a five-year term through May 31, 2025.
 - 2 – Authorize and direct the Executive Director to execute and deliver the agreement to Inland Empire Health Plan, San Bernardino County Department of Behavioral Health, Mental Health Systems, Inc., Step Up on Second Street, Inc., Brilliant Corners, Jewish Family Service of San Diego, and Lighthouse Social Service Centers and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction. (Pages 37-59)
- 12)
 - 1 – Approve the First Amendment to the lease agreement, effective February 1, 2021, with the County of San Bernardino for the premises located at 1151 N. Crestview Avenue, Buildings A and B, in the City of San Bernardino for the County of San Bernardino Preschool Services Department.
 - 2 – Authorize and direct the Executive Director to execute and deliver the First Amendment to the lease agreement to the County of San Bernardino Preschool Services Department, and upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction. (Pages 60-64)
- 13)
 - 1 – Approve Contract No. PC1180, effective December 9, 2020, with Aleshire & Wynder LLP for General Legal Counsel Services for an amount not to exceed \$130,000 for a two-year base period through December 8, 2022, with three single-year options to extend the contract until no later than December 8, 2025.
 - 2 – Authorize and direct the Executive Director to execute and deliver the contract to Aleshire & Wynder LLP and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction. (Pages 65-95)
- 14)
 - 1 – Terminate the construction contract with Nobel E&C, Inc., effective immediately, for concrete and masonry work at the Barstow Affordable Housing Community that was awarded on March 10, 2020.
 - 2 – Award a construction contract, effective December 9, 2020, to J. Cardenas Inc. for concrete and masonry work at the Barstow Affordable Housing Community located in the City of Barstow in an amount not to exceed \$298,910.
 - 3 – Authorize and direct the Executive Director to execute and deliver the contract to J. Cardenas Inc. and, upon consultation with Legal Counsel, to approve any non-financial revisions necessary to complete the transaction. (Pages 96-224)
- 15)
 - 1 – Award a construction contract, effective December 9, 2020, to Commercial Waterproofing Systems, Inc. dba ERC Roofing & Waterproofing for roofing and insulation work at the Williams Senior Affordable Housing complex located in the City of Barstow in an amount not to exceed \$305,927.69.

2 – Authorize and direct the Executive Director to execute and deliver the contract with Commercial Waterproofing Systems, Inc. dba ERC Roofing & Waterproofing and, upon consultation with Legal Counsel, to approve any non-financial revisions necessary to complete the transaction. (Pages 225-337)

- 16) Approve an increase in appropriations for agency-wide office supplies with Staples Advantage by \$187,726 for a total not to exceed \$622,726 through September 30, 2021. (Pages 338-339)

CONSENT CALENDAR

- 17) APPROVAL OF CONSENT ITEMS: # 18 - 20

- 18) Approve the meeting minutes for the Board of Commissioners of the Housing Authority of the County of San Bernardino Regular Meeting held on November 10, 2020. (Pages 340- 345)

- 19) Approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month ending in September 2020. (Pages 346-349)

- 20) Approve and file Agency-wide Financial Statements through August 2020. (Pages 350-352)

- 21) Individual Board member Comments

- 22) Adjourn

This agenda contains a brief description of each item of business to be considered at the meeting. In accordance with the Ralph M. Brown Act, this meeting agenda is posted at least 72 hours prior to the regularly scheduled meeting at the Housing Authority of the County of San Bernardino (HACSB) Building located at 715 East Brier Drive, San Bernardino, California, 92408. The agenda and its supporting documents can be viewed online at <http://www.hacsb.com>. However, the online agenda may not include all available supporting documents or the most current version of documents.

If you challenge any decision regarding any of the above proposal in court, you may be limited to raising only those issues you or someone else raised during the public testimony period regarding that proposal or in written correspondence delivered to the Board of Commissioners at, or prior to, the public hearing.

It is the intention of the HACSB to comply with the Americans with Disabilities Act (ADA). If you require special assistance, HACSB will attempt to accommodate you in every reasonable manner. Please contact Sylvia Robles at (909) 890-6318 at least 48 hours prior to the meeting to inform us of your particular needs.

HACSB ofrece asistencia idiomática gratis. Para ayuda con este documento, por favor llámenos al (909) 890-0644.

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD
OF ACTION**

December 8, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Executive Director's Report for December 8, 2020

RECOMMENDATION(S)

Receive the Executive Director's Report for December 8, 2020.
(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

FINANCIAL IMPACT

Approval of this item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there is no financial impact associated with this item.

BACKGROUND INFORMATION

The Executive Director's report summarizes ongoing initiatives of HACSB's strategic plan, Moving to Work activities, overall agency updates, as well as other initiatives federally regulated by the United States Department of Housing and Urban Development.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on November 23, 2020.

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD
OF ACTION**

December 8, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Board Building Presentation for December 8, 2020

RECOMMENDATION(S)

Receive the board building presentation for December 8, 2020, regarding an overview of the Housing Authority of the County of San Bernardino's new website.
(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

FINANCIAL IMPACT

Approval of this item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there is no financial impact associated with this item.

BACKGROUND INFORMATION

Per the United States Department of Housing and Urban Development (HUD) Commissioner Lead the Way Training, board building is required to provide the Board of Commissioners with information regarding ongoing initiatives of HACSB's strategic plan, Moving to Work activities, overall agency updates, as well as other initiatives federally regulated by HUD.

This month's board building presentation will include an overview of HACSB's new website.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on November 23, 2020.

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD
OF ACTION**

December 8, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Local Payment Standards Discussion

RECOMMENDATION(S)

Discuss the Local Payment Standards for the Moving to Work Housing Choice Voucher program and provide direction to staff on next steps.

(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

FINANCIAL IMPACT

Approval of this item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there is no financial impact associated with this item.

BACKGROUND INFORMATION

In 2009 HACSB developed the Local Payment Standards (LPS) Moving to Work (MTW) activity through its MTW designation for its MTW Housing Choice Voucher program. The activity allows HACSB to develop LPS that reflect the varying rental markets within San Bernardino County, rather than using the Fair Market Rents established by the United States Department of Housing and Urban Development for the entire San Bernardino/Riverside metropolitan area. The LPS accurately reflect the diverse rental submarkets that exist across the county and expand housing choices for HACSB families providing them the opportunity to relocate into areas of greater opportunity. This activity meets the MTW statutory objective to increase housing choices for eligible low-income families. This item is to discuss the LPS and the potential financial impact on the agency.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on November 19, 2020.

REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION

December 8, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Declare the COVID-19 Pandemic a Local Disaster Under the Housing Authority of the County of San Bernardino Local Disaster Short-Term Rental Assistance Program Moving to Work Activity

RECOMMENDATION(S)

Adopt Resolution No. 101 declaring the COVID-19 pandemic a local disaster under the Housing Authority of the County of San Bernardino Local Disaster Short-Term Rental Assistance Program Moving to Work Activity.

(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

HACSB clients live in safe and desirable homes and communities where they can develop and prosper.

FINANCIAL IMPACT

Approval of this item may result in increased housing subsidy costs. However, the Housing Authority of the County of San Bernardino (HACSB) does not anticipate that such costs would be incurred unless additional funding from the United States Department of Housing and Urban Development (HUD) is provided to offset those costs.

BACKGROUND INFORMATION

In 2017, HACSB developed the Local Disaster Short-Term Rental Assistance Program Moving to Work (MTW) activity. The activity allows HACSB to provide short-term Housing Choice Voucher (HCV) rental assistance to families who are displaced as a result of a local disaster. Under this activity, a local disaster is defined as an event that occurs within the County of San Bernardino and may include a natural disaster such as an earthquake, fire, flood, or storm, an act of terrorism, or other event as determined by HACSB. The qualification of a local disaster is declared by HACSB through a resolution of its governing board. The proposed resolution would declare COVID-19 a local disaster under HACSB's Local Disaster Short-Term Rental Assistance Program.

The proposed resolution would also allow HACSB to provide time-limited rental assistance to families displaced from housing as a result of the COVID-19 pandemic. The term of rental assistance through this program for the COVID-19 pandemic will be set at six months, with the possibility of a one-time hardship extension of six months. Families will be admitted through a separate waiting list established for this activity and must meet criminal background screening and income eligibility criteria. The rental subsidy amount will be determined using the formulas established through HACSB's Streamlined Lease Assistance Program. No reexamination of income will be conducted during the term of assistance. Assistance through the Local Disaster Short-Term Rental Assistance program is contingent upon funding availability.

This proposed resolution is presented as a proactive measure which will allow HACSB to quickly provide temporary assistance to families displaced from housing as a result of the COVID-19 pandemic if additional funding from HUD becomes available. Housing assistance under the Local Disaster Short-Term Rental Assistance MTW activity is subject to the availability of funding.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on November 23, 2020.

HOUSING AUTHORITY RESOLUTION NO. 2020-101

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO APPROVING THE DECLARATION OF THE COVID-19 PANDEMIC A LOCAL DISASTER UNDER THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO LOCAL DISASTER SHORT-TERM RENTAL ASSISTANCE PROGRAM MOVING TO WORK ACTIVITY

RECITALS

WHEREAS, the Housing Authority of the County of San Bernardino (HACSB) entered into a Moving to Work (MTW) contract with the United States Department of Housing and Urban Development (HUD) effective March 14, 2008, which governs the regulations of the administration of the Housing Choice Voucher and Public Housing programs; and

WHEREAS, as a MTW agency the HACSB is required to and has prepared an Annual MTW Plan which describes its operations and activities as an MTW agency; and

WHEREAS, the HACSB Annual MTW Plan includes the Local Disaster Short-Term Rental Assistance Program MTW activity which allows HACSB to provide short-term rental assistance to families displaced as a result of a local disaster declared by its governing board; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a State of Emergency pursuant to the California Emergency Services Act (Cal. Gov. Code § 8550 et seq.) citing the threats of the COVID-19 pandemic, and as of the date of this resolution the emergency has not been terminated; and

WHEREAS, the COVID-19 pandemic has impacted thousands of families in San Bernardino County and amplified the need for housing assistance within the County; and

WHEREAS, declaring the COVID-19 pandemic a local disaster under the HACSB Local Disaster Short-Term Rental Assistance Program MTW activity would permit HACSB to provide temporary housing assistance to low-income families impacted by the COVID-19 pandemic.

OPERATIVE PROVISIONS

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO DOES RESOLVE AS FOLLOWS:

Section 1. The Board of Commissioners finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

Section 2. The Board of Commissioners hereby approves the proposed declaration of the COVID-19 pandemic a local disaster under the Housing Authority of the County of San Bernardino Local Disaster Short-Term Rental Assistance Program Moving to Work Activity.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Board of Commissioners of the Housing Authority of the County of San Bernardino, by the following vote:

AYES:

NOES:

ABSENT:

STATE OF CALIFORNIA)
)
COUNTY OF SAN BERNARDINO) ss.

I, _____, Secretary of the Board of Commissioners of the Housing Authority of the County of San Bernardino, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Commissioners, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of Tuesday, _____, 20__.

Secretary

REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION

December 8, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Amendment to Joint Application with the Mountain Homeless Coalition for the Homekey Program

RECOMMENDATION(S)

1. Adopt Resolution No. 102:

- a. Authorizing an amendment of the funding request in the joint application with the Mountain Homeless Coalition to the California Department of Housing and Community Development for Homekey grant funds to an amount not to exceed \$1,101,678 for capital expenditures and capitalized operating subsidy.
- b. Authorize and direct the Executive Director, upon consultation with Legal Counsel, to execute and deliver all documents and agreements necessary to implement the Homekey project including the Standard Agreement with the State of California, and other ancillary documents necessary to carry out and close the acquisition of the multifamily rental property at 402 Georgia Street in Big Bear Lake, California in collaboration with the Mountain Homeless Coalition, and to approve any non-substantive revisions necessary to complete the transaction.

(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

HACSB has secured the resources needed for accomplishing its mission.

HACSB clients live in safe and desirable homes and communities where they can develop and prosper.

FINANCIAL IMPACT

The Housing Authority of the County of San Bernardino's (HACSB) original request for Homekey funding as approved by the Board of Commissioners under Resolution 2020-93, adopted on August 11, 2020, was in an amount not to exceed \$1,000,000. This action will increase the amount of funding requested under the Homekey program to \$1,101,678 which will facilitate the creation of two additional units of rental housing available to the homeless in the mountain region of the County of San Bernardino (increasing from six units to eight).

BACKGROUND INFORMATION

On July 16, 2020, the California Department of Housing and Community Development (HCD) released a Notice of Funding Availability (NOFA) for the Homekey Program. Homekey is a statewide effort to rapidly sustain and expand housing for persons experiencing homelessness and impacted by COVID-19. On August 11, 2020 (Item No. 7), the Board of Commissioners approved Resolution 2020-93, authorizing a joint application with the Mountain Homeless Coalition (MHC) for \$1 million in funding under the Homekey program. The Resolution also authorized various actions to facilitate the acquisition of an existing six-unit rental property in Big Bear Lake. The Homekey program will provide permanent supportive housing for the homeless to be managed by MHC. On October 23, 2020, the Governor announced that our project had been awarded funding as part of the sixth round of awards under the Homekey program. Upon

entering into the Purchase and Sale Agreement for acquisition of the six unit property, it was learned that the sale also included a separate legal (contiguous) parcel of land. This parcel currently contains a small, dilapidated structure now being utilized for storage. It has been determined through conversations with the local building official that this parcel can support the addition of two additional rental units. It is proposed that modular units be purchased to minimize the construction schedule in order to meet the deadline for expenditure of the Homekey funds. HACSB and MHC staff have confirmed with Homekey program staff that the additional units are eligible to receive funding to support their development. Approval of this item provides for an increase to the Homekey project budget in the amount of \$101,678, effectively covering the purchase of the two modular units. MHC is providing matching funds, as required, to support the installation of the units.

PROCUREMENT

Not Applicable

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on November 30, 2020.

HOUSING AUTHORITY RESOLUTION NO. 2020-102

A RESOLUTION OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AUTHORIZING A REVISION TO THE BUDGET FOR THE APPLICATION TO THE HOMEKEY PROGRAM FOR THE ACQUISITION OF THE MULTIFAMILY PROPERTY AT 402 GEORGIA STREET IN BIG BEAR LAKE IN COLLABORATION WITH THE MOUNTAIN HOMELESS COALITION

RECITALS

WHEREAS, the Housing Authority of the County of San Bernardino (the "Applicant") is a duly formed housing authority of the State of California, and is vested with the responsibilities set forth in Division 24, Part 2, Article 4 (Sections 34310-34334) of the California Health and Safety Code, which includes providing low and moderate income housing within its jurisdiction; and

WHEREAS, the California Department of Housing and Community Development (Department) issued a Notice of Funding Availability ("NOFA"), dated July 16, 2020, for the Homekey Program ("Homekey" or "Homekey Program"). The Department issued the NOFA for Homekey grant funds pursuant to Health and Safety Code section 50675.1.1 (Assem. Bill No. 83 (2019-2020 Reg. Sess.), § 21.); and

WHEREAS, the Applicant and the Mountain Homeless Coalition (the "Corporation") submitted a joint application for Homekey grant funds (the "Application"); and

WHEREAS, the Department is authorized to administer Homekey pursuant to the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code). Homekey funding allocations are subject to the terms and conditions of the NOFA, the Application, the Department-approved STD 213, Standard Agreement ("Standard Agreement"), and all other legal requirements of the Homekey Program; and

WHEREAS, the Applicant and the Corporation formed a California limited liability company in which the Applicant has a 49% ownership interest, with the Corporation serving as Managing Member with a 51% ownership interest (the "LLC") for the purpose of implementing the Homekey project once funding is received; and

WHEREAS, the LLC intends to acquire a multifamily rental property at 402 Georgia Street in Big Bear Lake, California (the "Acquisition") utilizing funding received as a result of a successful Application; and

WHEREAS, on August 11, 2020 (Item No. 7), the Board of Commissioners for the Applicant approved Resolution No. 2020-93 authorizing the Application and various actions related to the Acquisition; and

WHEREAS, on October 23, 2020, the Department announced that the Application had been awarded funding as part of the sixth round of awards under Homekey; and

WHEREAS, the Applicant and the Corporation have determined that the Acquisition includes a separate legal (contiguous) parcel of land that can support the addition of two additional rental units for a total of eight units; and

WHEREAS, the Applicant is requesting a budget revision to the Application and the Department requires this Resolution.

OPERATIVE PROVISIONS

NOW, THEREFORE, THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO DOES RESOLVE AS FOLLOWS:

Section 1: The Board of Commissioners finds and determines that the above recitals are true and correct and have served as a basis in part, for the actions of the Applicant set forth below.

Section 2: Applicant is hereby authorized and directed to amend the Application to the Department in response to the NOFA, dated July 16, 2020, to reflect Homekey grant funds in an amended total amount not to exceed \$ 1,101,678. That amount includes an amended amount of up to \$909,678 for capital expenditures (as allowed under Health and Safety. Code, § 50675.1.1, subd. (a)(1)-(6)) and an amended amount of up to \$192,000 for a capitalized operating subsidy (as allowed under Health and Safety Code, § 50675.1.1, subd. (a)(7)).

Section 3: Applicant is hereby authorized and directed to ensure that any funds awarded for capital expenditures are spent, to the greatest extent feasible, by December 30, 2020, and that any funds awarded for capitalized operating subsidies are spent by June 30, 2022.

Section 4: Applicant is hereby authorized and directed to enter into, execute, and deliver a Standard Agreement in a total amount not to exceed \$1,101,678, any and all other documents required or deemed necessary or appropriate to secure the Homekey funds from the Department and to participate in the Homekey Program, and all amendments thereto (collectively, the "Homekey Documents").

Section 5. Applicant acknowledges and agrees that it shall be subject to the terms and conditions specified in the Standard Agreement, and that the NOFA and Application are incorporated in the Standard Agreement by reference and made a part thereof. Any and all activities, expenditures, information, and timelines represented in the Application are enforceable through the Standard Agreement. Funds are to be used for the allowable expenditures and activities identified in the Standard Agreement.

Section 6: That the Executive Director of the Applicant is authorized, empowered and directed to take any and all necessary actions, and execute any and all necessary documents acting alone on behalf of the Applicant, acting on behalf of the Applicant in its capacity as a member of the LLC, including but not limited to, a purchase and sale agreement, escrow instructions, a preliminary change of ownership form, regulatory agreements, deeds of trust, assignment agreements, and to do any and all such other acts and things that may be necessary or required to assist the LLC in acquiring and managing the multifamily property at 402 Georgia Street in Big Bear Lake, California, and to do any and all other activities contemplated in this Resolution.

Section 7: That the Executive Director of the Applicant shall be authorized and directed to execute the Application and the Homekey Documents on behalf of the Applicant, and any and all necessary documents and to furnish all materials necessary or desirable to accomplish the other activities contemplated by this Resolution.

Section 8: That the Executive Director of the Applicant shall be authorized to execute any other form of resolution required by the Department which are determined, with the advice of counsel to the Applicant, to not materially conflict with the substance of this Resolution.

Section 9: That any and all acts previously taken by the Executive Director or any other officer of the Applicant in connection with the matters authorized by the foregoing resolution are ratified, confirmed, adopted and approved by the Board of Commissioners of the Applicant.

Section 10: This Resolution shall take immediate effect upon adoption.

PASSED AND ADOPTED by the Board of Commissioners of the Housing Authority of the County of San Bernardino, by the following vote:

AYES:

NOES:

ABSENT:

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, _____, Secretary of the Board of Commissioners of the Housing Authority of the County of San Bernardino, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Commissioners, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of Tuesday, _____, 20__.

Secretary

REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION

December 8, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Data Use Agreement for Desert Haven Apartments

RECOMMENDATION(S)

1. Approve a data use agreement, retroactive to June 1, 2020, between the Housing Authority of the County of San Bernardino, Inland Empire Health Plan, San Bernardino County Department of Behavioral Health, Valley Star Behavioral Health, Inc., Step Up on Second Street, Inc., Brilliant Corners, Jewish Family Service of San Diego, and Lighthouse Social Service Centers for the permanent supportive housing development, Desert Haven Apartments, for a five-year term through May 31, 2025.
2. Authorize and direct the Executive Director to execute and deliver the agreement to Inland Empire Health Plan, San Bernardino County Department of Behavioral Health, Valley Star Behavioral Health, Inc., Step Up on Second Street, Inc., Brilliant Corners, Jewish Family Service of San Diego, and Lighthouse Social Service Centers and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.

(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

HACSB has secured the resources needed for accomplishing its mission.

HACSB is a leading developer and provider of affordable housing in the County of San Bernardino.

HACSB communication is open, honest and consistent.

HACSB clients, programs, and properties are embraced by all communities.

HACSB clients live in safe and desirable homes and communities where they can develop and prosper.

FINANCIAL IMPACT

Approval of the proposed non-financial agreement will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there is no financial impact associated with this item.

BACKGROUND INFORMATION

HACSB is currently underway with its second permanent supportive housing development, Desert Haven Apartments, in the City of Victorville. Desert Haven Apartments is a 31-unit apartment complex specifically for housing chronically homeless individuals from San Bernardino County. In addition to creating a quality living space, the purpose of this development is also to provide extended social services on-site, in order to better serve the needs of the residents. HACSB has developed partnerships with Inland Empire Health Plan (IEHP), County of San Bernardino Department of Behavioral Health, Valley Star Behavioral Health, Inc., Step Up on Second Street, Inc., Brilliant Corners, Jewish Family Service of San Diego, and Lighthouse Social Service Centers to deliver ongoing supportive services to the residents at this property. Approval of this

agreement will allow the mutual partners to access certain protected health information for the purpose of providing housing units, intensive case management and community health services for qualified IEHP Members at Desert Haven Apartments.

HACSB's Board of Commissioners approved the original agreement on July 14, 2020 (Item No. 11); however, the following changes were made:

- Addition of compliance with state and federal laws (page 2)
- Addition of Cyber Liability Insurance (page 4)
- Addition of partners Jewish Family Service of San Diego and Lighthouse Social Service Centers (page 5)

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on November 24, 2020.

DATA USE AGREEMENT
BETWEEN
INLAND EMPIRE HEALTH PLAN
AND
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO
AND
SAN BERNARDINO COUNTY DEPARTMENT OF BEHAVIORAL HEALTH
AND
.
VALLEY STAR BEHAVIORAL HEALTH, INC
AND
STEP UP ON SECOND STREET, INC.
AND
BRILLIANT CORNERS
AND
JEWISH FAMILY SERVICE OF SAN DIEGO
AND
LIGHTHOUSE SOCIAL SERVICE CENTERS
FOR
DESERT HAVEN APARTMENTS

This Data Use Agreement (“Agreement”) is made as of this 1st day of June, 2020, (“Effective Date”) by and between Inland Empire Health Plan (“IEHP” or “Covered Entity”), and , the Housing Authority of the County of San Bernardino, San Bernardino County Department of Behavioral Health, Valley Star Behavioral Health Inc., Step Up on Second Street, Inc., Brilliant Corners, Jewish Family Service of San Diego, and LightHouse Social Service Centers (collectively “Recipient”). Either party may be referred to individually as the “Party” or collectively as “the Parties.”

WHEREAS, the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), more specifically the regulations found in Title 45 Code of Federal Regulations (C.F.R.), Parts 160 and 164, Subparts A and E (the “Privacy Rule”) and/or 45 C.F.R. Part 164, Subpart C (the “Security Rule”), as may be amended from time to time, which are applicable to the protection of any disclosure or use of Protected Health Information created, received, maintained or transmitted on behalf of IEHP (PHI) and/or electronic Protected Health Information created, received, maintained or transmitted on behalf of IEHP (ePHI) pursuant to this Agreement; and

WHEREAS, IEHP seeks to provide Recipient with access to certain PHI or ePHI for the purpose of providing housing units, intensive case management and community health services for qualified IEHP Members at Desert Haven Apartments (the “Project”); and

WHEREAS, the Parties intend to enter into this Agreement to address the requirements of the HIPAA Regulations as they apply to Recipient, including the establishment of permitted and required uses and disclosures (and appropriate limitations) of the PHI or ePHI accessed by Recipient;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. Definitions. Unless otherwise specified in this Agreement, all capitalized terms have the same meanings as set forth in the HIPAA Regulations, as amended from time to time.
2. Responsibilities of Recipient. Recipient agrees to:
 - a. Not use or further disclose the PHI or ePHI other than as permitted by this Agreement or as otherwise required by law;
 - b. Use appropriate safeguards to prevent use or disclosure of the information in the PHI or ePHI other than as provided for by this Agreement;
 - c. Report to IEHP any use or disclosure of the information in the PHI or ePHI not provided for by this Agreement of which it becomes aware;
 - d. Ensure that any agents or subcontractors to whom it provides the PHI or ePHI agree to the same restrictions and conditions that apply to Recipient with respect to such information; and
 - e. Comply with the terms and conditions of the attached Business Associate Agreement (Attachment A), hereby incorporated by this reference.
 - f. Comply with all relevant Federal and State laws and regulations, including, but not limited to those listed below, inclusive of future revisions, and comply with all applicable provisions of:
 - i. Welfare and Institution Code 5328 et seq.,
 - ii. Welfare and Institution Code 14100.2,
 - iii. Title 22, California Code of Regulations Section 51009, and

iv. Code of Federal Regulations, Title 42, Part 2.

3. Permitted Uses and Disclosures of the PHI or ePHI.

- a. Except as otherwise specified herein, Recipient may use and/or disclose the PHI or ePHI necessary for the Project or as required by law.
- b. Recipient shall receive or have access to only the following types of confidential PHI or ePHI from IEHP:
 - i. Identifying information on all active IEHP Members living at Desert Haven Apartments, including Member ID numbers, names, and dates of birth.
 - ii. Select information from Member health records subject to IEHP approval, including Member Primary Care Physicians (“PCP”), open referrals, prior utilization data, and prescription medications.
- c. Recipient understands that this Agreement does not authorize the Recipient to have greater rights to use or disclose the information than that which is granted to IEHP pursuant to the HIPAA Regulations.
- d. Recipient has designated the following individual(s) and/or classes of individuals, who are permitted to use or receive the PHI or ePHI for purposes of the Project: ***Interdisciplinary Care Team providing case management to individuals housed at Desert Haven Apartments.*** To the extent the classes of individuals are not part of Recipient’s workforce who are directly involved in the Project, Recipient shall enter into a data use agreement, including the attached Business Associate Agreement, that complies with the HIPAA Regulations, prior to the release of the PHI or ePHI with the other classes of individuals.
- e. Recipient shall use the above-described PHI or ePHI for purposes of the Project only.

4. Term and Termination.

- a. Term. The term of this Agreement shall commence as of the Effective Date and terminate on May 31, 2025.
- b. Termination by Recipient. Recipient may terminate this Agreement at any time by providing written notice to IEHP and returning or destroying the PHI or ePHI.
- c. Termination by Covered Entity. IEHP may terminate this Agreement at any time by providing thirty (30) days prior written notice to Recipient.
- d. Termination for Breach. Upon IEHP’s knowledge of a pattern or practice that constitutes a material breach of this Agreement by Recipient, IEHP may immediately and unilaterally terminate this Agreement. Alternatively, IEHP may provide an opportunity for Recipient to cure the breach or end the violation. If such efforts are not successful within the reasonable time period specified by IEHP, or if IEHP determines that cure of the breach is not possible, IEHP shall immediately discontinue disclosure of the PHI or ePHI to Recipient and report the problem to the Secretary of the Department of Health and Human Services or its designee.

5. Insurance.

- a. Throughout the term of this Agreement, Recipient shall maintain, at its sole cost and expense, policies for insurance providing coverage required by applicable law as well as any other insurance coverage Recipient deems prudent and customary in the exercise of Recipient's business operations as it specifically relates to the Project, including coverage for Recipient's potential negligence and liabilities assumed under this Agreement. Such coverages shall be in amounts as may be necessary to protect Recipient and IEHP (as necessary) in the discharge of its responsibilities and obligations under this Agreement. Upon request, Recipient shall furnish IEHP with evidence of such insurance coverage.
 - b. Recipient and IEHP shall, at its own expense, secure and maintain for the term of this Agreement, Cyber Liability Insurance with limits of not less than \$1,000,000 for each occurrence or event with an annual aggregate of \$1,000,000 covering claims involving privacy violations, information theft, damage to or destruction of electronic information or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall cover breach response cost as well as any regulatory fines and penalties, where insurable by law.
6. Notice. All correspondence and notices required or contemplated by this Agreement shall be delivered at the addresses set forth below, and are deemed submitted two (2) days after their deposit in the United States mail, postage prepaid:

IEHP:

Maria Razo
Senior Director of Care Integration
10801 6TH Street, Suite 120
(909) 890-2000
cc: legal@iehpa.org

San Bernardino County Department of
Behavioral Health:

Veronica Kelley, DSW, LCSW
Director
303 E. Vanderbilt Way
San Bernardino, CA 92415
(909) 388-0801

Step Up on Second Street, Inc.:

Tod Lipka
President and CEO
1328 2nd Street
Santa Monica, CA 90401
(310) 394-6883

Jewish Family Service of San Diego:

Michael Hopkins
Chief Executive Officer
8804 Balboa Ave.
San Diego, CA 92123
(619) 637-3006

Housing Authority of the County of San
Bernardino:

Executive Director
715 East Brier Drive
San Bernardino, California 92408
(909) 890-0644

Valley Star Behavioral Health, Inc.:

Rick Klotz
Regional Administrator
16460 Victor Street
Victorville, CA 92395
(760) 245-8837

Brilliant Corners:

William F. Pickel
Executive Director
1360 Mission Street, Suite 300
San Francisco, CA. 94102
(415) 618-0012

LightHouse Social Service Centers:

Karyn Young-Lowe, MSW
President & Chief Executive Officer
1003 E. Cooley Drive, Suite #205
Colton, CA. 92324
(951) 571-3533

Or to such other address(es) as the Parties may hereafter designate, in writing.

7. General Provisions.

- a. Construction of Terms. The terms of this Agreement shall be construed to give effect to applicable federal interpretative guidance regarding the HIPAA Regulations. A reference in this Agreement to a section in the HIPAA Regulations means the section(s) as in effect or as amended.
- b. No Third-Party Beneficiaries. Nothing in this Agreement shall confer upon any person other than the Parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- c. Independent Contractors. The Parties are independent contractors. Neither Party has the power or authority to act on behalf of the other Party as its agent. Nothing in this Agreement shall be construed to make the Parties hereto partners, joint ventures, or agents of or with each other, nor shall either Party so represent itself.
- d. Amendment. This Agreement shall not be amended or assigned by either Party without the prior written consent of the other. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Parties to comply with HIPAA Regulations.
- e. Law and Venue. This Agreement shall be governed by the laws of California, without regard to its principles of conflicts of law. All actions and proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state or federal courts located in the counties of San Bernardino or Riverside, State of California.
- f. Entire Agreement/Severability. This Agreement constitutes the entire agreement between IEHP and Recipient, and supersedes all other prior and contemporaneous agreements, understandings, and commitments between them, relating to the subject matter hereof. The invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions, and this Agreement shall be construed as if such invalid provision had been omitted.
- g. Expense of Performance. Each Party shall bear its own expenses as to the sharing of data unless otherwise specified in this Agreement.
- h. Survival. Unless otherwise provided herein, the rights and obligations of any Party which by their nature extend beyond the expiration or termination of this Agreement, shall continue in full force and effect, notwithstanding the expiration or termination of this Agreement.
- i. Remedies. IEHP shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies IEHP may have at law or in equity in the event of an unauthorized use, access, or disclosure of the PHI or ePHI by Recipient or any agent or subcontractor of Recipient that received information from Recipient. Recipient hereby waives any requirement that IEHP post any bond or other security in the event any injunctive or equitable relief is sought by IEHP.
- j. Ownership. The PHI or ePHI shall be and remain the property of IEHP. Recipient agrees that it acquires no title or rights to the PHI or ePHI.
- k. Headings. Paragraph headings contained in this Agreement are for convenience only and shall not be interpreted to limit or otherwise affect the provisions of this Agreement.
- l. Counterparts/Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together

shall constitute one and the same instrument. The Parties' faxed signatures, and/or signatures scanned into PDF format, shall be effective to bind them to this Agreement.

- m. Authority. The Parties certify that the individuals signing below have the proper authority to execute this Agreement on behalf of the Parties.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereby execute this Agreement.

Inland Empire Health Plan

By: _____

Title: _____

Date: _____

Housing Authority of the County of San Bernardino

By: _____

Title: _____

Date: _____

San Bernardino County Department
of Behavioral Health

By: _____

Title: _____

Date: _____

Valley Star Behavioral Health, Inc.

By: _____

Title: _____

Date: _____

Step Up on Second Street, Inc.

By: _____

Title: _____

Date: _____

Brilliant Corners

By: _____

Title: _____

Date: _____

Jewish Family Service of San Diego

By: _____

Title: _____

Date: _____

LightHouse Social Service Centers

By: _____

Title: _____

Date: _____

ATTACHMENT A

HIPAA BUSINESS ASSOCIATE AGREEMENT

**HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO
AND
SAN BERNARDINO COUNTY DEPARTMENT OF BEHAVIORAL HEALTH
AND
VALLEY STAR BEHAVIORAL HEALTH, INC
AND
STEP UP ON SECOND STREET, INC.
AND
BRILLIANT CORNERS FOR DESERT HAVEN APARTMENTS
AND
JEWISH FAMILY SERVICE OF SAN DIEGO
AND
LIGHTHOUSE SOCIAL SERVICE CENTERS**

This HIPAA Business Associate Agreement (the “Agreement”) is an Attachment to the **Data Use Agreement** (the “Underlying Agreement”) between the Inland Empire Health Plan (“IEHP”) and Recipient(s) identified in the Underlying Agreement (“Business Associate”) as of the “Effective Date”, of the Underlying Agreement.

RECITALS

WHEREAS, IEHP and Business Associate entered into the Underlying Agreement pursuant to which Business Associate provides services to IEHP, and in conjunction with the provision of such services, certain Protected Health Information (“PHI”) and/or certain electronic Protected Health Information (“ePHI”) may be made available to Business Associate for the purposes of carrying out its obligations under the Underlying Agreement; and,

WHEREAS, the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), more specifically the regulations found in Title 45, Code of Federal Regulations (C.F.R.), Parts 160 and 164, Subparts A and E (the “Privacy Rule”) and/or 45 C.F.R. Part 164, Subpart C (the “Security Rule”), Welfare and Institutions Code (WIC) 5328 and 42 CFR Part 2, as applicable, as may be amended from time to time, which are applicable to the protection of any disclosure or use of PHI and/or ePHI pursuant to the Underlying Agreement; and,

WHEREAS, the provisions of Subtitle D entitled “Privacy” of the Health Information Technology for Economic and Clinical Health Act (“HITECH”) of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and the implementing regulations adopted thereunder, as may be amended from time to time, impose certain requirements on business associates; and

WHEREAS, IEHP is a Covered Entity, as defined in the Privacy Rule; and,

WHEREAS, Business Associate, when on behalf of IEHP, creates, receives, maintains or transmits PHI and/or ePHI, is a business associate as defined in the Privacy Rule; and,

WHEREAS, the parties intend to enter into this Agreement to address the requirements of HIPAA, HITECH, Privacy Rule, and Security Rule as they apply to Business Associate as a business associate of IEHP, including the establishment of permitted and required uses and disclosures (and appropriate limitations and conditions on such uses and disclosures) of PHI and/or ePHI by Business Associate that is created or received in the course of performing services on behalf of IEHP, and to incorporate the business associate obligations set forth in HITECH; and,

WHEREAS, the parties agree that any disclosure or use of PHI and/or ePHI be in compliance with the Privacy Rule, Security Rule, HITECH, or other applicable law.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. DEFINITIONS

A. Unless otherwise provided in this Agreement, or specifically defined in Paragraph B of this Section 1, the capitalized terms shall have the same meanings as set forth in the Privacy Rule, Security Rule, and/or HITECH, as may be amended from time to time.

B. Specific Definitions:

(1) “Breach,” when used in connection with Unsecured PHI, means, as defined in 45 C.F.R. § 164.402, the acquisition, access, use or disclosure of PHI in a manner not permitted under the Privacy Rule (45 C.F.R. Part 164, Subpart E), which compromises the security or privacy of the PHI. Except as otherwise excluded under 45 C.F.R. § 164.402, such acquisition, access, use or disclosure is presumed to be a Breach unless the Covered Entity or Business Associate, as applicable, demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:

- a) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
- b) The unauthorized person who used the PHI or to whom the disclosure was made;
- c) Whether the PHI was actually acquired or viewed; and
- d) The extent to which the risk to PHI has been mitigated.

(2) “Business Associate” means an entity whom conducts the following on behalf of the covered entity where the provision of services named involves the disclosure of protected health information: creates, receives, maintains or transmits protected health information for a function or activity involving the use or disclosure of

protected health information, including claims processing/administration, data analysis, data storage, utilization review, quality assurance, billing, benefit management, practice management, and repricing; provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation or financial services.

- (3) “Covered Entity” means health care providers, health plans, and health care clearing houses who transmit any health information in electronic form in connection with a transaction covered by the Privacy and Security Rules.
- (4) “Discovered” means the first day on which such Breach is known to such Covered Entity or Business Associate, respectively, (including any person, other than the individual committing the Breach, that is an employee, officer or other agent of such entity or associate, respectively) or should reasonably have been known to such Covered Entity or Business Associate (or person) to have occurred.
- (5) “Electronic Protected Health Information” (“ePHI”) means, as defined in 45 C.F.R. § 160.103, PHI transmitted by or maintained in electronic media, and for purposes of this Agreement, is limited to the ePHI that Business Associate creates, receives, maintains or transmits on behalf of IEHP.
- (6) “Health Insurance Portability and Accountability Act” (“HIPAA”) means, a federal law designed to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.
- (7) “Protected Health Information” (“PHI”) shall generally have the meaning given such term in 45 C.F.R. § 160.103, which includes ePHI, and for purposes of this Agreement, is limited to PHI, including ePHI, that Business Associate creates, receives, maintains or transmits on behalf of IEHP.
- (8) “Secretary” means the Secretary of the U.S. Department of Health and Human Services or his/her designee.
- (9) “Subcontractor” means a person to whom a business associate delegates a function, activity, or service other than in the capacity of a member of the workforce of such business associate.
- (10) “Unsecured PHI” means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary in the guidance issued under 42 U.S.C. § 17932(h)(2).

2. SCOPE OF USE AND DISCLOSURE BY BUSINESS ASSOCIATE OF PHI AND/OR EPHI

A. Business Associate shall be permitted to use PHI and/or ePHI disclosed to it by IEHP:

- (1) On behalf of IEHP, or to provide services to IEHP for the purposes contained herein, if such use or disclosure would not violate the Privacy Rule, Security Rule, and/or HITECH.
- (2) As necessary to perform any and all of its obligations under the Underlying Agreement.

B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or required by this Agreement or required by law, Business Associate may:

- (1) Use the PHI and/or ePHI in its possession for its proper management and administration and to fulfill any legal obligations.
- (2) Disclose the PHI and/or ePHI in its possession to a third party for the purpose of Business Associate's proper management and administration or to fulfill any legal responsibilities of Business Associate, only if:
 - a) The disclosure is required by law; or
 - b) Business Associate obtains written assurances from any person or organization to which Business Associate will disclose such PHI and/or ePHI that the person or organization will:
 - i. Hold such PHI and/or ePHI in confidence and use or further disclose it only for the purpose of which Business Associate disclosed it to the third party, or as required by law; and
 - ii. Notify Business Associate of any instances of which it becomes aware in which the confidentiality of the information has been breached.
- (3) Use the PHI and/or ePHI to provide Data Aggregation services relating to the Health Care Operations of IEHP if authorized by the Underlying Agreement or pursuant to the written request of IEHP.
- (4) De-identify any and all PHI and/or ePHI of IEHP received by Business Associate under this Agreement provided that the De-identification conforms to the requirements of the Privacy Rule and/or Security Rule and does not preclude timely payment and/or claims processing and receipt.

C. Business Associate shall not:

- (1) Use or disclose PHI and/or ePHI it receives from IEHP, nor from another business associate of IEHP, except as permitted or required by this Agreement, or as required by law.
- (2) Perform any services (including any and all subcontracted services), which involves creating, receiving, maintaining or transmitting PHI and/or ePHI outside the United States of America.
- (3) Disclose PHI and/or ePHI not authorized by the Underlying Agreement or this Agreement without patient authorization or De-identification of the PHI and/or ePHI as authorized in writing by IEHP.
- (4) Make any disclosure of PHI and/or ePHI that IEHP would be prohibited from making.
- (5) Use or disclose PHI for fundraising or marketing purposes.
- (6) Disclose PHI, except as otherwise required by law, to a health plan for payment or healthcare operations purposes if the individual has requested this restriction, and the PHI solely relates to a health care item or service that is paid in full by the individual or person (other than the health plan) on behalf of the individual (45 C.F.R. § 164.522(a)(1)(vi)).
- (7) Directly or indirectly receive remuneration in exchange for PHI nor engage in any acts that would constitute a Sale of PHI, as defined in 45 C.F.R. § 164.502(a)(5)(ii), except with the prior written consent of IEHP and as permitted by and in compliance with 45 C.F.R. § 164.508(a)(4); however, this prohibition shall not affect payment by IEHP to Business Associate for services provided pursuant to the Underlying Agreement.
- (8) Use or disclose PHI that is Genetic Information for Underwriting Purposes, as those terms are defined in 45 C.F.R. §§ 160.103 and 164.502(a)(5)(i), respectively.

D. Business Associate agrees that in any instance where applicable state and/or federal laws and/or regulations are more stringent in their requirements than the provisions of HIPAA and/or HITECH (including but not limited to prohibiting the disclosure of mental health, and/or substance abuse records), the more stringent laws and/or regulations shall control the disclosure of PHI.

3. **OBLIGATIONS OF IEHP**

- A. Notification of Restrictions to Use or Disclosure of PHI. IEHP agrees that it will make its best efforts to promptly notify Business Associate in writing of any restrictions, limitations, or changes on the use, access and disclosure of PHI and/or ePHI agreed to by IEHP in accordance with 42 U.S.C. § 17935(a), that may affect Business Associate's ability to perform its obligations under the Underlying Agreement, or this Agreement.
- B. Proper Use of PHI. IEHP shall not request Business Associate to use, access, or disclose PHI and/or ePHI in any manner that would not be permissible under the Privacy Rule, Security Rule, and/or HITECH.
- C. Authorizations. IEHP will obtain authorizations necessary for the use, access, or disclosure of PHI and/or ePHI, so that Business Associate can perform its obligations under this Agreement and/or the Underlying Agreement.
- D. Actions in Response to Business Associate Breach. IEHP shall complete the following in the event that IEHP has determined that Business Associate has a Breach:
 - (1) Determine appropriate method of notification to the patient/client(s) regarding a Breach as outlined in 45 C.F.R. § 164.404(d).
 - (2) Send notification to the patient/client(s) without unreasonable delay but in no case later than sixty (60) days of Discovery of the Breach with at least the minimal required elements as follows:
 - a) Brief description of what happened, including the date of the Breach and the date of Discovery;
 - b) Description of the types of Unsecured PHI involved in the Breach (such as name, date of birth, home address, Social Security number, medical insurance, etc.);
 - c) Steps patient/client(s) should take to protect themselves from potential harm resulting from the Breach;
 - d) Brief description of what is being done to investigate the Breach, to mitigate harm to patient/client(s) and to protect against any further Breaches; and
 - e) Contact procedures for patient/client(s) to ask questions or learn additional information, which must include a toll-free telephone number, an E-Mail address, website or postal address.

(3) Determine if notice is required to the Secretary.

(4) If required, submit Breach information to the Secretary within the required timeframe, in accordance with 45 C.F.R. § 164.408(b).

E. Contract Violations by Business Associate. Pursuant to 45 C.F.R. § 164.504(e)(1)(ii), if IEHP knows of a pattern of activity or practice of the Business Associate that constitutes a material breach or violation of the Business Associate's obligations under this Agreement, IEHP must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, IEHP shall terminate the Agreement, if feasible.

4. **OBLIGATIONS OF BUSINESS ASSOCIATE**

A. Minimum Necessary. Business Associate shall request, use, access or disclose only the minimum amount of PHI and/or ePHI as permitted or required by this Agreement and as necessary to accomplish the intended purpose of the request, use, access or disclosure in accordance with the Privacy Rule (45 C.F.R. § 164.502(b)(1)).

B. Appropriate Safeguards. Business Associate shall use reasonable and appropriate safeguards and comply, where applicable, with the Security Rule with respect to ePHI, to prevent use or disclosure of PHI and/or ePHI other than as provided for by this Agreement. Business Associate shall implement administrative, physical and technical safeguards in accordance with the Security Rule under 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316:

(1) Business Associate shall issue and change procedures from time to time to improve electronic data and file security as needed to comply with the measures that may be required by the Privacy Rule or the Security Rule, as applicable, and at all times use an NIST-Approved Technology for all PHI and/or ePHI that is in motion, stored or to be destroyed.

(2) Business Associate shall extend such policies and procedures, if applicable, for the protection of physical PHI to prevent, detect, contain and correct security violations, as well as to limit unauthorized physical access to the facility or facilities in which the PHI is housed.

C. Mitigation. Business Associate shall have procedures in place to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use, access or disclosure of PHI and/or ePHI by Business Associate in violation of this Agreement.

- D. Access to Records. Business Associate shall make internal practices, books, and records including policies and procedures, relating to the use, access, disclosure, and privacy protection of PHI received from IEHP, or created or received by Business Associate on behalf of IEHP, available to the Secretary, for purposes of determining, investigating or auditing Business Associate's and/or IEHP's compliance with the Privacy and Security Rules and/or HITECH, subject to any applicable legal restrictions. Business Associate shall also cooperate with IEHP should IEHP elect to conduct its own such investigation and analysis.
- E. Carrying Out IEHP's Obligations. To the extent Business Associate is to carry out one or more of IEHP's obligations under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that applies to IEHP in the performance of such obligations.
- F. Subcontractors. In accordance with 45 C.F.R. §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, Business Associate shall require Subcontractors that create, receive, maintain or transmit PHI and/or ePHI on behalf of Business Associate, to agree to the same restrictions, conditions and requirements that apply to Business Associate with respect to the PHI and/or ePHI, including the restrictions, conditions and requirements set forth in this Agreement.
- G. Contract Violations by Subcontractors. Pursuant to 45 C.F.R. § 164.504(e)(1)(iii), if Business Associate knows of a pattern of activity or practice of the Subcontractor that constitutes a material breach or violation of the Subcontractor's obligations under the business associate contract between Business Associate and Subcontractor, Business Associate must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, Business Associate shall terminate the business associate contract with the Subcontractor if feasible.
- H. Workforce Training. Business Associate warrants that all employees who use, access or disclose PHI and/or ePHI shall be properly trained to comply with Privacy Rule, Security Rule, HITECH, or other such applicable law.
- I. Patient Confidentiality Laws and Regulations. Business Associate agrees to obtain and maintain knowledge of the applicable laws and regulations related to HIPAA and HITECH, as may be amended from time to time , and comply with the applicable provisions of Welfare and Institution Code 5328 et. seq and Code of Federal Regulations, Title 42, Part 2.
- J. Reporting of Improper Access, Use or Disclosure Breach. Business Associate shall report to IEHP any unauthorized use, access or disclosure of Unsecured PHI and/or ePHI or any other security incident with respect to PHI no later than fifteen (15) days after Discovery of the potential Breach ("Notice Date"). Business Associate shall notify IEHP through the IEHP Compliance Department via telephone to the Compliance Hotline (866) 355-9038, via email to the Compliance Mailbox compliance@iehp.org,

or via facsimile to the Compliance Fax (909) 477-8536. Upon Discovery of the potential Breach, Business Associate shall complete the following actions:

- (1) Provide IEHP's Compliance Department with the information required by 45 C.F.R. §§164.410 and 164.404, which shall include, but not be limited to:
 - a) The identification of each individual (IEHP Members) whose Unsecured PHI has been, or is reasonably believed by Business Associate, to have been accessed, acquired, used or disclosed;
 - b) Date(s) of Breach: MM/DD/YYYY;
 - c) Date(s) of Discovery of Breach: MM/DD/YYYY;
 - d) Approximate number of individuals (IEHP Members) affected by the Breach;
 - e) Type of Breach, i.e., theft, loss, improper disposal, unauthorized access, hacking/IT incident (for additional selections, see U.S. Department of Health & Human Services, Health Information Privacy);
 - f) Location of breached information, i.e., laptop, desktop computer, network server, E-Mail, other portable electronic device (see U.S. Department of Health & Human Services, Health Information Privacy);
 - g) Type of PHI involved in the Breach, i.e., demographic information, financial information, clinical information (see U.S. Department of Health & Human Services, Health Information Privacy);
 - h) Safeguards in place prior to Breach, i.e., firewalls, packet filtering (router-based), encrypted wireless (see U.S. Department of Health & Human Services, Health Information Privacy);
 - i) Actions taken in response to Breach, i.e., mitigation, protection against any further Breaches, policies and procedures (see U.S. Department of Health & Human Services, Health Information Privacy); and
 - j) Any steps individuals should take to protect themselves from potential harm resulting from the Breach.
- (2) Conduct and document a risk assessment by investigating, without reasonable delay and in no case later than twenty (20) calendar days of Discovery, the potential Breach to determine the following:
 - a) Whether there has been an impermissible use, acquisition, access or disclosure of PHI and/or ePHI under the Privacy Rule;

- b) Whether an impermissible use or disclosure compromises the security or privacy of the PHI and/or ePHI, including whether it can be demonstrated that there is a low probability that PHI and/or ePHI has been compromised based on a risk assessment of at least four (4) factors specified in Section 1.B(1) defining Breach; and
 - c) Whether the incident falls under one of the Breach exceptions.
 - (3) Provide the completed risk assessment and investigation documentation to IEHP's Compliance Department within twenty-five (25) calendar days of Discovery of the potential Breach, and collaborate with IEHP on making a decision on whether a Breach has occurred.
 - a) If a Breach has not occurred, notification to patient/client(s) is not required;
 - b) If a Breach has occurred, notification to the patient/client(s) is required and Business Associate must provide IEHP with affected patient/client(s) names and contact information so that IEHP can provide notification.
 - (4) Make available to governing State and Federal agencies in a time and manner designated by such agencies, any policies, procedures, internal practices and records relating to a potential Breach for the purposes of audit; cooperate with IEHP should IEHP elect to conduct its own such investigation and analysis.
 - (5) Should the Breach of Unsecured PHI be caused solely by Business Associate's failure to comply with one or more of its obligations under this BAA, Privacy Rule, Security Rule and/or HITECH Provisions, Business Associate shall pay for any and all costs associated with providing all legally required notifications to individuals, media outlets and the Secretary.
 - (6) Should the Breach of Unsecured PHI involve more than 500 residents of a single State or jurisdiction, Business Associate shall provide to IEHP, no later than the Notice Date, the information necessary for IEHP to prepare the notice to media outlets as set forth in 45 C.F.R. § 164.406.
 - (7) Should the Breach of Unsecured PHI involve 500 or more individuals, Business Associate shall provide to IEHP, no later than the Notice Date, the information necessary for IEHP to prepare the notice to the Secretary as set forth in 45 C.F.R. § 164.408.
 - (8) Should the Breach of Unsecured PHI involve less than 500 individuals, Business Associate shall maintain a log of such Breaches and provide such log to IEHP, for submission to the Secretary, on an annual basis and not later than forty-five (45) days after the end of each calendar year.
- K. Breach Pattern or Practice by Covered Entity. Upon Pursuant to 42 U.S.C. Section 17934(b), if the Business Associate knows of a pattern of activity or practice of the

Covered Entity that constitutes a material Breach or violation of the Covered Entity's obligations under this Agreement, the Business Associate must take reasonable steps to cure the Breach or end the violation. If the steps are unsuccessful, the Business Associate must terminate the Agreement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS.

5. ACCESS TO PHI, AMENDMENT AND DISCLOSURE ACCOUNTING

Business Associate agrees to:

- A. Provide access, at the request of IEHP, within five (5) days, to PHI, including ePHI if maintained electronically, in a Designated Record Set, to IEHP, or to an individual or individual's designee as directed by IEHP, as necessary for IEHP to satisfy its obligations under 45 C.F.R. § 164.524.
- B. Make any amendment(s) to PHI in a Designated Record Set that IEHP directs or agrees to, at the request of IEHP or an individual, pursuant to 45 C.F.R. § 164.526, within thirty (30) days of the request of IEHP.
- C. Assist IEHP in meeting its disclosure accounting under HIPAA:
 - (1) Business Associate agrees to document such disclosures of PHI and information related to such disclosures, as would be required for IEHP to respond to a request by an individual for an accounting of disclosures of PHI.
 - (2) Business Associate agrees to provide to IEHP, within thirty (30) days, information collected in accordance with this Section to permit IEHP to make an accounting of disclosures of PHI by Business Associate in accordance with 45 C.F.R. § 164.528 and HITECH.
 - (3) Business Associate shall have available for IEHP the information required by this Section for the ten (10) years preceding IEHP's request for information.

6. TERM AND TERMINATION

- A. Term. This Agreement shall commence upon the Effective Date and terminate upon the termination of the Underlying Agreement.
- B. Termination for Cause. IEHP may terminate the Underlying Agreement, effective immediately, if IEHP, in its sole discretion, determines that Business Associate has breached a material provision of this Agreement relating to the privacy and/or security of the PHI. Alternatively, IEHP may choose to provide Business Associate with notice of the existence of an alleged material breach and afford Business Associate with an opportunity to cure the alleged material breach. In the event Business Associate fails to cure the breach to the satisfaction of IEHP in a timely manner, IEHP reserves the right to immediately terminate the Underlying Agreement.
- (1) Effect of Termination. Upon termination of the Underlying Agreement, for any reason, Business Associate shall return or destroy all PHI and/or ePHI received from IEHP, or created or received by Business Associate on behalf of IEHP, no later than sixty (60) days after the date of termination. Business Associate shall certify such destruction, in writing, to IEHP. This provision shall apply to all PHI and/or ePHI which is in possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI and/or ePHI.
- (2) Destruction not Feasible. In the event that Business Associate determines that returning or destroying the PHI and/or ePHI is not feasible, Business Associate shall provide written notification to IEHP of the conditions which make such return or destruction not feasible. Upon determination by Business Associate that return or destruction of PHI and/or ePHI is not feasible, Business Associate shall extend the protections, limitations, and restrictions of this Agreement to such PHI and/or ePHI retained by Business Associate, its subcontractors, employees or agents, and to limit further uses and disclosures of such PHI and/or ePHI to those purposes which make the return or destruction not feasible, for so long as such PHI and/or ePHI is maintained.

7. HOLD HARMLESS/INDEMNIFICATION

With respect to the subject matter in this Agreement, the following shall be applicable:

The Business Associate agrees to indemnify, defend and hold harmless IEHP and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, penalties, injuries, costs and expenses (including costs for reasonable attorneys fees) that are caused by or result from the acts or omissions of Business Associate, its officers, agents, employees and subcontractors, with respect to the use, access, maintenance or disclosure of IEHP's PHI or ePHI, including without limitation, any Breach of PHI or ePHI of any expenses incurred by IEHP in providing required Breach notifications.

With respect to any action or claim subject to indemnification herein by Business Associate, Business Associate shall, at their sole cost, have the right to use counsel of their choice, subject to the approval of IEHP, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of IEHP; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Business Associate's indemnification to IEHP as set forth herein. Business Associate's obligation to defend, indemnify and hold harmless IEHP shall be subject to IEHP having given Business Associate written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at Business Associate's expense, for the defense or settlement thereof. Business Associate's obligation hereunder shall be satisfied when Business Associate has provided to IEHP the appropriate form of dismissal relieving IEHP from any liability for the action or claim involved.

The specified insurance limits required in the Underlying Agreement shall in no way limit or circumscribe Business Associate's obligations to indemnify and hold harmless IEHP herein from third party claims arising from the issues of this Agreement.

In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement, this indemnification shall only apply to the subject issues included within this Agreement.

8. GENERAL PROVISIONS

- A. Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for IEHP to comply with the Privacy Rule, Security Rule, HITECH, and HIPAA generally.
- B. Survival. Notwithstanding Section 6.A of this Agreement, the respective rights and obligations of this Agreement shall survive the termination or expiration of this Agreement.
- C. Regulatory References. A reference in this Agreement to a section in the Privacy Rule, Security Rule, and/or HITECH means the section(s) as in effect or as amended.
- D. Interpretation. This Attachment shall be construed to be a part of the Underlying Agreement as one document. The purpose is to supplement the Underlying Agreement to include the requirements of HIPAA and HITECH. Any ambiguity in this Agreement and the Underlying Agreement shall be resolved to permit IEHP to comply with the Privacy Rule, Security Rule, HITECH, and HIPAA generally.

- E. Remedies. Business Associate agrees that IEHP shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies which IEHP may have at law or in equity in the event of an unauthorized use, access, or disclosure of PHI by Business Associate or any agent or subcontractor of Business Associate that received PHI from Business Associate.
- F. Ownership. The PHI shall be and remain the property of IEHP. Business Associate agrees that it acquires no title or rights to the PHI.
- G. Headings. Paragraph headings contained in this Agreement are for convenience only and shall not be interpreted to limit or otherwise affect the provisions of this Agreement.
- H. Compliance with State Law.

In addition to HIPAA and all applicable HIPAA Regulations, Business Associate acknowledges that Business Associate and Covered Entity may have confidentiality and privacy obligations under State law, including, but not limited to, the California Confidentiality of Medical Information Act [Cal. Civil Code §56, et seq. (“CMIA”)] and WIC 5328. If any provisions of this Agreement or HIPAA Regulations or the HITECH Act conflict with CMIA or WIC section 5328 or any other California State law regarding the degree of protection provided for PHI and patient medical records, then Business Associate shall comply with the more restrictive requirements.

REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION

December 8, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Data Use Agreement for Golden Apartments

RECOMMENDATION(S)

1. Approve a data use agreement, retroactive to June 1, 2020, between the Housing Authority of the County of San Bernardino, Inland Empire Health Plan, San Bernardino County Department of Behavioral Health, Mental Health Systems, Inc., Step Up on Second Street, Inc., Brilliant Corners, Jewish Family Service of San Diego, and Lighthouse Social Service Centers for the permanent supportive housing development, Golden Apartments, for a five-year term through May 31, 2025.
2. Authorize and direct the Executive Director to execute and deliver the agreement to Inland Empire Health Plan, San Bernardino County Department of Behavioral Health, Mental Health Systems, Inc., Step Up on Second Street, Inc., Brilliant Corners, Jewish Family Service of San Diego, and Lighthouse Social Service Centers and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.

(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

HACSB has secured the resources needed for accomplishing its mission.

HACSB is a leading developer and provider of affordable housing in the County of San Bernardino.

HACSB communication is open, honest and consistent.

HACSB clients, programs, and properties are embraced by all communities.

HACSB clients live in safe and desirable homes and communities where they can develop and prosper.

FINANCIAL IMPACT

Approval of the proposed non-financial agreement will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there is no financial impact associated with this item.

BACKGROUND INFORMATION

In December 2019, HACSB opened its first permanent supportive housing development, Golden Apartments, in the City of San Bernardino. Golden Apartments is a 38-unit apartment complex specifically for housing chronically homeless individuals from San Bernardino County. In addition to creating a quality living space, the purpose of this development is also to provide extended social services on-site, in order to better serve the needs of the residents. HACSB has developed partnerships with Inland Empire Health Plan (IEHP), County of San Bernardino Department of Behavioral Health, Mental Health Systems, Inc., Step Up on Second Street, Inc., Brilliant Corners, Jewish Family Service of San Diego, and Lighthouse Social Service Centers to deliver ongoing supportive services to the residents at this property. Approval of this agreement will allow the mutual partners to access certain protected health information for the purpose of providing

housing units, intensive case management and community health services for qualified IEHP Members at Golden Apartments.

HACSB's Board of Commissioners approved the original agreement on July 14, 2020 (Item No. 12); however, the following changes were made:

- Addition of compliance with state and federal laws (page 2)
- Addition of Cyber Liability Insurance (page 4)
- Addition of partners Jewish Family Service of San Diego and Lighthouse Social Service Centers (page 5)

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on November 24, 2020.

DATA USE AGREEMENT
BETWEEN
INLAND EMPIRE HEALTH PLAN
AND
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO
AND
SAN BERNARDINO COUNTY DEPARTMENT OF BEHAVIORAL HEALTH
AND
MENTAL HEALTH SYSTEMS, INC.
AND
STEP UP ON SECOND STREET, INC.
AND
BRILLIANT CORNERS
AND
JEWISH FAMILY SERVICE OF SAN DIEGO
AND
LIGHTHOUSE SOCIAL SERVICE CENTERS
FOR
GOLDEN APARTMENTS

This Data Use Agreement (“Agreement”) is made as of this 1st day of June, 2020, (“Effective Date”) by and between Inland Empire Health Plan (“IEHP” or “Covered Entity”), and the Housing Authority of the County of San Bernardino, San Bernardino County Department of Behavioral Health, Mental Health Systems, Inc., Step Up on Second Street, Inc., Brilliant Corners, Jewish Family Service of San Diego, and LightHouse Social Service Centers (collectively “Recipient”). Either party may be referred to individually as the “Party” or collectively as “the Parties.”

WHEREAS, the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), more specifically the regulations found in Title 45 Code

of Federal Regulations (C.F.R.), Parts 160 and 164, Subparts A and E (the “Privacy Rule”) and/or 45 C.F.R. Part 164, Subpart C (the “Security Rule”), as may be amended from time to time, which are applicable to the protection of any disclosure or use of Protected Health Information created, received, maintained or transmitted on behalf of IEHP (PHI) and/or electronic Protected Health Information created, received, maintained or transmitted on behalf of IEHP (ePHI), pursuant to this Agreement; and

WHEREAS, IEHP seeks to provide Recipient with access to certain PHI or ePHI for the purpose of providing housing units, intensive case management, and community health services for qualified IEHP Members at Golden Apartments (the “Project”); and

WHEREAS, the Parties intend to enter into this Agreement to address the requirements of the HIPAA Regulations as they apply to Recipient, including the establishment of permitted and required uses and disclosures (and appropriate limitations) of the PHI or ePHI accessed by Recipient;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. Definitions. Unless otherwise specified in this Agreement, all capitalized terms have the same meanings as set forth in the HIPAA Regulations, as amended from time to time.
2. Responsibilities of Recipient. Recipient agrees to:
 - a. Not use or further disclose the PHI or ePHI other than as permitted by this Agreement or as otherwise required by law;
 - b. Use appropriate safeguards to prevent use or disclosure of the information in the PHI or ePHI other than as provided for by this Agreement;
 - c. Report to IEHP any use or disclosure of the information in the PHI or ePHI not provided for by this Agreement of which it becomes aware;
 - d. Ensure that any agents or subcontractors to whom it provides the PHI or ePHI agree to the same restrictions and conditions that apply to Recipient with respect to such information; and
 - e. Comply with the terms and conditions of the attached Business Associate Agreement (Attachment A), hereby incorporated by this reference.
 - f. Comply with all relevant Federal and State laws and regulations, including, but not limited to those listed below, inclusive of future revisions, and comply with all applicable provisions of:
 - i. Welfare and Institution Code 5328 et seq.,
 - ii. Welfare and Institution Code 14100.2,
 - iii. Title 22, California Code of Regulations Section 51009, and
 - iv. Code of Federal Regulations, Title 42, Part 2.

3. Permitted Uses and Disclosures of the PHI or ePHI.

- a. Except as otherwise specified herein, Recipient may use and/or disclose the PHI or ePHI necessary for the Project or as required by law.
- b. Recipient shall receive or have access to only the following types of confidential PHI or ePHI from IEHP:
 - i. Identifying information on all active IEHP Members living at Golden Apartments, including Member ID numbers, names, and dates of birth.
 - ii. Select information from Member health records subject to IEHP approval, including Member Primary Care Physicians (“PCP”), open referrals, prior utilization data, and prescription medications.
- c. Recipient understands that this Agreement does not authorize the Recipient to have greater rights to use or disclose the information than that which is granted to IEHP pursuant to the HIPAA Regulations.
- d. Recipient has designated the following individual(s) and/or classes of individuals, who are permitted to use or receive the PHI or ePHI for purposes of the Project: ***Interdisciplinary Care Team providing case management to individuals housed at Golden Apartments.*** To the extent the classes of individuals are not part of Recipient’s workforce who are directly involved in the Project, Recipient shall enter into a data use agreement, including the attached Business Associate Agreement, that complies with the HIPAA Regulations, prior to the release of the PHI or ePHI with the other classes of individuals.
- e. Recipient shall use the above-described PHI or ePHI for purposes of the Project only.

4. Term and Termination.

- a. Term. The term of this Agreement shall commence as of the Effective Date and terminate on May 31, 2025.
- b. Termination by Recipient. Recipient may terminate this Agreement at any time by providing written notice to IEHP and returning or destroying the PHI or ePHI.
- c. Termination by Covered Entity. IEHP may terminate this Agreement at any time by providing thirty (30) days prior written notice to Recipient.
- d. Termination for Breach. Upon IEHP’s knowledge of a pattern or practice that constitutes a material breach of this Agreement by Recipient, IEHP may immediately and unilaterally terminate this Agreement. Alternatively, IEHP may provide an opportunity for Recipient to cure the breach or end the violation. If such efforts are not successful within the reasonable time period specified by IEHP, or if IEHP determines that cure of the breach is not possible, IEHP shall immediately discontinue disclosure of the PHI or ePHI to Recipient and report the problem to the Secretary of the Department of Health and Human Services or its designee.

5. Insurance.

- a. Throughout the term of this Agreement, Recipient shall maintain, at its sole cost and expense, policies for insurance providing coverage required by applicable law

as well as any other insurance coverage Recipient deems prudent and customary in the exercise of Recipient’s business operations as it specifically relates to the Project, including coverage for Recipient’s potential negligence and liabilities assumed under this Agreement. Such coverages shall be in amounts as may be necessary to protect Recipient and IEHP (as necessary) in the discharge of its responsibilities and obligations under this Agreement. Upon request, Recipient shall furnish IEHP with evidence of such insurance coverage.

- b. Recipient and IEHP shall, at its own expense, secure and maintain for the term of this Agreement, Cyber Liability Insurance with limits of not less than \$1,000,000 for each occurrence or event with an annual aggregate of \$1,000,000 covering claims involving privacy violations, information theft, damage to or destruction of electronic information or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall cover breach response cost as well as any regulatory fines and penalties, where insurable by law.

- 6. Notice. All correspondence and notices required or contemplated by this Agreement shall be delivered at the addresses set forth below, and are deemed submitted two (2) days after their deposit in the United States mail, postage prepaid:

<u>IEHP:</u>	<u>Housing Authority of the County of San Bernardino:</u>		
Maria Razo	Executive Director		
Senior Director of Care Integration	715 East Brier Drive		
10801 6 TH Street, Suite 120	San Bernardino, California 92408		
(909) 890-2000	(909) 890-0644		
cc: legal@iehp.org			
<u>San Bernardino County Department of Behavioral Health:</u>	<u>Mental Health Systems, Inc.:</u>		
Veronica Kelley, DSW, LCSW	James C Callaghan Jr.		
Director	President & CEO		
303 E. Vanderbilt Way	9465 Farnham Street		
San Bernardino, CA 92415	San Diego, CA 92123		
(909) 388-0801	(858) 573-2600		
<u>Step Up on Second Street, Inc.:</u>	<u>Brilliant Corners:</u>		
Tod Lipka	William	F.	Pickel
President and CEO	Executive		Director

1328 2nd Street
Santa Monica, CA 90401
(310) 394-6883
Jewish Family Service of San Diego:

Michael Hopkins
Chief Executive Officer
8804 Balboa Ave.
San Diego, CA 92123
(858) 637-3006

1360 Mission St, Suite 300
San Francisco, CA. 94102
(415) 618-0012
LightHouse Social Service Centers:

Karyn Young-Lowe, MSW
President & Chief Executive Officer
1003 E. Cooley Drive, Suite #205
Colton, CA. 92324
(951) 571-3533

Or to such other address(es) as the Parties may hereafter designate, in writing.

7. General Provisions.

- a. Construction of Terms. The terms of this Agreement shall be construed to give effect to applicable federal interpretative guidance regarding the HIPAA Regulations. A reference in this Agreement to a section in the HIPAA Regulations means the section(s) as in effect or as amended.
- b. No Third-Party Beneficiaries. Nothing in this Agreement shall confer upon any person other than the Parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- c. Independent Contractors. The Parties are independent contractors. Neither Party has the power or authority to act on behalf of the other Party as its agent. Nothing in this Agreement shall be construed to make the Parties hereto partners, joint ventures, or agents of or with each other, nor shall either Party so represent itself.
- d. Amendment. This Agreement shall not be amended or assigned by either Party without the prior written consent of the other. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Parties to comply with HIPAA Regulations.
- e. Law and Venue. This Agreement shall be governed by the laws of California, without regard to its principles of conflicts of law. All actions and proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state or federal courts located in the counties of San Bernardino or Riverside, State of California.
- f. Entire Agreement/Severability. This Agreement constitutes the entire agreement between IEHP and Recipient, and supersedes all other prior and contemporaneous agreements, understandings, and commitments between them, relating to the subject matter hereof. The invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions, and this Agreement shall be construed as if such invalid provision had been omitted.

- g. Expense of Performance. Each Party shall bear its own expenses as to the sharing of data unless otherwise specified in this Agreement.
- h. Survival. Unless otherwise provided herein, the rights and obligations of any Party which by their nature extend beyond the expiration or termination of this Agreement, shall continue in full force and effect, notwithstanding the expiration or termination of this Agreement.
- i. Remedies. IEHP shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies IEHP may have at law or in equity in the event of an unauthorized use, access, or disclosure of the PHI or ePHI by Recipient or any agent or subcontractor of Recipient that received information from Recipient. Recipient hereby waives any requirement that IEHP post any bond or other security in the event any injunctive or equitable relief is sought by IEHP.
- j. Ownership. The PHI or ePHI shall be and remain the property of IEHP. Recipient agrees that it acquires no title or rights to the PHI or ePHI.
- k. Headings. Paragraph headings contained in this Agreement are for convenience only and shall not be interpreted to limit or otherwise affect the provisions of this Agreement.
- l. Counterparts/Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties' faxed signatures, and/or signatures scanned into PDF format, shall be effective to bind them to this Agreement.
- m. Authority. The Parties certify that the individuals signing below have the proper authority to execute this Agreement on behalf of the Parties.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereby execute this Agreement.

Inland Empire Health Plan

By: _____

Title: _____

Date: _____

Housing Authority of the County of San Bernardino

By: _____

Title: _____

Date: _____

San Bernardino County Department
of Behavioral Health

By: _____

Title: _____

Date: _____

Mental Health Systems, Inc.

By: _____

Title: _____

Date: _____

Step Up on Second Street, Inc.

By: _____

Title: _____

Date: _____

Brilliant Corners

By: _____

Title: _____

Date: _____

Jewish Family Service of San Diego

By: _____

Title: _____

Date: _____

LightHouse Social Service Centers

By: _____

Title: _____

Date: _____

ATTACHMENT A

HIPAA BUSINESS ASSOCIATE AGREEMENT

**HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO
AND
SAN BERNARDINO COUNTY DEPARTMENT OF BEHAVIORAL HEALTH
AND
MENTAL HEALTH SYSTEMS, INC
AND
STEP UP ON SECOND STREET, INC.
AND
BRILLIANT CORNERS
AND
JEWISH FAMILY SERVICE OF SAN DIEGO
AND
LIGHTHOUSE SOCIAL SERVICE CENTERS
FOR GOLDEN APARTMENTS**

This HIPAA Business Associate Agreement (the “Agreement”) is an Attachment to the **Data Use Agreement** (the “Underlying Agreement”) between the Inland Empire Health Plan (“IEHP”) and Recipient(s) identified in the Underlying Agreement (“Business Associate”) as of the “Effective Date”, of the Underlying Agreement.

RECITALS

WHEREAS, IEHP and Business Associate entered into the Underlying Agreement pursuant to which Business Associate provides services to IEHP, and in conjunction with the provision of such services, certain Protected Health Information (“PHI”) and/or certain electronic Protected Health Information (“ePHI”) may be made available to Business Associate for the purposes of carrying out its obligations under the Underlying Agreement; and,

WHEREAS, the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), more specifically the regulations found in Title 45, Code of Federal Regulations (C.F.R.), Parts 160 and 164, Subparts A and E (the “Privacy Rule”) and/or 45 C.F.R. Part 164, Subpart C (the “Security Rule”), Welfare and Institutions Code (WIC) 5328, and 42 CFR Part 2, as applicable, as may be amended from time to time, which are applicable to the protection of any disclosure or use of PHI and/or ePHI pursuant to the Underlying Agreement; and,

WHEREAS, the provisions of Subtitle D entitled “Privacy” of the Health Information Technology for Economic and Clinical Health Act (“HITECH”) of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and the implementing regulations adopted thereunder, as may be amended from time to time, impose certain requirements on business associates; and

WHEREAS, IEHP is a Covered Entity, as defined in the Privacy Rule; and,

WHEREAS, Business Associate, when on behalf of IEHP, creates, receives, maintains or transmits PHI and/or ePHI, is a business associate as defined in the Privacy Rule; and,

WHEREAS, the parties intend to enter into this Agreement to address the requirements of HIPAA, HITECH, Privacy Rule, and Security Rule as they apply to Business Associate as a business associate of IEHP, including the establishment of permitted and required uses and disclosures (and appropriate limitations and conditions on such uses and disclosures) of PHI and/or ePHI by Business Associate that is created or received in the course of performing services on behalf of IEHP, and to incorporate the business associate obligations set forth in HITECH; and,

WHEREAS, the parties agree that any disclosure or use of PHI and/or ePHI be in compliance with the Privacy Rule, Security Rule, HITECH, or other applicable law.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. DEFINITIONS

A. Unless otherwise provided in this Agreement, or specifically defined in Paragraph B of this Section 1, the capitalized terms shall have the same meanings as set forth in the Privacy Rule, Security Rule, and/or HITECH, as may be amended from time to time.

B. Specific Definitions:

(1) “Breach,” when used in connection with Unsecured PHI, means, as defined in 45 C.F.R. § 164.402, the acquisition, access, use or disclosure of PHI in a manner not permitted under the Privacy Rule (45 C.F.R. Part 164, Subpart E), which compromises the security or privacy of the PHI. Except as otherwise excluded under 45 C.F.R. § 164.402, such acquisition, access, use or disclosure is presumed to be a Breach unless the Covered Entity or Business Associate, as applicable, demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:

- a) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
- b) The unauthorized person who used the PHI or to whom the disclosure was made;
- c) Whether the PHI was actually acquired or viewed; and
- d) The extent to which the risk to PHI has been mitigated.

(2) “Business Associate” means an entity whom conducts the following on behalf of the covered entity where the provision of services named involves the disclosure of protected health information: creates, receives, maintains or transmits protected health information for a function or activity involving the use or disclosure of

protected health information, including claims processing/administration, data analysis, data storage, utilization review, quality assurance, billing, benefit management, practice management, and repricing; provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation or financial services.

- (3) “Covered Entity” means health care providers, health plans, and health care clearing houses who transmit any health information in electronic form in connection with a transaction covered by the Privacy and Security Rules.
- (4) “Discovered” means the first day on which such Breach is known to such Covered Entity or Business Associate, respectively, (including any person, other than the individual committing the Breach, that is an employee, officer or other agent of such entity or associate, respectively) or should reasonably have been known to such Covered Entity or Business Associate (or person) to have occurred.
- (5) “Electronic Protected Health Information” (“ePHI”) means, as defined in 45 C.F.R. § 160.103, PHI transmitted by or maintained in electronic media, and for purposes of this Agreement, is limited to the ePHI that Business Associate creates, receives, maintains or transmits on behalf of IEHP.
- (6) “Health Insurance Portability and Accountability Act” (“HIPAA”) means, a federal law designed to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes.
- (7) “Protected Health Information” (“PHI”) shall generally have the meaning given such term in 45 C.F.R. § 160.103, which includes ePHI, and for purposes of this Agreement, is limited to PHI, including ePHI, that Business Associate creates, receives, maintains or transmits on behalf of IEHP.
- (8) “Secretary” means the Secretary of the U.S. Department of Health and Human Services or his/her designee.
- (9) “Subcontractor” means a person to whom a business associate delegates a function, activity, or service other than in the capacity of a member of the workforce of such business associate.
- (10) “Unsecured PHI” means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary in the guidance issued under 42 U.S.C. § 17932(h)(2).

2. SCOPE OF USE AND DISCLOSURE BY BUSINESS ASSOCIATE OF PHI AND/OR EPHI

A. Business Associate shall be permitted to use PHI and/or ePHI disclosed to it by IEHP:

- (1) On behalf of IEHP, or to provide services to IEHP for the purposes contained herein, if such use or disclosure would not violate the Privacy Rule, Security Rule, and/or HITECH.
- (2) As necessary to perform any and all of its obligations under the Underlying Agreement.

B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or required by this Agreement or required by law, Business Associate may:

- (1) Use the PHI and/or ePHI in its possession for its proper management and administration and to fulfill any legal obligations.
- (2) Disclose the PHI and/or ePHI in its possession to a third party for the purpose of Business Associate's proper management and administration or to fulfill any legal responsibilities of Business Associate, only if:
 - a) The disclosure is required by law; or
 - b) Business Associate obtains written assurances from any person or organization to which Business Associate will disclose such PHI and/or ePHI that the person or organization will:
 - i. Hold such PHI and/or ePHI in confidence and use or further disclose it only for the purpose of which Business Associate disclosed it to the third party, or as required by law; and
 - ii. Notify Business Associate of any instances of which it becomes aware in which the confidentiality of the information has been breached.
- (3) Use the PHI and/or ePHI to provide Data Aggregation services relating to the Health Care Operations of IEHP if authorized by the Underlying Agreement or pursuant to the written request of IEHP.
- (4) De-identify any and all PHI and/or ePHI of IEHP received by Business Associate under this Agreement provided that the De-identification conforms to the requirements of the Privacy Rule and/or Security Rule and does not preclude timely payment and/or claims processing and receipt.

C. Business Associate shall not:

- (1) Use or disclose PHI and/or ePHI it receives from IEHP, nor from another business associate of IEHP, except as permitted or required by this Agreement, or as required by law.
- (2) Perform any services (including any and all subcontracted services), which involves creating, receiving, maintaining or transmitting PHI and/or ePHI outside the United States of America.
- (3) Disclose PHI and/or ePHI not authorized by the Underlying Agreement or this Agreement without patient authorization or De-identification of the PHI and/or ePHI as authorized in writing by IEHP.
- (4) Make any disclosure of PHI and/or ePHI that IEHP would be prohibited from making.
- (5) Use or disclose PHI for fundraising or marketing purposes.
- (6) Disclose PHI, except as otherwise required by law, to a health plan for payment or healthcare operations purposes if the individual has requested this restriction, and the PHI solely relates to a health care item or service that is paid in full by the individual or person (other than the health plan) on behalf of the individual (45 C.F.R. § 164.522(a)(1)(vi)).
- (7) Directly or indirectly receive remuneration in exchange for PHI nor engage in any acts that would constitute a Sale of PHI, as defined in 45 C.F.R. § 164.502(a)(5)(ii), except with the prior written consent of IEHP and as permitted by and in compliance with 45 C.F.R. § 164.508(a)(4); however, this prohibition shall not affect payment by IEHP to Business Associate for services provided pursuant to the Underlying Agreement.
- (8) Use or disclose PHI that is Genetic Information for Underwriting Purposes, as those terms are defined in 45 C.F.R. §§ 160.103 and 164.502(a)(5)(i), respectively.

D. Business Associate agrees that in any instance where applicable state and/or federal laws and/or regulations are more stringent in their requirements than the provisions of HIPAA and/or HITECH (including but not limited to prohibiting the disclosure of mental health, and/or substance abuse records), the more stringent laws and/or regulations shall control the disclosure of PHI.

3. **OBLIGATIONS OF IEHP**

- A. Notification of Restrictions to Use or Disclosure of PHI. IEHP agrees that it will make its best efforts to promptly notify Business Associate in writing of any restrictions, limitations, or changes on the use, access and disclosure of PHI and/or ePHI agreed to by IEHP in accordance with 42 U.S.C. § 17935(a), that may affect Business Associate's ability to perform its obligations under the Underlying Agreement, or this Agreement.
- B. Proper Use of PHI. IEHP shall not request Business Associate to use, access, or disclose PHI and/or ePHI in any manner that would not be permissible under the Privacy Rule, Security Rule, and/or HITECH.
- C. Authorizations. IEHP will obtain authorizations necessary for the use, access, or disclosure of PHI and/or ePHI, so that Business Associate can perform its obligations under this Agreement and/or the Underlying Agreement.
- D. Actions in Response to Business Associate Breach. IEHP shall complete the following in the event that IEHP has determined that Business Associate has a Breach:
 - (1) Determine appropriate method of notification to the patient/client(s) regarding a Breach as outlined in 45 C.F.R. § 164.404(d).
 - (2) Send notification to the patient/client(s) without unreasonable delay but in no case later than sixty (60) days of Discovery of the Breach with at least the minimal required elements as follows:
 - a) Brief description of what happened, including the date of the Breach and the date of Discovery;
 - b) Description of the types of Unsecured PHI involved in the Breach (such as name, date of birth, home address, Social Security number, medical insurance, etc.);
 - c) Steps patient/client(s) should take to protect themselves from potential harm resulting from the Breach;
 - d) Brief description of what is being done to investigate the Breach, to mitigate harm to patient/client(s) and to protect against any further Breaches; and
 - e) Contact procedures for patient/client(s) to ask questions or learn additional information, which must include a toll-free telephone number, an E-Mail address, website or postal address.

(3) Determine if notice is required to the Secretary.

(4) If required, submit Breach information to the Secretary within the required timeframe, in accordance with 45 C.F.R. § 164.408(b).

E. Contract Violations by Business Associate. Pursuant to 45 C.F.R. § 164.504(e)(1)(ii), if IEHP knows of a pattern of activity or practice of the Business Associate that constitutes a material breach or violation of the Business Associate's obligations under this Agreement, IEHP must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, IEHP shall terminate the Agreement, if feasible.

4. OBLIGATIONS OF BUSINESS ASSOCIATE

A. Minimum Necessary. Business Associate shall request, use, access or disclose only the minimum amount of PHI and/or ePHI as permitted or required by this Agreement and as necessary to accomplish the intended purpose of the request, use, access or disclosure in accordance with the Privacy Rule (45 C.F.R. § 164.502(b)(1)).

B. Appropriate Safeguards. Business Associate shall use reasonable and appropriate safeguards and comply, where applicable, with the Security Rule with respect to ePHI, to prevent use or disclosure of PHI and/or ePHI other than as provided for by this Agreement. Business Associate shall implement administrative, physical and technical safeguards in accordance with the Security Rule under 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316:

(1) Business Associate shall issue and change procedures from time to time to improve electronic data and file security as needed to comply with the measures that may be required by the Privacy Rule or the Security Rule, as applicable, and at all times use an NIST-Approved Technology for all PHI and/or ePHI that is in motion, stored or to be destroyed.

(2) Business Associate shall extend such policies and procedures, if applicable, for the protection of physical PHI to prevent, detect, contain and correct security violations, as well as to limit unauthorized physical access to the facility or facilities in which the PHI is housed.

C. Mitigation. Business Associate shall have procedures in place to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use, access or disclosure of PHI and/or ePHI by Business Associate in violation of this Agreement.

- D. Access to Records. Business Associate shall make internal practices, books, and records including policies and procedures, relating to the use, access, disclosure, and privacy protection of PHI received from IEHP, or created or received by Business Associate on behalf of IEHP, available to the Secretary, for purposes of determining, investigating or auditing Business Associate's and/or IEHP's compliance with the Privacy and Security Rules and/or HITECH, subject to any applicable legal restrictions. Business Associate shall also cooperate with IEHP should IEHP elect to conduct its own such investigation and analysis.
- E. Carrying Out IEHP's Obligations. To the extent Business Associate is to carry out one or more of IEHP's obligations under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that applies to IEHP in the performance of such obligations.
- F. Subcontractors. In accordance with 45 C.F.R. §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, Business Associate shall require Subcontractors that create, receive, maintain or transmit PHI and/or ePHI on behalf of Business Associate, to agree to the same restrictions, conditions and requirements that apply to Business Associate with respect to the PHI and/or ePHI, including the restrictions, conditions and requirements set forth in this Agreement.
- G. Contract Violations by Subcontractors. Pursuant to 45 C.F.R. § 164.504(e)(1)(iii), if Business Associate knows of a pattern of activity or practice of the Subcontractor that constitutes a material breach or violation of the Subcontractor's obligations under the business associate contract between Business Associate and Subcontractor, Business Associate must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, Business Associate shall terminate the business associate contract with the Subcontractor if feasible.
- H. Workforce Training. Business Associate warrants that all employees who use, access or disclose PHI and/or ePHI shall be properly trained to comply with Privacy Rule, Security Rule, HITECH, or other such applicable law.
- I. Patient Confidentiality Laws and Regulations. Business Associate agrees to obtain and maintain knowledge of the applicable laws and regulations related to HIPAA and HITECH, as may be amended from time to time, and comply with the applicable provisions of Welfare and Institution Code 5328 et. seq and Code of Federal Regulations, Title 42, Part 2.
- J. Reporting of Improper Access, Use or Disclosure Breach. Business Associate shall report to IEHP any unauthorized use, access or disclosure of Unsecured PHI and/or ePHI or any other security incident with respect to PHI no later than fifteen (15) days after Discovery of the potential Breach ("Notice Date"). Business Associate shall notify IEHP through the IEHP Compliance Department via telephone to the Compliance Hotline (866) 355-9038, via email to the Compliance Mailbox compliance@iehp.org,

or via facsimile to the Compliance Fax (909) 477-8536. Upon Discovery of the potential Breach, Business Associate shall complete the following actions:

- (1) Provide IEHP's Compliance Department with the information required by 45 C.F.R. §§164.410 and 164.404, which shall include, but not be limited to:
 - a) The identification of each individual (IEHP Members) whose Unsecured PHI has been, or is reasonably believed by Business Associate, to have been accessed, acquired, used or disclosed;
 - b) Date(s) of Breach: MM/DD/YYYY;
 - c) Date(s) of Discovery of Breach: MM/DD/YYYY;
 - d) Approximate number of individuals (IEHP Members) affected by the Breach;
 - e) Type of Breach, i.e., theft, loss, improper disposal, unauthorized access, hacking/IT incident (for additional selections, see U.S. Department of Health & Human Services, Health Information Privacy);
 - f) Location of breached information, i.e., laptop, desktop computer, network server, E-Mail, other portable electronic device (see U.S. Department of Health & Human Services, Health Information Privacy);
 - g) Type of PHI involved in the Breach, i.e., demographic information, financial information, clinical information (see U.S. Department of Health & Human Services, Health Information Privacy);
 - h) Safeguards in place prior to Breach, i.e., firewalls, packet filtering (router-based), encrypted wireless (see U.S. Department of Health & Human Services, Health Information Privacy);
 - i) Actions taken in response to Breach, i.e., mitigation, protection against any further Breaches, policies and procedures (see U.S. Department of Health & Human Services, Health Information Privacy); and
 - j) Any steps individuals should take to protect themselves from potential harm resulting from the Breach.
- (2) Conduct and document a risk assessment by investigating, without reasonable delay and in no case later than twenty (20) calendar days of Discovery, the potential Breach to determine the following:
 - a) Whether there has been an impermissible use, acquisition, access or disclosure of PHI and/or ePHI under the Privacy Rule;

- b) Whether an impermissible use or disclosure compromises the security or privacy of the PHI and/or ePHI, including whether it can be demonstrated that there is a low probability that PHI and/or ePHI has been compromised based on a risk assessment of at least four (4) factors specified in Section 1.B(1) defining Breach; and
 - c) Whether the incident falls under one of the Breach exceptions.
 - (3) Provide the completed risk assessment and investigation documentation to IEHP's Compliance Department within twenty-five (25) calendar days of Discovery of the potential Breach, and collaborate with IEHP on making a decision on whether a Breach has occurred.
 - a) If a Breach has not occurred, notification to patient/client(s) is not required;
 - b) If a Breach has occurred, notification to the patient/client(s) is required and Business Associate must provide IEHP with affected patient/client(s) names and contact information so that IEHP can provide notification.
 - (4) Make available to governing State and Federal agencies in a time and manner designated by such agencies, any policies, procedures, internal practices and records relating to a potential Breach for the purposes of audit; cooperate with IEHP should IEHP elect to conduct its own such investigation and analysis.
 - (5) Should the Breach of Unsecured PHI be caused solely by Business Associate's failure to comply with one or more of its obligations under this BAA, Privacy Rule, Security Rule and/or HITECH Provisions, Business Associate shall pay for any and all costs associated with providing all legally required notifications to individuals, media outlets and the Secretary.
 - (6) Should the Breach of Unsecured PHI involve more than 500 residents of a single State or jurisdiction, Business Associate shall provide to IEHP, no later than the Notice Date, the information necessary for IEHP to prepare the notice to media outlets as set forth in 45 C.F.R. § 164.406.
 - (7) Should the Breach of Unsecured PHI involve 500 or more individuals, Business Associate shall provide to IEHP, no later than the Notice Date, the information necessary for IEHP to prepare the notice to the Secretary as set forth in 45 C.F.R. § 164.408.
 - (8) Should the Breach of Unsecured PHI involve less than 500 individuals, Business Associate shall maintain a log of such Breaches and provide such log to IEHP, for submission to the Secretary, on an annual basis and not later than forty-five (45) days after the end of each calendar year.
- K. Breach Pattern or Practice by Covered Entity. Upon Pursuant to 42 U.S.C. Section 17934(b), if the Business Associate knows of a pattern of activity or practice of the

Covered Entity that constitutes a material Breach or violation of the Covered Entity's obligations under this Agreement, the Business Associate must take reasonable steps to cure the Breach or end the violation. If the steps are unsuccessful, the Business Associate must terminate the Agreement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS.

5. ACCESS TO PHI, AMENDMENT AND DISCLOSURE ACCOUNTING

Business Associate agrees to:

- A. Provide access, at the request of IEHP, within five (5) days, to PHI, including ePHI if maintained electronically, in a Designated Record Set, to IEHP, or to an individual or individual's designee as directed by IEHP, as necessary for IEHP to satisfy its obligations under 45 C.F.R. § 164.524.
- B. Make any amendment(s) to PHI in a Designated Record Set that IEHP directs or agrees to, at the request of IEHP or an individual, pursuant to 45 C.F.R. § 164.526, within thirty (30) days of the request of IEHP.
- C. Assist IEHP in meeting its disclosure accounting under HIPAA:
 - (1) Business Associate agrees to document such disclosures of PHI and information related to such disclosures, as would be required for IEHP to respond to a request by an individual for an accounting of disclosures of PHI.
 - (2) Business Associate agrees to provide to IEHP, within thirty (30) days, information collected in accordance with this Section to permit IEHP to make an accounting of disclosures of PHI by Business Associate in accordance with 45 C.F.R. § 164.528 and HITECH.
 - (3) Business Associate shall have available for IEHP the information required by this Section for the ten (10) years preceding IEHP's request for information.

6. TERM AND TERMINATION

- A. Term. This Agreement shall commence upon the Effective Date and terminate upon the termination of the Underlying Agreement.
- B. Termination for Cause. IEHP may terminate the Underlying Agreement, effective immediately, if IEHP, in its sole discretion, determines that Business Associate has breached a material provision of this Agreement relating to the privacy and/or security of the PHI. Alternatively, IEHP may choose to provide Business Associate with notice of the existence of an alleged material breach and afford Business Associate with an opportunity to cure the alleged material breach. In the event Business Associate fails to cure the breach to the satisfaction of IEHP in a timely manner, IEHP reserves the right to immediately terminate the Underlying Agreement.
- (1) Effect of Termination. Upon termination of the Underlying Agreement, for any reason, Business Associate shall return or destroy all PHI and/or ePHI received from IEHP, or created or received by Business Associate on behalf of IEHP, no later than sixty (60) days after the date of termination. Business Associate shall certify such destruction, in writing, to IEHP. This provision shall apply to all PHI and/or ePHI which is in possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI and/or ePHI.
- (2) Destruction not Feasible. In the event that Business Associate determines that returning or destroying the PHI and/or ePHI is not feasible, Business Associate shall provide written notification to IEHP of the conditions which make such return or destruction not feasible. Upon determination by Business Associate that return or destruction of PHI and/or ePHI is not feasible, Business Associate shall extend the protections, limitations, and restrictions of this Agreement to such PHI and/or ePHI retained by Business Associate, its subcontractors, employees or agents, and to limit further uses and disclosures of such PHI and/or ePHI to those purposes which make the return or destruction not feasible, for so long as such PHI and/or ePHI is maintained.

7. HOLD HARMLESS/INDEMNIFICATION

With respect to the subject matter in this Agreement, the following shall be applicable:

The Business Associate agrees to indemnify, defend and hold harmless IEHP and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, , penalties, injuries, costs and expenses (including costs for reasonable attorneys fees) that are caused by or result from the acts or omissions of Business Associate, its officers, agents, employees and subcontractors, with respect to the use, access, maintenance or disclosure of IEHP's PHI or ePHI, including without limitation, any Breach of PHI or ePHI of any expenses incurred by IEHP in providing required Breach notifications.

With respect to any action or claim subject to indemnification herein by Business Associate, Business Associate shall, at their sole cost, have the right to use counsel of their choice, subject to the approval of IEHP, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of IEHP; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Business Associate's indemnification to IEHP as set forth herein. Business Associate's obligation to defend, indemnify and hold harmless IEHP shall be subject to IEHP having given Business Associate written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at Business Associate's expense, for the defense or settlement thereof. Business Associate's obligation hereunder shall be satisfied when Business Associate has provided to IEHP the appropriate form of dismissal relieving IEHP from any liability for the action or claim involved.

The specified insurance limits required in the Underlying Agreement shall in no way limit or circumscribe Business Associate's obligations to indemnify and hold harmless IEHP herein from third party claims arising from the issues of this Agreement.

In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement, this indemnification shall only apply to the subject issues included within this Agreement.

8. GENERAL PROVISIONS

- A. Amendment. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for IEHP to comply with the Privacy Rule, Security Rule, HITECH, and HIPAA generally.
- B. Survival. Notwithstanding Section 6.A of this Agreement, the respective rights and obligations of this Agreement shall survive the termination or expiration of this Agreement.
- C. Regulatory References. A reference in this Agreement to a section in the Privacy Rule, Security Rule, and/or HITECH means the section(s) as in effect or as amended.
- D. Interpretation. This Attachment shall be construed to be a part of the Underlying Agreement as one document. The purpose is to supplement the Underlying Agreement to include the requirements of HIPAA and HITECH. Any ambiguity in this Agreement and the Underlying Agreement shall be resolved to permit IEHP to comply with the Privacy Rule, Security Rule, HITECH, and HIPAA generally.

- E. Remedies. Business Associate agrees that IEHP shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies which IEHP may have at law or in equity in the event of an unauthorized use, access, or disclosure of PHI by Business Associate or any agent or subcontractor of Business Associate that received PHI from Business Associate.
- F. Ownership. The PHI shall be and remain the property of IEHP. Business Associate agrees that it acquires no title or rights to the PHI.
- G. Headings. Paragraph headings contained in this Agreement are for convenience only and shall not be interpreted to limit or otherwise affect the provisions of this Agreement.
- H. Compliance with State Law.

In addition to HIPAA and all applicable HIPAA Regulations, Business Associate acknowledges that Business Associate and Covered Entity may have confidentiality and privacy obligations under State law, including, but not limited to, the California Confidentiality of Medical Information Act [Cal. Civil Code §56, et seq. (“CMIA”)] and WIC 5328. If any provisions of this Agreement or HIPAA Regulations or the HITECH Act conflict with CMIA or WIC section 5328 or any other California State law regarding the degree of protection provided for PHI and patient medical records, then Business Associate shall comply with the more restrictive requirements.

REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION

December 8, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Amendment to Lease Agreement with the County of San Bernardino Preschool Services Department.

RECOMMENDATION(S)

1. Approve the First Amendment to the lease agreement, effective February 1, 2021, with the County of San Bernardino for the premises located at 1151 N. Crestview Avenue, Buildings A and B, in the City of San Bernardino for the County of San Bernardino Preschool Services Department.
2. Authorize and direct the Executive Director to execute and deliver the First Amendment to the lease agreement to the County of San Bernardino Preschool Services Department, and upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.

(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

HACSB has secured the resources needed for accomplishing its mission.

HACSB operates in a fiscally responsible manner.

FINANCIAL IMPACT

Approval of this item will generate a cost savings to the Housing Authority of the County of San Bernardino (HACSB) in the amount of \$685 per month as of February 1, 2021.

BACKGROUND INFORMATION

For many years, HACSB has leased facilities for the operation of Head Start preschools to the County of San Bernardino (County) Preschool Services Department (PSD), mutually benefitting our residents and the surrounding community with easy access to early childhood education services. On July 9 2019 (Item No. 50), HACSB's Board of Governors executed a lease agreement with the County for PSD to secure preschool services at 1151 N. Crestview Avenue, Buildings A and B, in the City of San Bernardino for a term of five years. HACSB provided a fully renovated site for PSD at a discounted lease rate; however, HACSB cannot continue to cover landscaping costs for the site because due to the discounted lease rate it was always the intent for PSD to cover the recurring fixed costs associated with operating the site. Fortunately, PSD has agreed to procure its own landscaping service. HACSB will continue to provide other maintenance services to the Head Start location such as HVAC systems repair, building envelope maintenance and parking lot maintenance. Approval of this item will amend the lease agreement to remove landscaping services from the contract.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on November 23, 2020.



Contract Number

19-470 A-1

SAP Number

Real Estate Services Department

Department Contract Representative	Terry W. Thompson, Director
Telephone Number	(909) 387-5252
Contractor	Housing Authority of the County of San Bernardino
Contractor Representative	Maria Razo
Telephone Number	909-332-6305
Contract Term	7/1/19-6/30/24
Original Contract Amount	\$144,015
Amendment Amount	\$0
Total Contract Amount	\$144,015
Cost Center	5911602220
GRC/PROJ/JOB No.	59003952
Internal Order No.	

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, the County of San Bernardino ("COUNTY"), as tenant, and the Housing Authority of the County of San Bernardino ("LANDLORD"), as landlord, entered into Lease Agreement Contract No. 19-470 dated July 9, 2019, wherein LANDLORD leases certain premises in Buildings A & B and land located at 1151 N. Crestview Avenue, San Bernardino, CA, as more specifically described in the Lease, to the COUNTY for a term that is currently scheduled to expire on June 30, 2024; and,

WHEREAS, the parties desire to affirm that, while the Commencement Date of the Lease is defined as the "Projected Occupancy Date of July 1, 2019," the Commencement Date actually occurred on July 1, 2019; and

WHEREAS, while Paragraph 17, Maintenance of the Lease provides that LANDLORD shall maintain the landscaping on the grounds of the property on which the premises is situated, such obligation was intended by the parties to be performed by the COUNTY; and

WHEREAS, the COUNTY and LANDLORD now desire to affirm the Commencement Date and amend the Lease to correct the landscaping obligation in Paragraph 17, Maintenance on the terms and conditions more specifically set forth in this amendment ("First Amendment").

NOW, THEREFORE, in consideration of mutual covenants and conditions, the parties hereto agree the Lease, is amended as follows:

1. The parties affirm that the Commencement Date of the Lease occurred on July 1, 2019 and the Lease shall expire on June 30, 2014.

2. Effective February 1 2021, DELETE in its entirety the existing **Paragraph 17, MAINTENANCE AND REPAIR, Subparagraphs A.(2) and D**, and SUBSTITUTE therefore the following as a new **Paragraph 17, MAINTENANCE AND REPAIR, Subparagraph A.(2) and .D**:

17. **MAINTENANCE & REPAIR:**

A.(2) Except for landscaping, all grounds of the Property, inclusive of all components thereto, including, but not limited to, parking lot, parking structures, accessible parking spaces, drive lanes, and driveways; sidewalks; fences and gates; exterior lighting; and exterior signage; parking maintenance shall include, but is not limited to cleaning, repaving, re-striping, curb and pothole repairs, and replacements.

D. COUNTY, at its sole cost, shall provide minor interior maintenance, such as janitorial services, replacement of light bulbs, unplugging toilets, repair leaky faucets, repair leaking toilet, repair leaking sink, equipment it installs, doors, panels, door frames, exposed fixtures, broken switches and plugs, and landscaping for the grounds of the Property.

3. This First Amendment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same First Amendment. The parties shall be entitled to sign and transmit an electronic signature of this First Amendment (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed First Amendment upon request.

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4. All other provisions and terms of the Lease shall remain the same and are hereby incorporated by reference. In the event of any conflict between the Lease and this First Amendment, the terms and conditions of this First Amendment shall control.

END OF FIRST AMENDMENT.

COUNTY OF SAN BERNARDINO

**HOUSING AUTHORITY OF THE COUNTY OF
SAN BERNARDINO**

►
Curt Hagman, Chairman, Board of Supervisors

Dated: _____
SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

Lynna Monell
Clerk of the Board of Supervisors
of the County of San Bernardino

By _____
Deputy

By ► _____
(Authorized signature - sign in blue ink)

Name Maria Razo

Title _____

Dated: _____

Address _____

FOR COUNTY USE ONLY

Approved as to Legal Form

►
Agnes Cheng, Deputy County Counsel

Date _____

Reviewed for Contract Compliance

►

Date _____

Reviewed/Approved by Department

►
Jim Miller, Real Property Manager, RESD

Date _____

REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION

December 8, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Contract with Aleshire & Wynder LLP for General Legal Counsel Services

RECOMMENDATION(S)

1. Approve Contract No. PC1180, effective December 9, 2020, with Aleshire & Wynder LLP for General Legal Counsel Services for an amount not to exceed \$130,000 for a two-year base period through December 8, 2022, with three single-year options to extend the contract until no later than December 8, 2025.
2. Authorize and direct the Executive Director to execute and deliver the contract to Aleshire & Wynder LLP and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.

(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

HACSB has secured the resources needed for accomplishing its mission.

HACSB is a leading developer and provider of affordable housing in the County of San Bernardino.

HACSB communication is open, honest and consistent.

FINANCIAL IMPACT

This contract is not expected to exceed \$130,000 for a two-year base period through December 8, 2022 and is funded by the Housing Authority of the County of San Bernardino's (HACSB) administrative and operations budgets.

BACKGROUND INFORMATION

As a public entity, HACSB requires general legal counsel services that specialize in public agencies and municipalities. The required level of legal expertise includes, but is not limited to, the following areas: public housing authority law; Ralph M. Brown Act; Public Records Act; Political Reform Act; conflicts of interest laws; general public entity and municipal law; California Government Code; public employment labor laws, policies and litigation; preparation, review and adoption of legal opinions, contracts, memoranda of understanding, resolutions and policies; legislative and administrative (regulatory) law, both California and federal, including proposed and enacted legislation; emergency legal services as needed; and attendance at the Board of Commissioners meetings. If approved, Aleshire & Wynder LLP will provide HACSB the above legal expertise along with the following legal counsel services in the areas of:

- Legal advisor to the Board of Commissioners, Executive Director and/or delegated HACSB staff
- Housing programs
- Development/Modernization program
- Contracting and Procurement Legal Services
- Legal representative of HACSB
- General Legal Services for personnel and Labor Relations

PROCUREMENT

The Procurement and Contracts Department advertised a "Request for Proposal" (RFP) for General Legal Counsel Services (RFP PC1180) on July 8, 2020 which resulted in the receipt of six proposals. Outreach efforts included email invitations via PlanetBids, our eBidding website to five vendors and posting on the agency's website. The proposals were evaluated per the requirements of the RFP along with interviews with the top three highest scoring firms. Aleshire and Wynder LLP was deemed the most responsive, reasonably priced, and determined qualified to provide this service to HACSB.

Responses were received by the deadline from the following organizations:				
<u>Firm:</u>	<u>Location:</u>	<u>Evaluation Score:</u>	<u>Interview Score:</u>	<u>Total:</u>
Aleshire & Wynder LLP	Irvine, CA	346	251	597
Slovak Baron Empey Murphy & Pinkney LLP	Indian Wells, CA	329	242	571
Best Best & Krieger	Ontario, CA	319	195	514
Ballard Spahr LLP	Baltimore, MD	285	N/A	N/A
Jones & Mayer	Fullerton, CA	273	N/A	N/A
Clark Hill LLP	Los Angeles, CA	237	N/A	N/A

Based on the responses for these services, which were solicited to an adequate number of sources and in accordance with Title 2 Code of Federal Regulations Part 200, staff recommends awarding a contract for General Legal Counsel Services to Aleshire & Wynder LLP and authorize and direct the Executive Director to execute and deliver the contract and, upon consultation with Legal Counsel to approve any non-substantive revisions to complete the transaction.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on November 23, 2020.

THIS LEGAL SERVICES AGREEMENT FOR GENERAL COUNSEL ("Agreement") is made as of the 9th day of December, 2020 ("Effective Date"), by and between Aleshire & Wynder LLP, a California Limited Liability Partnership ("Attorneys"), and the HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO, a California public corporation ("HACSB").

RECITALS

WHEREAS, HACSB is a public corporation located in San Bernardino County, State of California, and committed to provide affordable and safe public housing for low and moderate income families; and

WHEREAS, HACSB issued a Request for Proposals for law firms to provide legal services to HACSB and act as HACSB's general counsel ("General Counsel"); and

WHEREAS, Attorneys submitted a proposal to provide General Counsel services to HACSB; and

WHEREAS, HACSB has determined that it is in the best interest of HACSB to retain Attorneys to act as HACSB's General Counsel and Attorneys agree to perform such legal services; and such other matters as may be assigned; and,

WHEREAS, Attorneys has offered to provide certain services to HACSB, and HACSB wishes to retain Attorneys for the provision of such services.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the foregoing Recitals, which Recitals are incorporated herein by this reference, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the mutual covenants contained herein, Attorneys and HACSB hereby agree as follows:

ARTICLE 1. Representation of HACSB.

a. HACSB hereby retains the services of Attorneys to advise, represent and assist in the representation of the HACSB, its officers and employees in the matters referred to above in the fourth recital above, and to provide such other advice, services and representation on other matters as may be assigned by HACSB.

b. Fred Galante is hereby appointed General Counsel for HACSB and Adrian Guerra is appointed Deputy General Counsel for HACSB. General Counsel may, from time to time, assign alternate attorneys employed by Attorneys to perform the legal services set forth in this Agreement. General Counsel and Deputy General Counsel may not be changed by Attorneys without the written approval of HACSB.

c. If Attorneys require assistance from attorneys not associated or affiliated with Attorneys who specialize in a specific field, Attorneys will charge and HACSB agrees to pay the billing rate for those attorneys. Attorneys shall obtain the written consent of Executive Director, including approval as to any billing rates, prior to engaging any attorney not affiliated or associated with Attorneys to provide legal services to HACSB.

d. Attorneys represent and warrant to HACSB that Attorneys and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature legally required to practice their respective professions. Attorneys represent and warrant to HACSB that Attorneys and its employees, agents, any outside counsel shall, at their sole cost and expense, keep in effect at all times during the Term of this Agreement any licenses, permits, and approvals legally required to practice their respective professions. In addition to the foregoing,

Attorneys and any outside counsel shall obtain and maintain during the Term of this Agreement any required business licenses from HACSB.

e. It is understood that Attorneys, in Attorneys performance of any and all duties under this Contract, except as otherwise specifically provided in this Contract, have no authority to bind HACSB to any agreements or undertakings.

f. In the performance of all services under this Contract, Attorneys shall be, and acknowledge that Attorneys are, in fact and law, independent contractors and not agents or employees of HACSB. Attorneys have and retain the right to exercise full supervision and control of the manner and methods of providing services to HACSB under this Contract. Attorneys retain full supervision and control over the employment, direction, compensation and discharge of all persons assisting Attorneys in the provision of services under this Contract. With respect to Attorneys' employees, if any, Attorneys shall be solely responsible for payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes, whether federal, state or local, and compliance with any and all other laws regulating employment.

ARTICLE 2. Statement of Work. Attorneys shall furnish all labor, materials, tools, equipment, and supervision to perform all work required in the Statement of Work set forth on Exhibit "A", attached hereto and incorporated herein by reference ("Work"). In connection with its performance of the Work, Attorneys shall comply with all of the Contract Documents (as hereinafter defined). The Attorneys shall perform the Work on an as needed basis.

ARTICLE 3. Coordination of Services. Attorneys shall consult with HACSB through the Executive Director concerning all substantive positions and procedural steps to be taken by Attorneys in the course of advice and representation pursuant to this Contract.

ARTICLE 4. Authority of Executive Director. Except as specifically limited herein by HACSB's Board of Commissioners, the Executive Director shall have the authority to exercise all HACSB rights and authority under this Contract.

ARTICLE 5. Contract Documents. This Agreement incorporates by reference all of the following documents ("Contract Documents"):

1. Statement of Work, attached hereto as Exhibit "A".
2. Schedule of Fees, attached hereto as Exhibit "B" and incorporated herein by this reference ("Schedule of Fees").
3. Additional General Provisions attached hereto as Exhibit "C" and incorporated herein by this reference.
4. All agreements, representations, warranties, covenants, and certifications of Attorneys made in connection with the procurement of this Agreement.
5. All applicable Federal, State, and Local laws, ordinances and regulations related to this Agreement shall be incorporated herein by this reference.

This Agreement is funded by the U.S. Department of Housing and Urban Development ("HUD"), and is subject to all regulations and requirements for agreements funded by HUD. Federal Regulations may be found at <http://www.gpoaccess.gov>. State of California regulations may be found at <http://www.leginfo.ca.gov>.

ARTICLE 6. Time of Completion. Attorneys shall commence work under this Agreement for a two year base period beginning on December 9, 2020 and shall continue through December 8, 2022, with the option to extend this Agreement for three single-year options, but not later than through December 8, 2025, unless modified or terminated in accordance with Agreement provisions including Article 24.

ARTICLE 7. Price.

a. Unless otherwise specified in the Statement of Work, HACSB agrees to pay Attorneys for the provision of General Counsel Services at the hourly rates as stated in the Schedule of Fees (Exhibit "B") for a total sum not to exceed \$130,000.00 ("Agreement Price") for the two year base contract period, plus reimbursable costs and expenses as further described hereinafter; in consideration for the Work and the performance by Attorneys of all of its obligations hereunder.

b. Attorneys shall bill for their costs and expenses on a pass-through basis as an advance by Attorneys and without any profit or other mark-up.

c. Reimbursable ordinary costs and expenses shall be limited to:

1. Deposition fees;
2. Transcript fees;
3. Process service;

d. Reimbursable extraordinary costs and expenses shall include charges for which Attorneys have obtained Executive Director's prior approval. Such expenses shall be limited to:

1. Consultants, investigators and experts, their travel, lodging and meals;
2. Witnesses, their travel, lodging and meals;
3. Attorneys out of local area travel, lodging and meals;
4. Any expense item estimated to equal or exceed Five Hundred dollars (\$500.00).

e. Non-reimbursable costs and expenses shall include, but not be limited to:

1. Rent, utilities, word processing, couriers, telephone charges, office supplies, support staff, local area travel, lodging and meal expenses, alcoholic beverages of any kind (beer, wine, etc.), Westlaw, Lexis or other provider charges for legal research, postage, faxes and photocopying/document reproduction costs of any type;
2. Charges for time spent to provide necessary information for monthly billing statements and HACSB audits or billing inquiries; and,
3. Charges for work performed and otherwise reimbursable extraordinary costs and expenses which had not been authorized by HACSB. Such work and costs/expenses shall be a gratuitous effort by Attorneys.

f. The "local area" is defined as any place within fifty (50) miles of any Attorneys' office and any place within the southern California counties of Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara and Ventura.

ARTICLE 8. Performance of Work. Attorneys shall perform its services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Attorneys acknowledge that HACSB has the right to review the services performed by Attorneys and may, in its discretion, reject such services as set forth in the Additional Provisions. In the event HACSB rejects any such services, at HACSB's election: (a) Attorneys shall promptly correct any such deficiencies in the Work, or (b) the deficient Work shall be stricken from this Agreement and Attorneys shall not be paid for such portion of the Work.

Attorneys shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged

to HACSB under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Attorneys pursuant to this Agreement.

ARTICLE 9. Prior Approval. Unless otherwise instructed by the Executive Director, Attorneys must obtain the prior approval of the Executive Director concerning the following:

- a. Retention of any consultant or expert witness to assist with this matter;
- b. Making any settlement proposal on HACSB's behalf;
- c. Filing any action, response or motion;
- d. Scheduling any deposition;
- e. Undertaking research of more than twelve (12) hours on any particular issue; and,
- f. Any expense item exceeding Five Hundred dollars (\$500.00).

ARTICLE 10. Copies of Work Attorneys Will Provide to HACSB. Attorneys must promptly provide the Executive Director with copies of all:

- a. Pleadings and legal memoranda prepared in connection with any HACSB matter hereunder;
- b. Court rulings; and,
- c. Significant correspondence and information related to any HACSB matter hereunder, specifically including, but not limited to responses to HACSB or independent auditors concerning pending or threatened litigation and/or unasserted claims and assessments.

ARTICLE 11. HACSB's Right to Stop Work. HACSB has the right to require Attorneys to stop or suspend Work pursuant to the "Stop Work" provisions of the Additional Provisions.

ARTICLE 12. Conflicts.

- a. **No Present Conflicts.** The Attorneys have no present or contemplated employment that is adverse to HACSB. The Attorneys agree that it shall not represent clients in matters, either litigation or non-litigation, against HACSB. However, the Attorneys may have past and present clients or may have future clients, who, from time to time, may have interests adverse to HACSB and the Attorneys reserves the right to represent such clients in matters not connected with its representation of HACSB.
- b. **Duty to Disclose Future Conflicts.** If a potential conflict of interest arises in the Attorney's representation of two clients, if such conflict is only speculative or minor, Attorneys shall inform HACSB and seek waivers from each client with regards to such representation. However, if real conflicts exist, the Attorneys would withdraw from representing either client in the matter, and assist them in obtaining special counsel.
- c. **No Conflict in Violation of California Rules of Professional Responsibility.** Attorneys may serve other clients, but none whose activities within the corporate limits of HACSB or whose business, regardless of location, would place Attorneys in a "conflict of interest," as that term is defined in the rules of professional responsibility governing Attorney's profession, unless such conflict may be waived by HACSB and HACSB chooses to waive such conflict in writing.

ARTICLE 13. Limit of Engagement. This Agreement does not and shall not be construed to create any partnership or agency whatsoever. Attorneys are an independent contractor of the HACSB and shall not be deemed to be an employee, partner, joint venture, agent or legal representative of HACSB for any purpose, nor shall Attorneys have any

authority or power to act for, or to undertake any obligation or responsibility on behalf of, HACSB or corporations affiliated with HACSB, other than as expressly herein provided.

ARTICLE 14. Responsibilities of HACSB. If information, data, or documentation necessary to facilitate Attorneys' performance of the Work is required to be provided by HACSB, HACSB shall provide such information upon request by Attorneys. It is Attorneys' responsibility to determine if any such information is necessary in order to perform its obligations hereunder and to request such information from HACSB in a sufficient amount of time in order for Attorneys to perform the Work hereunder.

ARTICLE 15. Additional Work.

- a. In the event that the parties mutually agree that additional and further work beyond that specified in the Statement of Work ("Additional Work") is required to be performed by Attorneys, such Additional Work shall be memorialized in a Work Authorization Addendum executed by HACSB and Attorneys. The Work Authorization shall include and specifically identify the types of services required to perform as part of the Additional Work, all significant material to be delivered to HACSB, the time schedule for completion of the Additional Work, and the price for such Additional Work.
- b. Nothing herein shall obligate HACSB to utilize Attorneys to perform the Additional Work or in any way limit HACSB's rights to utilize third parties to perform or assist in performing the Additional Work. In no event shall Attorneys commence performance of the Additional Work until it has received written consent executed by a duly authorized representative of HACSB.
- c. In the event that HACSB provides a Work Authorization for Additional Work, all of the terms and conditions of this Agreement shall apply to the performance of such Additional Work.

ARTICLE 16. Attorneys' Obligation to Stop Work. Personnel resources will not be expended (at a cost to HACSB) on task accomplishment in excess of estimated work hours required unless the procedure below is followed:

- a. If, in the performance of the Work, Attorneys determines that the Work to be performed under this Agreement cannot be accomplished within the estimated work hours, Attorneys will immediately notify HACSB in writing of Attorneys' estimate of the work hours which will be required to complete the Work. Upon receipt of such notification, HACSB may:
 - i. Authorize Attorneys to expend the estimated additional work hours or service in excess of the original estimate necessary to accomplish the Work Authorization (such an authorization not unreasonably to be withheld); or
 - ii. Terminate this Agreement; or
 - iii. Alter the scope of the Work in order to define tasks that can be accomplished within the remaining estimated work hours.
- b. HACSB will notify Attorneys in writing of its election within seven (7) calendar days after receipt of Attorneys' notification. If notice of the election is given to proceed, Attorneys may expend the estimated additional work hours or services, as memorialized in a Work Authorization signed by Attorneys and HACSB. In the event that HACSB fails to notify Attorneys within such seven (7) calendar day period, Attorneys shall provide a second notice to HACSB requesting a determination. Attorneys shall not proceed with the Work until such time as HACSB has made an election as to how it wishes to proceed, and a Work Authorization has been approved.

ARTICLE 17. Invoicing and Payment for Services. During the execution of each task assignment (as set forth in the Statement of Work) which involves the delivery to HACSB of identified services (as defined in the Statement of Work), Attorneys may submit periodically to HACSB invoices reflecting the cost of the individual services, determined on the basis of the lesser of either:

- a. The number of work-hours expended by Attorneys in the performance of the Work, less any amounts previously invoiced;
- b. For those services which do not involve delivery to HACSB of identified services, but which are of a continuing nature, Attorneys may submit invoices reflecting a pro-rata cost of the services, less any amount previously invoiced. Actual progress payment amounts for such services, must be based on at least equivalent services rendered, and to the extent practicable, will be keyed to clearly identifiable stages of progress as reflected in written reports submitted with the invoices.
- c. Upon completion of services in accordance with the acceptance criteria set forth herein, the full charge for such services, less amounts previously invoiced to HACSB, may be submitted for payment.
- d. In the event that Additional Work is performed pursuant to a Work Authorization, such Additional Work shall be paid by HACSB according to the same procedure set forth above with respect to the Work, unless a different method for payment is specified in such Work Authorization.
- e. Invoices prepared in accordance with this provision will not be submitted more frequently than monthly to HACSB. All statements and invoices shall indicate the basis for all charges, including the hours worked or cost incurred, the hourly rate, and a brief description of the work performed. Attorneys will establish separate billing projects for specific matters and funding categories as HACSB may direct.
- f. Attorneys are solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- g. In the aggregate, invoices reflecting progress payments will not exceed the Agreement Price, upon completion of the Agreement, in accordance with the acceptance criteria set forth herein.
- h. No charge for transportation, delivery, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by HACSB unless expressly included and itemized in the Statement of Work or Work Authorization.
- i. Payments for any and all invoices or other obligations are satisfied electronically through the Automated Clearing House (ACH) system. The Attorneys hereby authorizes the HACSB to initiate payment electronically to any bank account maintained by Attorneys wherever located. Attorneys shall promptly comply with directions and accurately complete forms provided by HACSB required to process ACH payments.

ARTICLE 18. Return of HACSB Property. All reports, plans, designs, specifications, field data, construction documents, and other documents and instruments, including electronic files, but excluding Attorneys' notes, relating to the Work shall be and remain the property of HACSB and shall be turned over to HACSB promptly upon the completion of the Work, or upon the earlier termination of this Agreement. Attorneys hereby waives and assigns to HACSB all intellectual property or common law rights Attorneys may develop in the Work. Attorneys shall not use any trademarks owned by HACSB without HACSB's prior written authorization.

ARTICLE 19. Confidential Information. HACSB agrees to make available to Attorneys information that may be needed to perform the Work. Such information may include information HACSB considers to be confidential. For purposes hereof, "Confidential Information" of HACSB means any nonpublic, proprietary information or technology used in HACSB's business, and any materials evidencing the same (specifically, including, without limitation, technical data or know-how relating to development plans, business plans, services, customers, markets, inventions (whether patentable or not), processes, designs, drawings, research, developments, strategies, marketing and/or financial information). Unless HACSB acknowledges that any such information provided under this Agreement is not Confidential Information, all information provided by HACSB to Attorneys shall be considered to be Confidential Information. Unless approved in advance in writing or compelled to make such disclosure by a government agency, by court order, or by law, Attorneys shall not disclose, transfer, distribute or allow access to any of HACSB's Confidential Information to any third parties, except those individuals employed by Attorneys and who are specifically authorized by Attorneys to perform the Work contemplated in this Agreement.

ARTICLE 20. Indemnity; Hold Harmless. Attorneys agrees to defend, save, indemnify and hold harmless HACSB and all its officers, employees, and agents, against any and all liabilities, claims, judgments, or demands, including demands arising from injuries or death of persons (Attorneys' employees included) and damage to property, arising directly or indirectly out of the professionally negligent performance of the Work, the obligations herein undertaken or out of the operations conducted by Attorneys, save and except claims or litigation to the extent arising through the active negligence or willful misconduct of HACSB. Attorneys shall reimburse HACSB for any expenditures, including reasonable attorneys' fees, HACSB may incur arising out of any such claim or litigation, and, if requested by HACSB, Attorneys shall defend any such suits at the sole cost and expense of Attorneys with counsel selected by HACSB.

ARTICLE 21. Compliance with Contract Documents. Attorneys shall comply with all of the Contract Documents in connection with the performance of the Work hereunder. In the event of any conflict between this Agreement and the Contract Documents, the Contract Documents shall control.

ARTICLE 22. Assignment. HACSB and Attorneys recognize and agree that this Agreement contemplates personal performance by Attorneys and is based upon a determination of Attorney's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to HACSB for entering into this Agreement was, and is, the professional reputation and competence of Attorneys. Attorneys may not assign this Agreement or any interest therein without the prior written approval of the Executive Director. Attorneys shall not subcontract any portion of the performance contemplated and provided for herein, other than to outside counsel as described in Article 1 of this Agreement, without prior written approval HACSB.

ARTICLE 23. Rights and Remedies of HACSB for Default.

In the event any goods furnished or services provided by Attorneys in the performance of the Work should fail to conform to the requirements herein, or to the sample submitted by Attorneys, HACSB may reject the same, and it shall become the duty of Attorneys to reclaim and remove the item promptly or to correct the performance of services, without expense to HACSB, and immediately replace all such rejected items with others conforming to the Agreement.

- a. In addition to any other rights and remedies HACSB may have, HACSB may require Attorneys, at Attorneys' expense, to ship goods via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of Attorneys.
- b. In the event of the termination of the Agreement, either in whole or in part, by reason of default or breach by Attorneys, any loss or damage sustained by HACSB in procuring any items which Attorneys agreed to supply shall be borne and paid for by Attorneys.

- c. HACSB reserves the right to offset the reasonable cost of all damages caused to HACSB against any outstanding invoices or amounts owed to Attorneys or to make a claim against Attorneys therefore.

ARTICLE 24. Termination. HACSB has the right to terminate this Agreement for convenience or default as set forth in the Contract Documents. In addition, HACSB may terminate this Agreement if Attorneys should file a bankruptcy petition and/or be adjudged a bankrupt, or if Attorneys should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of insolvency. HACSB may serve written notice upon Attorneys of its intention to terminate the Agreement. The notice shall contain the reasons for such intention to terminate the Agreement, and, unless within ten (10) days after serving such notice, such violation shall cease and satisfactory arrangements for correction thereof be made, upon the expiration of the ten (10) days, the Agreement shall cease and terminate. In the event of any such termination, HACSB shall serve written notice thereof upon any surety and Attorneys, and any such surety shall have the right to take over and perform Attorneys' obligations pursuant to this Agreement; provided, however, that if such surety does not provide HACSB written notice of its intention to take over and perform the Work required under this Agreement within fifteen (15) days after receiving such written notice, or such surety does not commence performance thereof within thirty (30) days after providing such written notice to HACSB, HACSB shall have the right to perform all uncompleted portions of the Work and to prosecute the same to completion by contract or by any other method it deems advisable, for the account and at the expense of Attorneys, and Attorneys and its surety shall be liable to HACSB for any excess costs occasioned HACSB thereby and, in such event, HACSB may, without liability for doing so, take possession of and utilize in completing the Work, such materials, appliances, and other property belonging to Attorneys as may be on the site of the Work and necessary for the performance of the Work.

ARTICLE 25. No Waiver. No waiver by the parties hereto of any default or breach of any term, condition or covenant of this Agreement shall be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition or covenant contained herein.

ARTICLE 26. Modification. This written Agreement may not be later modified except by a further writing signed by HACSB and Attorneys and no term of this Agreement may be waived, except by writing signed by the party waiving the benefit of such term. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.

ARTICLE 27. Notices. All notices required pursuant to this Agreement shall be communicated in writing, and shall be delivered in person, by commercial courier providing proof of delivery, or by certified mail, return receipt requested. ***All notices sent pursuant to this Agreement shall be addressed as follows:***

If to HACSB:

Angie Lardapide, Procurement & Contracts Supervisor
Housing Authority of the County of San Bernardino
715 E. Brier Dr.
San Bernardino, CA 92408
alardapide@hacsb.com

If to Attorneys:

Fred Galante, Partner
Aleshire & Wynder, LLP
18881 Von Karman Ave. #1700
Irvine, CA 92612
fgalante@awattorneys.com

Notices will be deemed effective upon receipt or rejection only.

ARTICLE 28. Attorney's Fees and Costs. If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

ARTICLE 29. Complete Agreement. This written Agreement is the final, complete and exclusive statement and expression of the agreement between HACSB and Attorneys and of all the terms of this Agreement and cannot be varied, contradicted, nor supplemented by evidence of any prior or contemporaneous oral or written agreements.

ARTICLE 30. Applicable Law/Venue. This Agreement shall be construed and interpreted in accordance with the laws of the State of California, with proper venue for any litigation in San Bernardino County, California.

ARTICLE 31. Severability; Headings. If any portion of this Agreement is held invalid or inoperative, the other portions of this Agreement shall be deemed valid and operative and so far as is reasonable and possible, effect shall be given to the intent manifested by the portion held invalid or inoperative. The section headings herein are for reference purposes only and are not intended in any way to describe, interpret, define or limit the extent or intent of this Agreement or of any part hereof.

ARTICLE 32. Interpretation. Should any provision of this Agreement require interpretation, it is agreed that the person or persons interpreting or construing the same shall not apply a presumption that the terms of this Agreement shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent or counsel prepared the same or caused the same to be prepared; it being agreed that the agents and counsel of all of the parties have participated equally in the negotiation and preparation of this Agreement. The language in all parts of this Agreement shall be in all cases construed simply, fairly, equitably and reasonably, according to its plain meaning and not strictly for or against any of the parties.

ARTICLE 33. Counterparts. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

[END – SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, HACSB and Attorneys have entered into this Agreement as of the Effective Date.

ATTORNEYS

By: _____ (Affix seal if a corporation)
Name: _____
Its: _____
Date: _____

CERTIFICATE OF CORPORATE AUTHORITY

I, _____, certify that I am the _____ of the corporation named as Attorneys herein; that _____ who signed this Agreement on behalf of Attorneys, was then _____ of said corporation; that said Contract was duly signed for and in behalf of said corporation and its governing body and is within the scope of its corporate powers.

By: _____
Name: _____
Its: _____
Date: _____

HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO
County of San Bernardino, California

By: _____

Date: _____

EXHIBIT "A"

STATEMENT OF WORK

Attorneys will provide all necessary legal services as General Counsel to HACSB. Attorneys shall have demonstrated legal expertise in the following areas, including but not limited to: public housing authority law; Ralph M. Brown Act; Public Records Act; Political Reform Act; conflicts of interest laws; general public entity and municipal law; California Government Code; public employment labor laws, policies and litigation; preparation, review and adoption of legal opinions, contracts, memoranda of understanding, resolutions and policies; legislative and administrative (regulatory) law, both California and federal, including proposed and enacted legislation; emergency legal services as needed; and attendance at the Board of Commissioners meetings.

SCOPE OF REQUIRED SERVICES

1. Legal advisor to the Board of Commissioners, Executive Director and/or delegated HACSB staff:
 - (a) Review Board meeting agendas to ensure compliance with the California Open Meeting Law.
 - (b) Attend Regular and Special Board Meetings and be prepared to advise the Board regarding:
 - (1) The aforementioned California Open Meeting Law.
 - (2) Relevant regulatory requirements that govern federally subsidized housing programs.
 - (3) Relevant contractual or inter-local agreement obligations that either are or may become binding upon the HACSB.
 - (4) The legal impact and/or consequence of administrative policy decisions.
 - (5) HACSB policies and procedures.
 - (6) HACSB By-Laws.
 - (7) Relevant Code of Federal Regulations (CFR); California Revised Statutes (CRS); Municipal codes; California Public Contract Codes and Government Codes.
 - (8) Responding to inquiries by Commissioners and the Public.
2. Housing Programs: To perform all legal services in connection with and to be responsible for all legal phases of the planning, development, occupancy financing and compliance of all affordable rental & for-sale housing projects and programs to be undertaken by the HACSB. Such services include, but are not limited to the following:
 - (a) Public Housing Program
 - (b) Moving to Work Designation
 - (c) Section 3 Program
 - (d) Housing Choice Voucher (Section 8) Program
 - (e) Housing Authority owned or managed developments, including tax credit financed developments.
 - (f) Landlord/tenant issues, including evictions, lease preparation and interpretation and premise liability; evictions and attendance at court proceeding when requested by the HACSB. **(Optional)**
 - (g) Fair Housing issues, including claims involving violations of the Fair Housing Act, ADA and Section 504 or the Rehabilitation Act.
 - (h) To perform all legal services related to affordable housing program restrictions and compliance. To include: Negotiation and documentation of affordable housing restrictions and provisions of adequate performance security; Negotiation and drafting of affordable

housing restrictions and liens; Enforcement of affordable housing agreements; Negotiation and documentation of compliance "settlements."; General consultation related to potential program changes.

- (i) Provide legal advice and assistance to the HACSB's governing body and staff on all legal matters affecting such projects and programs.
 - (j) Preparation and review of contracts with owners, surveyors, land negotiators, cost estimators, architects, appraisers, attorneys and all parties having dealings of a legal nature with the HACSB regarding planning, development and initial occupancy of a project; review and legal approbation for such contracts and payments thereon; handling of all other legal matters arising under such contracts with the HACSB.
 - (k) Provide, as necessary, legal services in preparing such documents as may be necessary in connection with exceptions and variances from zoning, building and inspection ordinances and regulations; appearance and representation of the HACSB before public bodies and in court in all litigated matters (except as "unusual" litigation as hereinafter defined.) "Litigated matters include but are not limited to the following matters: Defending Writ of Mandate in Section 8 matters; Construction Defect Litigation; Judicial Foreclosure matters, including the appointment of receivers, if necessary or appropriate; Condemnation matters; Commercial litigation; Appellate work relating to litigated matters, if necessary; Employment related litigation; 42 USC 1983 complaints; Payroll liability issues.
 - (l) Provide, as necessary, legal services in securing the approval of local public entities such as the approval of the local governing body of applications for preliminary loans, of local cooperation agreements and of low-income projects.
 - (m) Provide, as necessary, legal services in the preparation of application for federal financial assistance and the preparation and adoption of development programs, resolutions and policies necessary for the establishment of a complete tenant service and operation program.
 - (n) Provide, as necessary, legal services in acquiring any interest in real property: rendition of advice and assistance in the preparation of necessary documents regarding such acquisition; approval of title insurance policies; rendition of legal opinions regarding title or an interest in real property acquired by the HACSB; and in projects to be acquired by the turnkey method to assist in the negotiation, drafting and review of procedures and documents involving the selection of the developer, the entering into of letters of intent and contacts of sale, the acquisition of title, and participation of closing or "settlement" transaction upon completion of the turnkey project.
 - (o) In any project being constructed through the conventional competitive bidding procedures, Counsel is to provide review of documents relating to the award of construction contracts, including the construction contract, specifications and performance and payment bonds.
 - (p) To provide, as necessary, legal services in connection with the leasing or subleasing of property, the entering into of agreements to lease, options to purchase property and the sale of dwelling units to tenants.
3. Development/Modernization program, including, but not limited to:
- (a) Real estate transactions.
 - (b) Zoning, building and inspection codes and regulations.
 - (c) Court proceedings.
 - (d) Construction contracts.
 - (e) Property, Purchase, Sale and Lease agreements.
 - (f) Partnership development and contract documents.
4. Contracting and Procurement Legal Services, including, but not limited to:
- (a) Review of solicitations and contracts for the procurement of goods, equipment, services, properties and construction projects.

- (b) Risk and liability exposure issues.
 - (c) Contractual conflicts.
 - (d) Compliance with federal, state and local codes, regulations and requirements.
 - (e) HACSB Contract & Procurement policies and procedures.
 - (f) Construction contract and procurement issues, including claims involving payment and performance bonds, change order requirements, owner liability and various procurement issues.
 - (g) Federal and State Prevailing Wage Regulations and Requirements.
5. Legal representative of the HACSB, including, but not limited to:
- (a) Appearance for and representation of the HACSB at judicial proceedings involving landlord-tenant issues; contractual disputes with contractors; etc.
 - (b) Defending the HACSB in or initiating on its behalf, breach of contract actions that will not require or involve complex litigation.
 - (c) Referring legal matters to the HACSB's insurance carrier for resolution and/or defense.
 - (d) As directed by the HACSB, the potential supervising, managing or otherwise coordinating all legal services provided on behalf of the HACSB.
 - (e) Attendance and representation of the HACSB at administrative meetings, hearings, quasi-judicial forums, etc. on the Federal, state and local levels.
 - (f) Preparation and/or review of HACSB contracts, inter-agreements and Memorandums of Understanding.
 - (g) Review of HACSB's policies and procedures to determine compliance with applicable Federal, state and/or local law.
 - (h) Preparation, review and/or modification of legal documents utilized by the HACSB in the course of business to ensure and/or determine compliance with applicable Federal, state and local law. These documents may include Board resolutions and meeting minutes, lease agreements, employment applications/forms and housing program forms and notices.
 - (i) Attendance and participation at meetings about and/or with entities having legal business with the HACSB.
 - (j) Risk and liability exposure issues.
 - (k) Conflicts of interest.
 - (l) Clarification regarding general legal issues as they arise.
 - (m) Provision of legal opinions on various subjects.
 - (n) Assist in selection of attorneys needed in specialized fields of practice such as environmental law, bankruptcy law, and civil rights and construction law.
6. General Legal Services for personnel and Labor Relations:
- (a) Personnel advisory and related employment support consultation, to include interpretation of state, federal and local regulations, personnel policies, memorandum of understanding and preparation of legal opinions and documents.

Other legal services that the HACSB may have need of during the term of the Agreement

EXHIBIT “B”
SCHEDULE OF FEES

All work will be performed on an hourly rate basis according to the following:

Labor Category:	Hourly Rates:				
	Yr. 1 20-21	Yr. 2 21-22	Option Year 22-23	Option Year 23-24	Option Year 24-25
Partner	\$260.00	\$260.00	\$267.80	\$267.80	\$275.00
Associate	\$230.00	\$230.00	\$236.90	\$236.90	\$240.00
Law Clerk	\$135.00	\$135.00	\$139.00	\$139.00	\$140.00
Paralegal	\$135.00	\$135.00	\$139.00	\$139.00	\$140.00
Document Clerk	\$70.00	\$70.00	\$70.00	\$70.00	\$70.00

EXHIBIT "C"
ADDITIONAL GENERAL PROVISIONS

1. **DEFINITIONS:** The following terms shall be given the meaning shown, unless context requires otherwise or a unique meaning is otherwise specified.
 - a. **"Business Entity"** means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability corporation, limited liability partnership, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
 - b. **"Contractor"** means the Attorneys with whom the Housing Authority of the County of San Bernardino enters into this Agreement. Contractor shall be synonymous with "supplier", "vendor" or other similar term.
 - c. **"HACSB"** means the Housing Authority of the County of San Bernardino, its employees and authorized representatives, including without limitation any department, agency, or other unit of HACSB.
 - d. **"Non-routine maintenance"** means duties or tasks that ordinarily would be performed on a regular basis in the course of upkeep of property, but have become substantial in scope because they have been put off, and involve expenditures that would otherwise materially distort the level trend of maintenance expenses. Replacement of equipment and materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind does qualify, but reconstruction, substantial improvement in the quality or kind of original equipment and materials, or remodeling that alters the nature or type of housing units does not qualify.
2. **COMPLIANCE WITH STATUTES AND REGULATIONS:** Contractor warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, regulations and orders of the United States, the State of California and HACSB and agrees to indemnify HACSB against any loss, cost, damage or liability by reason of Contractor's violation of this provision.
3. **CONTRACTOR'S POWER AND AUTHORITY:** Contractor warrants that it has full power and authority to enter into and perform its obligations under this Agreement, and will hold HACSB harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this Agreement. Further, Contractor agrees that it will not enter into any arrangement with any third party which might abridge any rights of HACSB under this Agreement.
4. **TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES:** No charge for delivery, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by HACSB unless expressly included and itemized in the Agreement.
 - a. Contractor must strictly follow Agreement requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. HACSB may permit use of an alternate carrier at no additional cost to HACSB with advance written authorization of HACSB.
 - b. If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by HACSB and a waiver is granted in writing and in advance of shipping.
 - c. On "F.O.B. Shipping Point" transactions, should any shipments under the Agreement be received by HACSB in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the equipment and/or material, contractor, on request of HACSB, shall at Contractor's own expense assist HACSB in establishing carrier liability by supplying evidence that the equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.
5. **TIME IS OF THE ESSENCE:** Time is of the essence in this Agreement.
6. **DELIVERY:** Contractor shall strictly adhere to the delivery and completion schedules specified in the Agreement. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Contractor delivers in excess of the quantities specified herein, HACSB shall not be required to make any payment for the excess goods, and may return them to Contractor, at Contractor's expense, or utilize any other rights available to HACSB at law or in equity.
7. **SUBSTITUTIONS:** Substitution of goods may not be tendered, without advance written consent of HACSB. Contractor shall not use any specification in lieu of those contained in the Agreement, without written consent of HACSB.

8. INSPECTION, ACCEPTANCE AND REJECTION:

- a. Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to HACSB covering goods and services under this Agreement and will tender to HACSB only those goods that have been inspected and found to conform to the requirements of this Agreement. Contractor will keep records evidencing inspections and their result, and will make these records available to HACSB during performance of the Work and for three years after final payment. Contractor shall permit HACSB to review procedures, practices, processes and related documents to determine the acceptability of Contractor's quality assurance system or other business practices related to performance of the Work.
- b. All goods may be subject to inspection and test by HACSB or its authorized representatives.
- c. Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to HACSB. Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
- d. All goods to be delivered hereunder may be subject to final inspection, test and acceptance by HACSB at destination, notwithstanding any payment or inspection at source.
- e. HACSB shall give written notice of rejection of goods delivered or services performed hereunder within a reasonable time after receipt of such goods or performance of such services. Such notice of rejection will state the respects in which the goods do not substantially conform to their specifications. If HACSB does not provide such notice of rejection within thirty (30) days, unless otherwise specified in the Statement of Work, of delivery, such goods and services will be deemed to have been accepted. Acceptance by HACSB will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that HACSB might have at law or by express reservation in this Agreement with respect to any nonconformity.

9. SAMPLES:

- a. Samples of items may be required by HACSB for inspection and specification testing and must be furnished free of expense to HACSB. The samples furnished must be identical in all respects to the products bid and/or specified in the Agreement.
- b. Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at Contractor's expense.

10. WARRANTY: Unless otherwise specified, the warranties contained in this Agreement begin after acceptance has occurred.

- a. Contractor warrants that goods and services furnished hereunder will conform to the requirements of this Agreement (including all descriptions, specifications and drawings made a part hereof), and such goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by HACSB, free from defects in design. HACSB's approval of designs or specifications furnished by Contractor shall not relieve Contractor of its obligations under this warranty.
- b. All warranties, including special warranties specified elsewhere herein, shall inure to HACSB, its successors, assigns, customer agencies and users of the goods or services.

11. SAFETY AND ACCIDENT PREVENTION: In performing the Work under this Agreement on HACSB premises, Contractor shall conform to any specific safety requirements contained in the Agreement or as required by law or regulation. Contractor shall take any additional precautions as HACSB may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Agreement in accordance with the default provisions hereof.

12. ACCIDENT PREVENTION: Precaution shall be exercised at all times for the protection of persons (including employees) and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment, and other hazards shall be guarded or eliminated in accordance with the safety provisions issued by the Industrial Accident Commission of the State of California.

13. INSURANCE: Contractor shall not commence Work under this Agreement until all insurance required under this paragraph has been obtained and such insurance has been approved by HACSB, nor shall Contractor

allow any subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor has been so obtained and approved. Contractor shall furnish HACSB with satisfactory proof of the carriage of insurance required, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. Any policy of insurance required of Contractor under this Agreement shall also contain an endorsement providing that thirty (30) days' notice must be given in writing to HACSB of any pending change in the limits of liability or of any cancellation or modification of the policy. All insurance required hereunder shall be issued by a California admitted insurance carrier.

The insurance required to be carried by Contractor hereunder shall include:

- a. Compensation Insurance and Employer's Liability Insurance. Contractor shall take out and maintain during the entire term of this Agreement, Workers' Compensation Insurance and Employer's Liability Insurance for all of employees employed at the site of the project and, in case any work is sublet, Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance and Employer's Liability Insurance for all of the latter's employees unless such employees are covered by the protection afforded by Contractor.

In signing this Agreement, Contractor makes the following certification, required by Section 1861 of the Labor Code:

"I am aware of the provision of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

- b. General Liability Insurance. Contractor, at its own cost and expense, shall maintain personal injury liability and property damage insurance for the entire term of this Agreement in the amount of One Million and No/100 Dollars (\$1,000,000.00) per occurrence. Such coverage shall include, but shall not be limited to, protection against claims arising from, and damage to property resulting from, activities contemplated under this Agreement. Such insurance shall be with insurers and under forms of policies satisfactory in all respects to HACSB and shall provide that notice must be given to HACSB at least thirty (30) days prior to cancellation or material change. The following endorsements shall be attached to the policy:

Policy shall cover on an "occurrence" basis. Policy must cover personal injuries as well as bodily injuries. Exclusion of contractual liability must be eliminated from personal injury endorsement.

Broad form property damage endorsement must be attached. HACSB is to be named as an additional insured included on an attached endorsement for any contracts of insurance under this paragraph b. Coverage shall not extend to any indemnity included on an attached endorsement for coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code. The policies of insurance shall be considered primary insurance before any policies of insurance maintained by HACSB. HACSB shall be named as an additional insured with respect to such general liability insurance policy.

- c. Automobile Liability. Contractor, at its own cost and expense, shall maintain automobile insurance for the period covered by the Contract in the amount of One Million and No/100 Dollars (\$1,000,000.00) combined single limit coverage. HACSB shall be named as an additional insured with respect to such automobile liability insurance policy.
- d. Errors and Omissions Liability: \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$3,000,000 aggregate or:
- e. Professional Liability: \$1,000,000; per occurrence and aggregate.
- f. Worker's Compensation. A state approved Workers Compensation and Employers Liability Insurance policy providing benefits as required by law with employer's liability limits no less than One Million and No/100 Dollars (\$1,000,000) per accident or disease, which covers all employees of the contractor and each and every contractor.

14. **FORCE MAJEURE:** Contractor shall be excused for performing the Work hereunder in the event that Contractor is unable to perform the Work for one of the following reasons:

- a. Acts of God or of the public enemy, and

- b. Acts of the federal, state or local government in either its sovereign or contractual capacity.

Such delay shall be for the period of time that Contractor is delayed from performing the Work as a direct result of one of the foregoing reasons. Contractor shall provide HACSB notice within three (3) days of any such force majeure event.

15. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:

- a. Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of HACSB, employees of HACSB, persons designated by HACSB for training, or any other person(s) other than agents or employees of Contractor, designated by HACSB for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the goods either at Contractor's site or at HACSB's place of business, provided that the injury or damage was caused by the fault or negligence of Contractor.
- b. Contractor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by Contractor, or for damage to alterations or attachments that may result from the normal operation and maintenance of the goods provided by Contractor during the Agreement.

16. INVOICES: Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount. The State of California and other sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.

17. REQUIRED PAYMENT DATE: Payment will be made in accordance with the provisions of the Agreement for work completed through the date of invoice. HACSB will pay properly submitted, undisputed invoices not more than thirty (30) days after (i) the date of acceptance of goods or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.

18. TAXES: HACSB will only pay for any state or local sales or use taxes on the services rendered or goods supplied to HACSB pursuant to this Agreement.

19. NEWLY MANUFACTURED GOODS: All goods furnished under this contract shall be newly manufactured goods; used or reconditioned goods are prohibited, unless otherwise specified.

20. NEWS RELEASES: Unless otherwise exempted, news releases pertaining to this Agreement shall not be made without prior written approval of HACSB.

21. PATENT, COPYRIGHT and TRADE SECRET INDEMNITY:

- a. Contractor shall hold HACSB, its officers, agents and employees, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the Agreement.
- b. Contractor may be required to furnish a bond to HACSB against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.
- c. Contractor, at its own expense, shall defend any action brought against HACSB to the extent that such action is based upon a claim that the goods or software supplied by Contractor or the operation of such goods pursuant to a current version of Contractor supplied operating software infringes a United States patent or copyright or violates a trade secret. Contractor shall pay those costs and damages finally awarded against HACSB in any such action. Such defense and payment shall be conditioned on the following:
 - i. That Contractor shall be notified within a reasonable time in writing by HACSB of any notice of such claim; and,
 - ii. That Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when principles of government or public law are involved, HACSB shall have the option to participate in such action at its own expense.
- d. Should the goods or software, or the operation thereof, become, or in Contractor's opinion are likely to become, the subject of a claim of infringement of a United States patent or copyright or a trade secret, HACSB shall permit Contractor at its option and expense either to procure for HACSB the right to continue using the goods or software, or to replace or modify the same so that they become

non-infringing. If none of these options can reasonably be taken, or if the use of such goods or software by HACSB shall be prevented by injunction, Contractor agrees to take back such goods or software and make every reasonable effort to assist HACSB in procuring substitute goods or software. If, in the sole opinion of HACSB, the return of such infringing goods or software makes the retention of other goods or software acquired from Contractor under this Agreement impractical, HACSB shall then have the option of terminating such Agreement, or applicable portions thereof, without penalty or termination charge. Contractor agrees to take back such goods or software and refund any sums HACSB has paid Contractor.

- e. Contractor shall have no liability to HACSB under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:
 - i. The combination or utilization of goods furnished hereunder with equipment or devices not made or furnished by Contractor; or,
 - ii. The operation of equipment furnished by Contractor under the control of any operating software other than, or in addition to, the current version of Contractor-supplied operating software; or
 - iii. The modification by HACSB of the equipment furnished hereunder or of the software; or
 - iv. The combination or utilization of software furnished hereunder with non-Contractor supplied software.
- f. Contractor certifies that it has appropriate systems and controls in place to ensure that HACSB funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- g. The foregoing states the entire liability of Contractor to HACSB with respect to infringement of patents, copyrights or trade secrets.

22. STOP WORK:

- a. HACSB may, at any time, by written Stop Work order ("Stop Work Order") to Contractor, require Contractor to stop all, or any part, of the Work called for by this Agreement for a period up to ninety (90) days after the Stop Work Order is delivered to Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to Contractor, or within any extension of that period to which the parties shall have agreed, HACSB shall either:
 - i. Cancel the Stop Work Order; or
 - ii. Terminate the Work covered by the Stop Work Order as provided for in the termination for default or the voluntary termination provision of this Agreement.
 - iii. If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, Contractor shall resume work. HACSB shall make an equitable adjustment in the delivery schedule, the price, or both, and the Agreement shall be modified, in writing, accordingly, if:
 - 1. The Stop Work Order results in an increase in the time required for, or in Contractor's cost properly allocable to the performance of any part of this Agreement; and
 - 2. Contractor asserts its right to an equitable adjustment within thirty (30) days after the end of the period of work stoppage; provided that if HACSB decides the facts justify the action, HACSB may receive and act upon a proposal submitted at any time before final payment under this Agreement.
- b. If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated in accordance with the provision entitled Voluntary Termination, HACSB shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.

- c. HACSB shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this clause.
23. **COVENANT AGAINST GRATUITIES:** Contractor warrants that it complies with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3), and that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of HACSB with a view toward securing the Agreement or securing favorable treatment with respect to any determinations concerning the performance of the Agreement. For breach or violation of this warranty, HACSB shall have the right to terminate the Agreement, either in whole or in part, and any loss or damage sustained by HACSB in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by Contractor. The rights and remedies of HACSB provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.
24. **COMPLIANCE WITH DAVIS-BACON ACT:** For construction agreements in excess of \$2,000, Contractor certifies that it complies with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 3). Unless otherwise indicated in the Statement of Work, Contractors of HACSB are required, pursuant to 24 CFR 85.36(h)(5), to pay Davis-Bacon wage rates for all “construction contracts and related subcontracts in excess of \$2000,” which means, for such jobs, the wage rates paid must be equal to or exceed the listed applicable Davis-Bacon wage rate. Compliance with this clause also means that Contractor may be subject to completing certain reports and to audits by HACSB and the Department of Housing and Urban Development. Such reports and information relating to compliance can be obtained at the Internet website: <http://www.gpo.gov/davisbacon/>. Contractor shall include the wage provisions of this clause in all subcontracts to perform work under this Agreement.
- HACSB shall have the right to audit Contractor, at any time, in order to ensure compliance with the requirements of this Section. In connection therewith, Contractor agrees to maintain accurate books and records in connection with the Work, and all payments made or received by Contractor pursuant to this Agreement, and to provide such information to HACSB, within five (5) business days of any request by HACSB. In addition, Contractor shall provide, upon two (2) business days request, information to HACSB of each and every employee retained by Contractor in connection with the Work, and shall permit HACSB to interview any such employees, contractors or subcontractors. Contractor agrees that all maintenance laborers and mechanics employed by it in connection with the performance of the Work shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. 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 Contractor’s payroll records accurately set forth the time spent in each classification in which the work is performed. The wage determination, including any additional classifications and wage rates approved by HUD shall be posted at all times by 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.
25. **CALIFORNIA PREVAILING WAGE (IF AGREEMENT PRICE IS LESS THAN \$2,000):** In the event the Agreement Price is less than \$2,000, Contractor agrees to comply with all prevailing rate requirements of the California Labor Code. HACSB shall have the right to audit and inspect Contractor’s books and records, and interview Contractor’s employees, contractors and subcontractors, all according to the same provisions set forth in Section 26 above.
26. **EQUAL EMPLOYMENT OPPORTUNITY:** For all construction agreements in excess of \$10,000, Contractor certifies its compliance with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60).
27. **NONDISCRIMINATION CLAUSE:**
- a. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

- b. Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.
- 28. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, Public Contract Code Section 10296.
- 29. DRUG-FREE WORKPLACE CERTIFICATION:** Contractor certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:
- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
 - b. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - i. the dangers of drug abuse in the workplace;
 - ii. the person's or organization's policy of maintaining a drug-free workplace;
 - iii. any available counseling, rehabilitation and employee assistance programs; and,
 - iv. penalties that may be imposed upon employees for drug abuse violations.
 - c. Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting agreement:
 - i. will receive a copy of the company's drug-free policy statement; and,
 - ii. will agree to abide by the terms of the company's statement as a condition of employment on the agreement.
- 30. RECYCLING:** Contractor shall certify in writing under penalty of perjury, compliance with Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to HACSB regardless of whether the product meets the requirements of Section 12209.
- 31. COMPLIANCE WITH CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:** For agreements in excess of \$2,000, and in excess of \$2500 for other agreements which involve the employment of mechanics or laborers, Contractor certifies that it complies with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).
- 32. CHILD SUPPORT COMPLIANCE ACT:** For any contract in excess of \$100,000, Contractor acknowledges in accordance with Public Contract Code Section 7110, that:
- a. Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable State of California and Federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
 - b. Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

33. **ELECTRONIC WASTE RECYCLING ACT OF 2003:** Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.
34. **ENVIRONMENTAL REGULATIONS:** For agreements in excess of \$100,000, Contractor certifies that it complies with the requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (3 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 C.F.R. part 15).
35. **USE TAX COLLECTION:** In accordance with PCC Section 10295.1, Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will immediately advise HACSB of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.
36. **DOMESTIC PARTNERS:** For agreements over \$100,000 executed or amended after January 1, 2007, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.
37. **TERMINATION FOR CONVENIENCE AND DEFAULT:**
- a. HACSB may terminate this Agreement in whole or from time to time in part, for HACSB's convenience or the failure of the Contractor to fulfill the Agreement obligations (default). HACSB shall terminate by delivering to Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), (2) deliver to HACSB all information, reports, papers, and other materials accumulated or generated in performing this Agreement and Additional Work, if any, whether completed or in process.
 - b. If the termination is for the convenience of HACSB, HACSB shall be liable only for payment of services rendered before the effective date of the termination.
 - c. If the termination is due to the failure of the Contractor to fulfill its obligations under this Agreement (default), HACSB may (1) require the Contractor to deliver to it, in the manner and to the extent directed by HACSB, any work as described in subparagraph "a.(2)" above, and compensation shall be determined in accordance with the Additional Work section of this Agreement; (2) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to HACSB for any additional costs incurred by HACSB; and (3) withhold any payments to Contractor, for the purpose of set-off or partial payments, as the case may be of amounts owed HACSB by the Contractor.
 - d. If, after termination for failure to fulfill Agreement obligations (default), it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of HACSB, and the Contractor shall be entitled to payment as described in paragraph "b", above.

Exhibit D
GENERAL CONDITIONS FOR NON-CONSTRUCTION WORK
(HUD – 5370-C)

Document on Following Page

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 3/31/2020)

Public Reporting Burden for this collection of information is estimated to average 0.08 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. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Applicability. This form HUD-5370-C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$105,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$150,000 - use Section II; and**
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$150,000 – use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$150,000

1. Definitions

The following definitions are applicable to this contract:

- (a) "Authority or Housing Authority (HA)" means the Housing Authority.
- (b) "Contract" means the contract entered into between the Authority and the Contractor. It includes the contract form, the Certifications and Representations, these contract clauses, and the scope of work. It includes all formal changes to any of those documents by addendum, Change Order, or other modification.
- (c) "Contractor" means the person or other entity entering into the contract with the Authority to perform all of the work required under the contract.
- (d) "Day" means calendar days, unless otherwise stated.
- (e) "HUD" means the Secretary of Housing and Urban development, his delegates, successors, and assigns, and the officers and employees of the United States Department of Housing and Urban Development acting for and on behalf of the Secretary.

2. Changes

- (a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
- (b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the contract accordingly.
- (c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a

proposal submitted before final payment of the contract.

- (d) Failure to agree to any adjustment shall be a dispute under clause Disputes, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
- (e) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of the HA.

3. Termination for Convenience and Default

- (a) The HA may terminate this contract in whole, or from time to time in part, for the HA's convenience or the failure of the Contractor to fulfill the contract obligations (default). The HA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (i) immediately discontinue all services affected (unless the notice directs otherwise); and (ii) deliver to the HA all information, reports, papers, and other materials accumulated or generated in performing this contract, whether completed or in process.
- (b) If the termination is for the convenience of the HA, the HA shall be liable only for payment for services rendered before the effective date of the termination.
- (c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (default), the HA may (i) require the Contractor to deliver to it, in the manner and to the extent directed by the HA, any work as described in subparagraph (a)(ii) above, and compensation be determined in accordance with the Changes clause, paragraph 2, above; (ii) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the HA; (iii) withhold any payments to the Contractor, for the purpose of off-set or partial payment, as the case may be, of amounts owed to the HA by the Contractor.
- (d) If, after termination for failure to fulfill contract obligations (default), it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the HA, and the Contractor shall be entitled to payment as described in paragraph (b) above.
- (e) Any disputes with regard to this clause are expressly made subject to the terms of clause titled Disputes herein.

4. Examination and Retention of Contractor's Records

- (a) The HA, 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:
 - (i) appeals under the clause titled Disputes;
 - (ii) litigation or settlement of claims arising from the performance of this contract; or,
 - (iii) costs and expenses of this contract to which the HA, 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.

5. Rights in Data (Ownership and Proprietary Interest)

The HA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials and documents discovered or produced by Contractor pursuant to the terms of this Contract, including but not limited to reports, memoranda or letters concerning the research and reporting tasks of this Contract.

6. Energy Efficiency

The contractor shall comply with all 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 this contract is performed.

7. Disputes

- (a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section III, Labor Standards Provisions, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.
- (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.
- (d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

8. Contract Termination; Debarment

A breach of these Contract clauses may be grounds for termination of the Contract and for debarment or denial of participation in HUD programs as a Contractor and a subcontractor as provided in 24 CFR Part 24.

9. 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 HA under the contract may be assigned to a bank, trust company, or other financial institution. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership approved by the HA.

10. Certificate and Release

Prior to final payment under this contract, or prior to settlement upon termination of this contract, and as a condition precedent thereto, the Contractor shall execute and deliver to the HA a certificate and release, in a form acceptable to the HA, of all claims against the HA by the Contractor under and by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Contractor in stated amounts set forth therein.

11. Organizational Conflicts of Interest

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a contractor's organizational, financial, contractual or other interests are such that:
 - (i) Award of the contract may result in an unfair competitive advantage; or
 - (ii) The Contractor's objectivity in performing the contract work may be impaired.
- (b) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The HA may, however, terminate the contract or task/delivery order for the convenience of the HA if it would be in the best interest of the HA.
- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the HA may terminate the contract for default.
- (d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

12. Inspection and Acceptance

- (a) The HA has the right to review, require correction, if necessary, and accept the work products produced by the Contractor. Such review(s) shall be carried out within 30 days so as to not impede the work of the Contractor. Any

product of work shall be deemed accepted as submitted if the HA does not issue written comments and/or required corrections within 30 days from the date of receipt of such product from the Contractor.

- (b) The Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to the HA within 7 days of notification or a later date if extended by the HA.
- (c) Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Contractor's submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

13. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise there from, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

14. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or employee of the HA, no member of the governing body of the locality in which the project is situated, no member of the governing body in which the HA 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.

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

"Agency", as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

"Covered Federal Action" means any of the following Federal actions:

- (i) The awarding of any Federal contract;
- (ii) The making of any Federal grant;
- (iii) The making of any Federal loan;
- (iv) The entering into of any cooperative agreement; and,
- (v) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before 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 any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (i) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;
- (ii) A member of the uniformed services as defined in section 202, title 18, U.S.C.;
- (iii) A special Government employee as defined in section 202, title 18, U.S.C.; and,
- (iv) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, appendix 2.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Recipient" includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, or cooperative agreement. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay 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 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, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.

(b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.

(2) Professional and technical services.

(a) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply in the case of-

(i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a

person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.

(iii) Selling activities by independent sales representatives.

(c) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:

(i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and

(ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

(e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.

16. 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, or national origin.
- (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, or national origin. 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, or national origin.
- (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 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 subcontractor 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.

17. Dissemination or Disclosure of Information

No information or material shall be disseminated or disclosed to the general public, the news media, or any person or organization without prior express written approval by the HA.

18. Contractor's Status

It is understood that the Contractor is an independent contractor and is not to be considered an employee of the HA, or assume any right, privilege or duties of an employee, and shall save harmless the HA and its employees from claims suits, actions and costs of every description resulting from the Contractor's activities on behalf of the HA in connection with this Agreement.

19. Other Contractors

HA may undertake or award other contracts for additional work at or near the site(s) of the work under this contract. The contractor shall fully cooperate with the other contractors and with HA and HUD 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 HA employee.

20. Liens

The Contractor is prohibited from placing a lien on HA's property. This prohibition shall apply to all subcontractors.

21. Training and Employment Opportunities for Residents in the Project Area (Section 3, HUD Act of 1968; 24 CFR 135)

- (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.

22. 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.

REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION

December 8, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Construction Contract for Concrete and Masonry Work at the Barstow Affordable Housing Community

RECOMMENDATION(S)

1. Terminate the construction contract with Nobel E&C, Inc., effective immediately, for concrete and masonry work at the Barstow Affordable Housing Community that was awarded on March 10, 2020.
2. Award a construction contract, effective December 9, 2020, to J. Cardenas Inc. for concrete and masonry work at the Barstow Affordable Housing Community located in the City of Barstow in an amount not to exceed \$298,910.
3. Authorize and direct the Executive Director to execute and deliver the contract to J. Cardenas Inc. and, upon consultation with Legal Counsel, to approve any non-financial revisions necessary to complete the transaction.

(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

HACSB is a leading developer and provider of affordable housing in the County of San Bernardino.

HACSB residents live in safe and desirable homes and communities.

FINANCIAL IMPACT

This item is not expected to exceed \$298,910, which will be funded through the Housing Authority of the County of San Bernardino's (HACSB) reserve account that has been established for this property's Rental Assistance Demonstration (RAD) conversion process.

BACKGROUND INFORMATION

HACSB has actively pursued the United States Department of Housing and Urban Development's (HUD) RAD program in order to convert its Public Housing units to Project-Based Housing Choice Voucher (HCV) units. This allows for the stabilization of revenue to these communities as traditionally HCV funding has been less prone to federal funding cuts than the Public Housing program. HACSB has converted over 1,000 units under the RAD program since 2013 and the Barstow Public/Affordable Housing Community is one of the most recent RAD conversions, consisting of 217 units. Approval of this contract will provide site-based concrete and masonry work pertaining to 103 units at the Barstow Affordable Housing Community.

One requirement of a property's RAD conversion is to conduct a Physical Condition Assessment (PCA) of the properties to determine capital need improvements at each property. Completing the work identified in the PCA is a condition that must be met for the RAD conversion. The capital improvement work that has been identified in the PCA includes the replacement and repair of concrete hardscape throughout the property. This work will address potential safety hazards and site drainage and improve the curb appeal for the property. HACSB has communicated to the contractor that they must work with HACSB staff to minimize any inconvenience to residents.

Approval of this construction contract to J. Cardenas Inc. will allow for concrete and masonry work at the Barstow Affordable Housing Community

PROCUREMENT

On October 25, 2019, HACSB issued an Invitation for Bid (IFB) PC1122 for Concrete and Masonry R.A.D Rehab which resulted in the receipt of four proposals. Outreach efforts included email invitations to contractors, posting on the agency website, and 250 vendor notifications through the agency's electronic bidding software Planetbids. The proposals were evaluated per the requirements of the IFB in which Noble E&C, Inc. was reasonably priced, considered responsive, and determined qualified to provide this service to HACSB.

On March 10, 2020, the Board of Commissioners approved a contract award with Noble E&C, Inc. HACSB placed all construction projects on-hold due to COVID-19 concerns and restrictions. As of October 13, 2020, Noble E&C, Inc., is unable to commence work until February 2021 due to other obligations and is requesting to be released from the contract. Hence, they will not be able to meet the RAD mandated deadline of January 30, 2021 or adhere to their contractual obligations under ARTICLE 2. Time of Completion, to fully complete work in 60 calendar days upon Notice of Proceed being issued. The next low cost, responsive bidder is J. Cardenas Inc.

Sealed bids were received by the deadline from the following organizations:		
<u>Contractors Name</u>	<u>Location</u>	<u>Bid Amount</u>
Noble E&C, Inc.	Diamond Bar, CA	\$294,000
J. Cardenas Inc.	Victorville, CA	\$298,910
BWW & Company Inc.	Redlands, CA	\$327,398
Vortex Construction	Bakersfield, CA	\$395,445

Based on the responses for these services, which were solicited to an adequate number of sources and in accordance with Title 2 Code of Federal Regulations Part 200, staff recommends awarding a contract for concrete and masonry work to J. Cardenas Inc. and authorize and direct the Executive Director to execute and deliver the contract with J. Cardenas Inc. and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on November 19, 2020.

CONTRACT FOR CONSTRUCTION
(FOR CONSTRUCTION CONTRACTS GREATER THAN \$150,000)

THIS CONTRACT FOR CONSTRUCTION AGREEMENT ("Agreement") is made as of the 9th day of December, 2020 by and between J. Cardenas Inc. ("Contractor"), and the Housing Authority of the County of San Bernardino, a public entity ("HACSB").

RECITALS

WHEREAS, HACSB is a public entity in San Bernardino County, State of California, committed to provide affordable and safe public housing for low and moderate income families; and

WHEREAS, Contractor has offered to provide certain services to HACSB, and HACSB wishes to retain Contractor for the provision of such services.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the foregoing Recitals, which Recitals are incorporated herein by this reference, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the mutual covenants contained herein, Contractor and HACSB hereby agree as follows:

ARTICLE 1. Description of Work. Contractor will furnish all work, labor, tools, equipment, materials, supervision, scheduling, coordination, and contract administration ("Work") necessary to construct and complete those certain improvements described on Exhibit "A", attached hereto and incorporated herein by reference ("Work"), which Work shall be performed in compliance with the plans and specifications described in the I.F.B PC1122, incorporated herein by reference. The Work shall be performed in a good and workmanlike manner. In connection with the performance of the Work, Contractor shall comply with all of the Contract Documents (as hereinafter defined).

ARTICLE 2. Time of Completion. Contractor shall commence the Work on or after the date specified in the written Notice to Proceed issued by HACSB, and shall fully complete all Work within 60 calendar days after the commencement date.

ARTICLE 3. Price. This is a firm Fixed Price Agreement as that phrase is defined in the General Conditions (as hereinafter defined). The price shall be \$298,910. This amount is full consideration for this Agreement as written.

ARTICLE 4. Payment. Unless otherwise specified, Payment shall be made in accordance with and in the manner specified in the General Conditions.

ARTICLE 5. Contract Documents. This Agreement incorporates by reference all of the following documents (the "Contract Documents"):

1. Scope of work attached hereto as Exhibit "A" and incorporated herein by reference.
2. General Conditions (form HUD 5370), attached hereto as Exhibit "B" and incorporated herein by reference.
3. Additional General Provisions, attached hereto as Exhibit "C" and incorporated herein by reference ("Additional Provisions").
4. Performance-Payment Bond ("Performance Bond"), attached hereto as Exhibit "D" and incorporated herein by reference.
5. Stipulation of Lien ("Stipulation of Lien"), attached hereto as Exhibit "E" and incorporated herein by reference.
6. Supplementary Conditions of the Contract for Construction (form HUD-92554M) attached hereto as Exhibit "F" and incorporated herein by reference.

7. Federal Labor Standards Provisions (form HUD-4010) attached hereto as Exhibit "G" and incorporated herein by reference.
8. Applicable prevailing wages determined by the United States Department of Labor pursuant to the Davis-Bacon Act. Information relating to the Davis-Bacon Act may be found at <http://www.gpo.gov/davisbacon/>. **Wage Determination CA20190017 11/15/2019 CA17 MOD 6**, attached hereto as Exhibit "H" and incorporated herein by reference.
9. All agreements, addendums, representations, warranties, covenants, and certifications of Contractor made in connection with the procurement of this Agreement including all documents that are included in the bid package for PC1122.
10. All applicable Federal, State, and Local laws, ordinances and regulations related to this Agreement shall be incorporated herein by reference. This Agreement is funded by the U.S. Department of Housing and Urban Development, and is subject to all regulations and requirements for agreements funded by HUD. Federal Regulations may be found at <http://www.gpoaccess.gov>. State of California regulations may be found at <http://www.leginfo.ca.gov>. For laws the County of San Bernardino, go to [tp://www.sblawlibrary.org](http://www.sblawlibrary.org).

ARTICLE 6. Best Efforts. Contractor shall perform its duties on premises approved by HACSB, during HACSB'S regular work days and normal work hours and warrants that it shall perform its services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Contractor acknowledges that HACSB has the right to review the services performed by Contractor and may in its reasonable business discretion, reject such services in writing.

ARTICLE 7. No Conflicts. HACSB acknowledges that Contractor has other business and personal interests, separate and apart from the services contemplated by this Agreement, and nothing in this Agreement is intended to preclude Contractor from devoting time and attention to such business and personal interests. HACSB further acknowledges that Contractor has the right to accept other engagements as long as said engagements do not represent a conflict of interest with respect to the Work or the obligations of Contractor to HACSB pursuant to this Agreement. In connection with Contractor's performance of the Work hereunder, Contractor represents that there exists no actual, potential or appearance of conflict arising out of Contractor's business and financial interests.

ARTICLE 8. Limit of Engagement. This Agreement does not and shall not be construed to create any partnership or agency whatsoever beyond the purposes set forth in Article 1 hereof. Contractor shall not be deemed to be a partner, joint venturer, agent or legal representative of HACSB for any purpose, nor shall Consultant have any authority or power to act for, or to undertake any obligation or responsibility, on behalf of HACSB or corporations affiliated with HACSB, other than as expressly herein provided.

ARTICLE 9. Responsibilities of HACSB. If information, data, or documentation necessary to facilitate Contractor's performance of the Work is required to be provided by HACSB, HACSB shall provide such information upon request by Contractor. Should Contractor determine that a delay in its performance has occurred, which is solely attributable to a failure of HACSB, Contractor will promptly notify HACSB in writing.

ARTICLE 10. Change Orders. HACSB shall have the right, from time to time, to make changes to the Work by change order as set forth in the Contract Documents.

ARTICLE 11. Return of HACSB Property. All reports, plans, designs, specifications, field data, construction documents, and other documents and instruments, including electronic files, but excluding Contractor's notes, relating to the Work shall be and remain the property of HACSB and shall be turned over to HACSB promptly upon the completion of the Work, or upon the earlier termination of this Agreement. Contractor hereby waives and assigns to HACSB all intellectual property or common law rights Contractor may develop in the Work. Contractor shall not use any trademarks owned by HACSB without HACSB's prior written authorization.

ARTICLE 12. Confidential Information. HACSB agrees to make available to Contractor information that may be needed to perform the Work. Such information may include information HACSB considers to be confidential. For

purposes hereof, "Confidential Information" of HACSB means any nonpublic, proprietary information or technology used in HACSB's business, and any materials evidencing the same (specifically, including, without limitation, technical data or know-how relating to development plans, business plans, services, customers, markets, inventions (whether patentable or not), processes, designs, drawings, research, developments, strategies, marketing and/or financial information). Unless HACSB acknowledges that any such information provided under this Agreement is not Confidential Information, all information provided by HACSB to Contractor shall be considered to be Confidential Information. Unless approved in advance in writing or compelled to make such disclosure by a government agency, by court order, or by law, Contractor shall not disclose, transfer, distribute or allow access to any of HACSB's Confidential Information to any third parties, except those individuals employed by Contractor and who are specifically authorized by Contractor to perform the Work contemplated in this Agreement.

ARTICLE 13. Performance Bond. Contractor certifies that prior to its commencement of Work it shall provide to HACSB a written, fully executed Performance Bond, in substantially the form attached hereto as Exhibit "D", and incorporated herein by reference.

ARTICLE 14. Indemnity; Hold Harmless. Contractor agrees to defend, save, indemnify and hold harmless HACSB and all its officers, employees, and agents, against any and all liabilities, claims, judgments, or demands, including demands arising from injuries or death of persons (Contractor's employees included) and damage to property, arising directly or indirectly out of the performance of the Work, the obligations herein undertaken or out of the operations conducted by Contractor, save and except claims or litigation to the extent arising through the active negligence or willful misconduct of HACSB. Contractor shall reimburse HACSB for any expenditures, including reasonable attorneys' fees, HACSB may incur arising out of any such claim or litigation, and, if requested by HACSB, Contractor shall defend any such suits at the sole cost and expense of Contractor with counsel selected by HACSB.

ARTICLE 15. Compliance with Contract Documents. Contractor shall comply with all of the Contract Documents in connection with the performance of the Work hereunder. In the event of any conflict between this Agreement and the Contract Documents, the Contract Documents shall control.

ARTICLE 16. Warranty/Guarantee.

- a. Contractor warrants and guarantees that any work and/or materials supplied or installed in Contractor's performance of all contracts awarded and executed under this Agreement for HACSB will be done in accordance with the Plans and Specifications and that the Work, as installed, will fulfill the requirements of the Specifications. Contractor agrees to repair or replace any or all of its Work, together with any adjacent Work which may be displaced by so doing, that may prove to be defective in its workmanship or material within a period of two (2) years from the date of completion of the Project, except for ordinary wear and tear, unusual abuse or neglect on the part of HACSB.
- b. Contractor's warranty in no way supersedes any manufacturer's warranty or guarantee for any equipment or material supplied, or process used in the installation. The full effect of all manufacturers' warranties voided by improper installation or process will be guaranteed by Contractor for the full life of the manufacturer's warranty.
- c. In the event of Contractor's failure to comply with the conditions of this Article within a reasonable period of time as determined by HACSB and after being notified in writing, Contractor hereby authorizes HACSB to proceed to have said defect repaired and made good at Contractor's expense and will honor and pay the costs and charges therefore upon demand.

ARTICLE 17. Superintendence by Contractor. Contractor shall give his personal superintendence to the Work or have a competent superintendent, satisfactory to HACSB and/or the Architect, if any, on the Project at all times during progress with full authority to act for him.

ARTICLE 18. Accident Prevention. Contractor shall exercise proper precaution at all times for the protection of persons and property. The safety provisions of applicable law, building and construction codes shall be observed, and Contractor shall take or cause to be taken such additional safety and health measures as HACSB may determine to be reasonably necessary. Machinery, equipment and all hazards shall be guarded in accordance with the safety provisions of the State of California Construction Safety Orders (CCR Title 8, Chapter 4, Subchapter 4, as amended) and the "Manual of Accident Prevention in Construction", published by the Associated General Contractors of America, to the extent that such provisions are not in contravention of applicable laws.

ARTICLE 19. Removal of Debris, Cleaning. Contractor shall, daily or as directed during the progress of the Work on the Project, remove and properly dispose of the resultant trash, dirt and debris, and keep the premises reasonably clear.

ARTICLE 20. Designation of Subcontractors.

- a. In compliance with the Subletting and Subcontracting Fair Practices Act (California Public Contract Code section 4100 et seq.) and any amendments thereof, each bidder shall set forth: (a) the name, the location of the place of business, and the California contractor license number of each subcontractor who will perform work or labor or render service to Contractor in or about the construction of the Project under this Agreement or a subcontractor licensed by the State of California who, under subcontract to Contractor, specially fabricates and installs a portion of the Project according to the Plans and Specifications in an amount in excess of one-half of one percent of Contractor's total bid, and (b) the portion of the Work which will be done by each subcontractor.
- b. If Contractor fails to specify a subcontractor or if Contractor specifies more than one subcontractor for the same portion of the Work performed for the Project in excess of one-half of one percent of Contractor's total bid, he shall be deemed to have agreed that he is fully qualified to perform that portion himself, and that he shall perform that portion himself.
- c. Contractor shall not: (a) substitute any subcontractor, (b) permit any subcontract to be voluntarily assigned or transferred or allow it to be performed by any one other than the original subcontractor listed in the original bid, or (c) sublet or subcontract any portion of the Work on the Project in excess of one-half of one percent of Contractor's total bid as to which the original bid did not designate a subcontractor, except as authorized by HACSB.
- d. Subletting or subcontracting of any portion of the Work on the Project in excess of one-half of one percent of Contractor's total bid as to which no subcontractor has been designated in the original bid shall only be permitted in cases of public record of HACSB wherein HACSB has set forth the facts constituting the emergency or necessity.

ARTICLE 21. Stipulation of Lien. Contractor certifies that all Work executed under this Agreement will be performed in accordance with the Agreement terms and there will be no claims of laborers or mechanics for unpaid wages arising out of the performance of said Agreement. In consideration of the payment under the terms of the Agreement, Contractor hereby does release HACSB from any and all claims arising from any contract awarded by this process. Contractor shall prepare and submit to HACSB, a written Stipulation of Lien, in substantially the form

attached hereto as Exhibit "E", and incorporated herein by reference. The Stipulation of Lien shall be recorded in the County Recorder's Office of San Bernardino County, California.

ARTICLE 22. Assignment. Neither the Agreement, nor any part thereof, nor moneys due or to become due there under may be assigned by Contractor without the prior written approval of HACSB.

ARTICLE 23. Rights and Remedies of HACSB for Default.

In the event any goods furnished or services provided by Contractor in the performance of the Work should fail to conform to the requirements herein, or to the sample submitted by Contractor, HACSB may reject the same, and it shall become the duty of Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to HACSB, and immediately replace all such rejected items with others conforming to the Agreement.

- a. In addition to any other rights and remedies HACSB may have, HACSB may require Contractor, at Contractor's expense, to ship goods via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of Contractor.
- b. In the event of the termination of the Agreement, either in whole or in part, by reason of default or breach by Contractor, any loss or damage sustained by HACSB in procuring any items which Contractor agreed to supply shall be borne and paid for by Contractor.
- c. HACSB reserves the right to offset the reasonable cost of all damages caused to HACSB against any outstanding invoices or amounts owed to Contractor or to make a claim against Contractor therefore.

ARTICLE 24. Termination. In addition to the rights of Termination for Convenience of HACSB and Termination for Default set forth in the Contract Documents, HACSB may terminate this Agreement if Contractor should file a bankruptcy petition and/or be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of insolvency (as referenced in HUD Form 5370 Section 34 page 12). HACSB may serve written notice upon Contractor of its intention to terminate the Agreement. The notice shall contain the reasons for such intention to terminate the Agreement, and, unless within ten (10) days after serving such notice, such violation shall cease and satisfactory arrangements for correction thereof be made, upon the expiration of the ten (10) days, the Agreement shall cease and terminate. In the event of any such termination, HACSB shall serve written notice thereof upon any surety and Contractor, and any such surety shall have the right to take over and perform Contractor's obligations pursuant to this Agreement; provided, however, that if such surety does not provide HACSB written notice of its intention to take over and perform the Work required under this Agreement within fifteen (15) days after receiving such written notice, or such surety does not commence performance thereof within thirty (30) days after providing such written notice to HACSB, HACSB shall have the right to perform all uncompleted portions of the Work and to prosecute the same to completion by contract or by any other method it deems advisable, for the account and at the expense of Contractor, and Contractor and its surety shall be liable to HACSB for any excess costs occasioned HACSB thereby and, in such event, HACSB may, without liability for doing so, take possession of and utilize in completing the Work, such materials, appliances, and other property belonging to Contractor as may be on the site of the Work and necessary for the performance of the Work.

ARTICLE 25. Notices. All notices required pursuant to this Agreement shall be communicated in writing, and shall be delivered in person, by commercial courier providing proof of delivery, or by certified mail, return receipt requested.

All notices sent pursuant to this Agreement shall be addressed as follows:

If to HACSB:

Angie Lardapide, Procurement & Contracts
Housing Authority of the County of San Bernardino
715 E. Brier Drive
San Bernardino, CA 92408-2841
alardipide@hacsb.com

If to Contractor:

Javier Cardenas, President
J. Cardenas Inc.
14455 Park Ave Suite A
Victorville, CA 92392
info@j.cardenasinc.com

Notices will be deemed effective upon receipt or rejection only.

ARTICLE 26. Complete Agreement. This written Agreement is the final, complete and exclusive statement and expression of the agreement between HACSB and Contractor and of all the terms of this Agreement and cannot be varied, contradicted, nor supplemented by evidence of any prior or contemporaneous oral or written agreements.

ARTICLE 27. Applicable Law/Venue. This Agreement shall be construed and interpreted in accordance with the internal laws of the State of California, with proper venue for any litigation in San Bernardino County, California.

ARTICLE 28. Severability; Headings. If any portion of this Agreement is held invalid or inoperative, the other portions of this Agreement shall be deemed valid and operative and so far as is reasonable and possible, effect shall be given to the intent manifested by the portion held invalid or inoperative. The section headings herein are for reference purposes only and are not intended in any way to describe, interpret, define or limit the extent or intent of this Agreement or of any part hereof.

ARTICLE 29. Interpretation. Should any provision of this Agreement require interpretation, it is agreed that the person or persons interpreting or construing the same shall not apply a presumption that the terms of this Agreement shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent or counsel prepared the same or caused the same to be prepared; it being agreed that the agents and counsel of all of the parties have participated equally in the negotiation and preparation of this Agreement. The language in all parts of this Agreement shall be in all cases construed simply, fairly, equitably and reasonably, according to its plain meaning and not strictly for or against any of the parties.

ARTICLE 30. Counterparts. This Agreement may be executed in multiple counterparts, and when so executed by each of the parties hereto shall constitute a single agreement binding upon all of the parties hereto.

ARTICLE 31. Licensed Contractor. Contractor represents and warrants that it is a licensed contractor in good standing with the California Contractors State License Board.

[END – SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, HACSB and Contractor have entered into this Agreement as of the Effective Date. December 9, 2020 (PC1122 Concrete and Masonry Barstow R.A.D. Rehab)

Date: _____

J. Cardenas Inc.

By: _____ (Affix seal if a corporation)

Name: _____

Its: _____

CERTIFICATE OF CORPORATE AUTHORITY

I, _____ certify that I am the _____ of the corporation named as Contractor herein; that _____ who signed this Agreement on behalf of Contractor, was then _____ of said corporation; that said Contract was duly signed for and in behalf of said corporation and its governing body and is within the scope of its corporate powers.

By: _____

Name: _____

Its: _____

Date: _____

HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO

By: _____

Name: Maria Razo

Its: Executive Director

Date: _____

Exhibit “A” Scope of work (I.F.B)

(ALL DOCUMENTS INCLUDED IN THE ORIGINAL PROCUREMENT REQUEST FOR THESE SERVICES ARE INCORPORATED BY REFERENCE.)

Contractor shall supply all labor, materials, tools, equipment, debris-waste removal/disposal, transportation of materials and anything else deemed necessary to provide concrete flatwork, site grading, concrete masonry unit (CMU) walls, and a utility access door in a public sidewalk. Work will be performed at 3 separate site locations within the City of Barstow, California.

The table below shows the approximate quantities of concrete flatwork and masonry repairs at each location.

Property Code	Main Site Address	Approx. Flatwork (Sq. Ft.)	Approx. Grading (Sq. Ft.)	Approx. CMU (Lin. Ft.)	Utility Access Door
481172	921 Bighorn Dr.	7500	7750	4800	None
481173	1050 Deseret	900	None	None	None
481174	1929 Yosemite	2700	1250	300	1

Due to scheduling and budget reasons, HACSB may choose to re-schedule or cancel work at individual sites in order to meet the total rehab project budget. Bidders should price the work on each site individually, including overhead, permits, and other costs. HACSB will not know the exact sites chosen for execution until all bids from all other trades are received.

1.1 MAIN OBJECTIVES

This project has 3 main objectives:

1. Increased resident safety and comfort. This project will contribute to a safe environment for the residents and their families by replacing damaged concrete walkways and steps around their dwelling units and re-grading to prevent water intrusion.
2. Reduction in maintenance costs and recurring work. Current and future maintenance costs will be reduced by repairing concrete and masonry surfaces. Crack repairs prevent water entry from causing further damage due to freeze-thaw cycles. Re-grading will remove years of turf build-up and help prevent water intrusion into the dwelling units.
3. Reduced exposure to premises liability litigation claims. Reducing the chance of slips, trips and falls on walkways and steps in common areas will limit the agency's exposure to litigation due to slip and fall incidents by members of the public when using HACSB facilities.

2 TASKS

Contractor shall provide all labor, materials, tools, equipment, debris-waste removal/disposal, transportation of materials and anything else deemed necessary for complete and functional repair and replacement of concrete and masonry structures as detailed on the "TASK LIST"

The document is also hosted online with photographs at:

<https://app.smartsheet.com/b/publish?EQBCT=88c9084bb4b740d1b588f00034395b02>

2.1 TASK DEFINITIONS

Trade Description Terms used in the Task List are defined below:

CMU - Grind	Removal of damaged masonry areas on vertical surfaces with abrasive or diamond tipped grinder. Finished surfaces to be within 1/8".
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CMU - Crack Chase & Grout	Crack repairs to masonry walls. All cracks to be repaired shall be opened with diamond tipped "crack chaser" blade, then tuck-pointed with masonry grout.
CMU - Add Course(s)	Add additional courses to existing block wall. May require doweling and/or removal of existing cap.
CMU - Demo & Replace	Repair of sections that have failed due to tree roots, soil expansion, erosion, hydraulic pressure. Demolish affected sections, dowel as needed & install new block.
CMU - New Wall	Complete new footings and masonry block wall. All walls less than 4 feet high.
GRADING	Removal or relocation of soils as needed to assure water drainage away from buildings. Includes removal of small plants & trees under 4" diameter as necessary.
SLAB - Access Door	Replace utility vault access door. Saw cut, demo and pour new concrete curb as needed.
SLAB - Demo Only	Demolish & dispose of concrete slab and reinforcing metal. No replacement.
SLAB - Demo & New Concrete	Demolish & dispose of concrete slab and reinforcing metal. Re-grade as necessary to ensure proper drainage. Install forms, reinforcing metal & pour new concrete.
SLAB - Saw Cut & New Concrete	Saw cut existing areas at edge of area to be removed. Demolish & dispose of concrete slab and reinforcing metal. Re-grade as necessary to ensure proper drainage. Install forms, reinforcing metal & pour new concrete.
SLAB - New Concrete	Re-grade as necessary to ensure proper drainage. Install forms, reinforcing metal & pour new concrete.
STEPS - Demo & Replace	Saw-cut, demo as necessary to make required repairs. Install forms, reinforcing metal. Pour and finish concrete steps.
STEPS - New Concrete	Re-grade as necessary. Install forms and reinforcing metal. Pour and finish concrete steps.

2.2 EXCLUSIONS

Fencing, Metal handrails, Painting, Stucco, Tree removals over 4" in diameter, Utility relocation.

3 SCHEDULE

Due to scheduling and budget reasons, HACSB may choose to re-schedule or cancel work at individual sites in order to meet the total rehab project budget. HACSB will not know the exact groups chosen for execution until all bids from all other trades are received.

Contractor shall submit proposed work schedule detailing work location, work to be performed & work duration with the bid documents. Liquidated damages in the amount of \$250 per day will be assessed for this project if it is not completed within 60 calendar days from notice to proceed.

4 PROJECT REQUIREMENTS

4.1 CONTRACTOR RESPONSIBILITIES

4.1.1 *GENERAL CONDITIONS*

Contractor is responsible to secure any/all required permits required by local authorities and ordinances.

The Contractor shall coordinate the work for each area with HACSB 2 weeks prior to start.

A jobsite foreman is required to be present on site every day and have the authority to conduct business without delay to the construction project.

It is the responsibility of the contractor to verify all dimensions and quantities to meet the intent of the plans, scope of work and specifications.

New material shall be stored neatly on pallets, covered and with proper ventilation.

Installation of Contractor's material constitutes acceptance of all adjacent work as being qualified to accept the new material.

Contractor and subcontractors are to protect adjacent materials at all times. Damage to adjacent material will be the responsibility of the contractor causing damage to repair at no additional cost to HACSB.

Storage or sale of removed items or materials on-site will not be permitted.

The Contractor shall pick up all debris (including nails, scrap lumber, concrete forms, spikes...) continuously throughout each work day.

Clean adjacent buildings and improvements of dust, dirt and debris caused by construction operations. Return adjacent areas to condition existing before start of construction.

Entire construction site will be kept safe from public access at all times. Adequate barriers will be furnished and installed by the contractor as to provide public safety at all times, as well as work site safety at all times

Contractor shall limit hours of operation to Monday through Friday during the hours of 8:00 a.m. to 5:00 p.m. Special hours of operation outside the normal hours must be approved by the Authority.

4.1.2 *PROJECT CONDITIONS*

Contractor to locate all utilities prior to work. This includes, but is not limited to Gas, Electric, Cable TV, FIOS, Sewer, Telephone, and Water.

Remove any debris, root growth or electrical cables from area of work.

Existing trees 4" in diameter or more located over 10 feet from the work area shall remain and be protected during demolition and construction.

Curb/Gutter and Driveway approach shall remain in place and be protected during demolition and construction.

Patio slabs must be installed with ¼" per foot slope to ensure proper drainage. All new walkways and steps are to meet applicable local code requirements and match adjacent areas in dimension, color and texture.

Any walkways and steps within a defined "Accessible Route" shall meet ADA requirements per CBC Chapter 11B. Location of "Accessible Routes" shall be defined by HACSB or the local building department.

Ensure proper soil compaction and consistency of compaction under areas of concrete replacement.

Grade Control: Establish and maintain required lines and elevations so that proper drainage is maintained at all times during construction.

4.1.3 *POLLUTION CONTROLS*

Use water mist, temporary enclosures, and other suitable methods to limit the spread of dust and dirt. Comply with governing environmental protection regulations.

Do not create hazardous or objectionable conditions, such as ice, flooding, and pollution, when using water. No water runoff from site into curb/gutters.

Remove and transport debris in a manner that will prevent spillage on adjacent surfaces and areas.

4.1.4 *SUBMITTALS*

Material Certificates: Provide a copy of material certificates (and Technical Bulletins) signed by material producer and Contractor, certifying that each material item complies with or exceeds specified requirements. Submit with bid package.

4.2 HACSB RESPONSIBILITIES

4.2.1 *PROJECT CONDITIONS*

Conditions existing at time of inspection for bidding purposes will be maintained by HACSB as far as practical.

4.2.2 *NOTIFICATIONS*

HACSB will notify residents in advance of the project based on Contractor's project schedule.

Notification will include language to require removal of all personal property in any areas affected by construction operations.

4.2.3 *RESIDENT PERSONAL PROPERTY*

Resident's personal property left in construction areas will be subject to removal or disposal at HACSB property manager's discretion.

4.3 MUTUAL RESPONSIBILITIES

4.3.1 *SCHEDULING*

Contractor shall submit proposed work schedule detailing work location, work to be performed & work duration with the bid documents.

HACSB will coordinate proposed work schedule(s) with other trades working at the site to ensure multiple trades are not working in the same location concurrently.

4.3.2 *INSPECTIONS*

Contractor must notify HACSB to allow inspection prior to pouring concrete for form placement, reinforcing steel, underground utilities.

If HACSB is not available or not available within a reasonable time, it shall be the Contractor's responsibility to take photographs and furnish proof that the repairs were performed and completed properly.

5 PROJECT RISKS

5.1 RISKS

HACSB has entered into a binding contract with the U.S. Department of Housing & Urban Development to restructure certain real estate holdings. A major requirement of this contract includes funding for repairs to the public areas and exteriors of the complexes. The terms of this contract stipulate that funding is dependent on timely completion of the work.

5.2 CONTINGENCY

Liquidated damages in the amount of \$250 per day will be assessed for this project if it is not completed within 60 calendar days from notice to proceed.

6 CONTRACT COMPLIANCE

6.1 COMMUNICATIONS PLAN

A pre-construction meeting will be held at the jobsite prior to the start date.

Contractor shall provide accurate construction schedule at the time of pre-construction meeting.

A contact list with email and mobile phone numbers of key personnel will be disseminated to both parties prior to the start date.

Contractor shall monitor & update the construction schedule weekly if changes are necessary.

All communication between HACSB and Contractor shall be in writing.

Text messaging (SMS, MMS) are **not valid or binding** for change orders, notices, requests for information and other legal communication.

6.2 QUALITY MANAGEMENT PLAN

6.2.1 *QUALITY ASSURANCE*

Work performed by the general contractors and/or subcontractors shall be performed in a good workmanlike manner and quality. Workmanlike quality is defined as workmanship that meets or exceeds United Building Codes or specific city codes, whichever is more stringent.

All work performed shall be in strict compliance with all plans and specifications for the project.

The quality of the general contractor and subcontractor's installation is expected to support the quality intent of the architect and builders design and specified materials.

6.2.2 *INSPECTION PARAMETERS*

6.2.2.1 LOCAL BUILDING AGENCY

Contractor is responsible to secure any/all required permits required by local authorities and ordinances.

Contractor to schedule inspections prior to covering work.

Contractor to submit final inspection cards and/or other permit documents to HACSB upon completion and prior to final payment requisition.

6.2.2.2 HACSB

HACSB may inspect work while installation in progress to verify square footage is being completed and proper installation of materials.

HACSB will inspect all repairs and overall conditions upon completion.

HACSB shall give written notice of rejection of goods delivered or services performed hereunder within a reasonable time after receipt of such goods or performance of such

services. Such notice of rejection will state the respects in which the goods do not substantially conform to their specifications.

6.2.3 CORRECTIONS

In the event any goods furnished or services provided by Contractor in the performance of the Work should fail to conform to the requirements herein, or to the sample submitted by Contractor, HACSB may reject the same, and it shall become the duty of Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to HACSB, and immediately replace all such rejected items with others conforming to the Agreement.

It is the responsibility of each contractor to protect their work from damage until such time that HACSB has accepted such work in writing. All defects/damage will be repaired by contractor at the expense of the contractor prior to final acceptance.

6.2.4 WARRANTY

Contractor warrants and guarantees that any work and/or materials supplied or installed in Contractor's performance of all contracts awarded and executed under this Agreement for HACSB will be done in accordance with the Plans and Specifications and that the Work, as installed, will fulfill the requirements of the Specifications.

Contractor agrees to repair or replace any or all of its Work, together with any adjacent Work which may be displaced by so doing, that may prove to be defective in its workmanship or material within a period of two (2) years from the date of completion of the Project, except for ordinary wear and tear, unusual abuse or neglect on the part of HACSB.

Contractor's warranty in no way supersedes any manufacturer's warranty or guarantee for any equipment or material supplied, or process used in the installation.

The full effect of all manufacturers' warranties voided by improper installation or process will be guaranteed by Contractor for the full life of the manufacturer's warranty.

In the event of Contractor's failure to comply with the conditions of this Article within a reasonable period of time as determined by HACSB and after being notified in writing, Contractor hereby authorizes HACSB to proceed to have said defect repaired and made good at Contractor's expense and will honor and pay the costs and charges therefore upon demand.

All warranties begin on the date of completion, documented by written acceptance of material and workmanship by HACSB.

7 STANDARDS COMPLIANCE

7.1 MATERIALS SPECIFICATIONS

Alternate materials must be submitted with bid documents. Any changes must be submitted and approved in writing by HACSB prior to installation of any materials.

7.1.1 CMU BLOCK

Concrete blocks shall be 8-inch hollow load bearing concrete masonry units, Grade N, Type II units conforming to ASTM C90-81.

Masonry units shall have been air-dried for not less than 28 days prior to being placed in the structure. Wetting of the block units shall not be permitted.

Mortar shall conform to the requirements of ASTM C270-89 or shall be proportioned based on laboratory or field experience to provide the required strength and workability.

Grout shall be mixed in the ratio, by volume, of one part Portland cement, up to 1/10 part lime, 2-1/4 parts minimum to 3 parts maximum damp loose sand and up to 2 parts coarse aggregate. The grout shall be of a fluid consistency suitable for placing without segregation.

Cement shall conform to ASTM C150-86 Type I, IA, II, or IIA.

Hydrated Lime shall conform to ASTM C150-86 Type II.

Aggregate shall be clean, hard and well graded, free of injurious amounts of dust, lumps, shale alkali, surface coatings, and organic matter.

Admixtures, such as fly ash or other flow improving and water retention agents, may be used in the grout mix.

Water used in mixing and curing concrete shall be clean and free from injurious amounts of oil, salt, acid, alkali, organic matter or other deleterious substances.

7.1.2 CONCRETE

Portland cement: ASTM C150, type I or II, low alkali.

Aggregate – General: Comply with ASTM C30 uniformly graded and clean. Concrete is to have a minimum compressive strength of 3000 psi unless otherwise specified. Do not use aggregate known to cause excessive shrinkage.

Aggregate – Course: Provide crushed rock or washed gravel with minimum size number 4.

Aggregate – Fine: Natural washed sand of hard and durable particles varying from fine to particles vary from fine to particles passing a 3/8" screen of which at least 12% shall pass a 50-mesh screen.

Aggregate: - Water: Use only clean and potable water.

Surface Treatment I: Where sealer or hardener is called for, provide "Ashford Formula" manufactured by Cure-Crete Chemical Company of Orem, Utah. Provide the manufacturers standard written 20 year/10 year warranty.

Surface Treatment II: Except as otherwise directed, on concrete slabs, curbs and walkways, provide "Hunt TLF" curing agent manufactured by Hunt Process Co., Inc., or an approved equal.

7.1.3 REINFORCING METALS

Bars: ASTM 615 grade 40 using deformed bars for number 3 and larger.

Welded Wire Fabric: ASTM A185.

Bending: Bending shall comply with ACI318

7.1.4 SIDEWALK UTILITY ACCESS DOOR

Double leaf doors with lift assistant mechanism and hold-open latch, 1/4" diamond plate aluminum cover shall be reinforced to support 300 Pounds per square foot live load, extruded aluminum angle frame w/mill finish, 316 Stainless Hardware, Flush mounted padlock hasp. Hinges on short sides of frame. Floor Door Specifications.

7.1.5 OTHER MATERIALS

Any other materials not specifically described, but required for complete and proper installation, as selected by the Contractor are subject to HACSB approval. Submit proposed materials or substitutions with bid package.

7.2 WORKMANSHIP SPECIFICATIONS

7.2.1 CONCRETE DEMO

Saw cut, remove and legally dispose of all concrete and unsuitable base materials off-site. Saw cuts shall be laid out perpendicular to the path of travel, and as straight as possible at the starting

point. The cut edge of the remaining concrete shall be ground to a rounded shape prior to placement of new material.

The Contractor shall inspect all grade surfaces for proper compaction and consistency. Any hidden problems, such as root growth or below ground plumbing, shall be brought to the attention of HACSB.

The Contractor shall provide protection and warnings as necessary to protect residents during performance of this work (using barricades, cones, lighting, temporary plywood, etc., as required). No holes should be open more than 25 hours, weather permitting.

7.2.2 CONCRETE REPLACEMENT

Re-grade, add new base material as necessary, and properly mechanically compact prior to pouring concrete.

Construct forms to the exact size and dimensions to complete concrete casting to match the existing structures, slabs, curbs, etc. Forms shall be constructed with mechanical "KEY" on any edge that will be poured at a later stage. Forms are to be completely removed as soon as it is practical to do so.

All concrete is to be minimum 3000 PSI, to match existing in color, texture and thickness.

Elevation change at of old/new concrete must be within ¼"

Expansion and control joints are to be provided as necessary to match existing.

Contractor must mask adjacent areas to prevent spilling/staining of existing materials. Cement stains on existing concrete is not acceptable.

The Contractor is to take proper steps to avoid concrete cracking during the curing process.

When the mean daily temperature outdoors is less than 40 degrees Fahrenheit, maintain the temperature of the concrete between 50 degrees Fahrenheit and 70 degrees Fahrenheit for the required curing period. Provide any required heating systems which will uniformly heat the entire curing area without exposing the area to hazardous exhaust gases.

7.2.3 CMU BLOCK WALL REPAIRS

7.2.3.1 CRACK REPAIRS

Chase the crack to ½" x ½" minimum using a 4" right-angle grinder or diamond crack chaser. Do not remove mortar in excess of one third the depth of the masonry unit above. The mortar being removed should be raked out to the full width of the joint to the proper depth so that the void formed is in the shape of a rectangle, NOT a "U" or "V" shape. Loose particles should be removed by brushing or water rinse. After moistening, place mortar into the joints with a narrow tuck-pointing tool. Mortar should be placed in the joints in ¼" lifts to avoid shrinkage. Subsequent lifts should be applied when the previous lift is thumbprint hard. The joints are tooled when thumbprint hard. For the greatest resistance to moisture penetration, concave-tooled joints are recommended due to the compression of the mortar as the joints are tooled. Excess mortar and tags can be removed by brushing or wiping the work after the mortar has set up enough to prevent smearing.

7.2.3.2 CMU BLOCK REPLACEMENT

Broken & damaged sections shall be removed back to sound material. Grind old mortar to ensure a flat surface for new block placement. If possible, re-use existing reinforcing metal in the same positions. If doweling is needed, drill holes in the center of the block to prevent chipping of the existing block. Prior to placement of new CMU blocks, subgrade shall be free of chips, sawdust, debris, water, extraneous oil, mortar, or other harmful substances. The

replacement block to be embedded in or placed on the wall shall be laid with full mortar coverage on the bed joint. Blocks shall be positioned accurately and anchored firmly. Allow mortar joints to stiffen to “thumbprint hardness” before tooling. For the greatest resistance to moisture penetration, concave-tooled joints are recommended due to the compression of the mortar as the joints are tooled. Excess mortar and tags can be removed by brushing or wiping the work after the mortar has set up enough to prevent smearing.

7.2.4 NEW CMU BLOCK WALLS

New CMU walls shall be less than 4 ft. high measured from the top of the footing to the top of the wall cap.

All horizontal and vertical reinforcements shall maintain a min. 3” clearance from the bottom and sides of the trench.

Prior to placement of concrete masonry units, subgrade shall be free of chips, sawdust, debris, water, extraneous oil, mortar, or other harmful substances. Earth surfaces shall be firm and damp. Placement of concrete masonry units on mud, dried earth or un-compacted fill will not be permitted. Items to be embedded in or placed on the concrete shall be positioned accurately and anchored firmly. The top surface of the concrete foundation shall be clean, free of laitance and the aggregate shall be exposed, but not undercut, before the initial masonry course is placed. The starting joint on foundations shall be laid with full mortar coverage on the bed joint, except that the area where grout occurs shall be kept free from significant accumulations of mortar so that the grout will contact the foundation.

For specific details, see original construction plans,

7.2.5 GRADING

All grading operations shall be routine maintenance to maintain the original line and grade, hydraulic capacity, and original purpose of facility. Grading includes removal of soils, built up thatch and clearing & grubbing up to 1 foot depth. All refuse and debris shall be legally disposed of off-site. Holes and depressions shall be backfilled. Fill materials shall be composed of native soils recovered from spoil at other locations within this project. Minimum soil compaction shall be 95 percent of maximum density as defined in ASTM D 1557. The contractor will provide all necessary grading to insure adequate drainage so that no areas will be flooded due to a rainfall of a 10-year frequency. Drainage of the area should be compatible with the existing terrain. Building ground floor finished elevation shall be a minimum 6” above adjacent grade and outside grade shall slope away from the building on all sides at a minimum slope of 5% for a distance of 10 feet.

For specific details, see original construction plans.

7.2.6 UTILITY ACCESS DOOR REPLACEMENT

Remove and replace flush-mounted metal utility access floor doors in sidewalk and driveway locations. Contractor shall provide pedestrian and automobile signage and barricades to prevent unauthorized access during installation. Remove and properly recycle existing metal door(s). Saw-cut surrounding slab as needed to provide room for new curb. Pour new concrete curb/frame per manufacturer’s specifications. Install new metal floor door(s) per manufacturer’s specifications.

For product specifications, refer to section 8.1.4 UTILITY ACCESS DOORS

7.3 REGULATORY COMPLIANCE

All work shall be in compliance with the following regulations:

7.3.1 FEDERAL REGULATIONS

7.3.1.1 UNITED STATES CODE

40 USC 3141-3148 Davis-Bacon Wage Act

7.3.2 CALIFORNIA REGULATIONS

7.3.2.1 CALIFORNIA BUILDING CODE

CHAPTER 11B Accessibility to Public Buildings, Public Accommodations & Public Housing

CHAPTER 18 Soils and Foundations

CHAPTER 19 Concrete

CHAPTER 20 Aluminum

CHAPTER 21 Masonry

CHAPTER 22 Steel

CHAPTER 32 Encroachments into Public Right of Way

7.3.2.2 CALIFORNIA GOVERNMENT CODE

SECTION 4216 Protection of Underground Infrastructure (Dig Alert)

7.3.3 CITY OF BARSTOW REGULATIONS

7.3.3.1 BARSTOW MUNICIPAL CODE

TITLE 5 Business Licenses

TITLE 12 Public Improvements (Sidewalk Encroachment)

TITLE 15 Buildings & Construction

7.3.3.2 BARSTOW CODE OF ORDINANCES

950-2017 Construction Waste Management Plan

8 BUSINESS TERMS

8.1 PAYMENTS

8.1.1 *Invoices may be submitted at the following milestones:*

Mobilization - 10% of contract total at the end of the second week.

Progress - Upon completion of milestones.

Retention - Thirty days after project acceptance, 5% of the contract total.

8.1.2 *PROGRESS INVOICE - The following documents shall be submitted:*

Hazardous waste manifests

HACSB acceptance of stated completed work

Contractor's Invoice with contractor's address & license number, HACSB job name & address on invoice.

Schedule of Values (HUD form #51000)

Periodic Estimate for Partial Payment (HUD form #51001)

Conditional Waiver and Release upon Progress Payment

On-site daily sign in sheets

Daily Activity logs

Weekly Safety Meeting Report
Certified Payroll completed in LCP Tracker

8.1.3 *JOB COMPLETION INVOICE - The following documents shall be submitted:*

Same documents as a PROGRESS INVOICE listed above.
Unconditional Waiver and Releases for all previously paid invoices
Conditional Waiver and Release upon Final Payment.
Original signed off permit cards (if permits were required)
Contractor's Warranty

8.1.4 *RETENTION INVOICE - The following documents shall be submitted:*

Contractor's Invoice
Unconditional Waiver and Release upon Final Payment.

8.1.5 *HACSB TERMS ARE NET 30 DAYS*

Invoices will be processed only after all supporting documents have been approved by HACSB.

8.2 ADJUSTMENTS TO CONTRACT TIME / AMOUNT

Contractor cannot change materials, timeline, or contract sum without the express written approval of HACSB. (See HUD 5370)

8.2.1 *CONTRACT TIME*

If a proposed change to the scope of work results in additional time to complete the contract, contractor must submit a Request for Adjustment on the Contract Time within five business days of the change.

8.2.2 *CONTRACT AMOUNT*

If a proposed change to the scope of work results in an increase in the amount of the total contract, contractor must submit a Request for Adjustment on the Contract Amount within five business days of the change.

9 END OF SOW

Exhibit “B”

GENERAL CONDITIONS FOR CONSTRUCTION
CONTRACTS
PUBLIC HOUSING PROGRAMS
(form HUD – 5370)

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. 3/31/2020)

Applicability. This form is applicable to any construction/development contract greater than \$150,000.

This form includes those clauses required by OMB's common rule on grantee procurement, implemented at HUD in 2 CFR 200, 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 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

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.

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- (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

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

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 nowise 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).

41. Interest of Members of Congress

No member of 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

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.

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.

Exhibit “C”

Additional General Provisions

ADDITIONAL GENERAL PROVISIONS

1. **DEFINITIONS:** The following terms shall be given the meaning shown, unless context requires otherwise or a unique meaning is otherwise specified.
 - a. **Business Entity** means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability corporation, limited liability partnership, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
 - b. **Contractor** means the Business Entity with whom the Housing Authority of the County of San Bernardino enters into this Agreement. Contractor shall be synonymous with "supplier", "vendor" or other similar term.
 - c. **Firm Price** means the Agreement requires the delivery of products or services at a specific price, fixed at the time of the Agreement and not subject to any adjustment on the basis of Contractor's cost experience in performing under the terms of the Agreement.
 - d. **HACSB** means the Housing Authority of the County of San Bernardino, its employees and authorized representatives, including without limitation any department, agency, or other unit of HACSB.
2. **COMPLIANCE WITH STATUTES AND REGULATIONS:** Contractor warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, regulations and orders of the United States, the State of California and HACSB and agrees to indemnify HACSB against any loss, cost, damage or liability by reason of Contractor's violation of this provision.
3. **CONTRACTOR'S POWER AND AUTHORITY:** Contractor warrants that it has full power and authority to enter into and perform its obligations under this Agreement, and will hold HACSB harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this Agreement. Further, Contractor agrees that it will not enter into any arrangement with any third party which might abridge any rights of HACSB under this Agreement.
4. **TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES:** No charge for delivery, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by HACSB unless expressly included and itemized in the Agreement.
 - a. Contractor must strictly follow Agreement requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. HACSB may permit use of an alternate carrier at no additional cost to HACSB with advance written authorization of HACSB.
 - b. If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by HACSB and a waiver is granted in writing and in advance of shipping.
 - c. On "F.O.B. Shipping Point" transactions, should any shipments under the Agreement be received by HACSB in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the equipment and/or material, contractor, on request of HACSB, shall at Contractor's own expense assist HACSB in establishing carrier liability by supplying evidence that the equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.
5. **TIME IS OF THE ESSENCE:** Time is of the essence in this Agreement.
6. **DELIVERY:** Contractor shall strictly adhere to the delivery and completion schedules specified in the Agreement. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Contractor delivers in excess of the quantities specified herein, HACSB shall not be required to make any payment for the excess goods, and may return them to Contractor, at Contractor's expense, or utilize any other rights available to HACSB at law or in equity.
7. **SUBSTITUTIONS:** Substitution of goods may not be tendered, without advance written consent of HACSB. Contractor shall not use any specification in lieu of those contained in the Agreement, without written consent of HACSB.

8. INSPECTION, ACCEPTANCE AND REJECTION:

- a. Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to HACSB covering goods and services under this Agreement and will tender to HACSB only those goods that have been inspected and found to conform to the requirements of this Agreement. Contractor will keep records evidencing inspections and their result, and will make these records available to HACSB during performance of the Work and for three years after final payment. Contractor shall permit HACSB to review procedures, practices, processes and related documents to determine the acceptability of Contractor's quality assurance system or other business practices related to performance of the Work.
- b. All goods may be subject to inspection and test by HACSB or its authorized representatives.
- c. Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to HACSB. Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
- d. All goods to be delivered hereunder may be subject to final inspection, test and acceptance by HACSB at destination, notwithstanding any payment or inspection at source.
- e. HACSB shall give written notice of rejection of goods delivered or services performed hereunder within a reasonable time after receipt of such goods or performance of such services. Such notice of rejection will state the respects in which the goods do not substantially conform to their specifications. If HACSB does not provide such notice of rejection within thirty (30) days, unless otherwise specified in the Statement of Work, of delivery, such goods and services will be deemed to have been accepted. Acceptance by HACSB will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that HACSB might have at law or by express reservation in this Agreement with respect to any nonconformity.

9. SAMPLES:

- a. Samples of items may be required by HACSB for inspection and specification testing and must be furnished free of expense to HACSB. The samples furnished must be identical in all respects to the products bid and/or specified in the Agreement.
- b. Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at Contractor's expense.

10. WARRANTY: Unless otherwise specified, the warranties contained in this Agreement begin after acceptance has occurred.

- a. Contractor warrants that goods and services furnished hereunder will conform to the requirements of this Agreement (including all descriptions, specifications and drawings made a part hereof), and such goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by HACSB, free from defects in design. HACSB's approval of designs or specifications furnished by Contractor shall not relieve Contractor of its obligations under this warranty.
- b. All warranties, including special warranties specified elsewhere herein, shall inure to HACSB, its successors, assigns, customer agencies and users of the goods or services.

11. SAFETY AND ACCIDENT PREVENTION: In performing the Work under this Agreement on HACSB premises, Contractor shall conform to any specific safety requirements contained in the Agreement or as required by law or regulation. Contractor shall take any additional precautions as HACSB may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Agreement in accordance with the default provisions hereof.

12. ACCIDENT PREVENTION: Precaution shall be exercised at all times for the protection of persons (including employees) and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment, and other hazards shall be guarded or eliminated in accordance with the safety provisions issued by the Industrial Accident Commission of the State of California.

13. INSURANCE: Contractor shall not commence Work under this Agreement until all insurance required under this paragraph has been obtained and such insurance has been approved by HACSB, nor shall Contractor allow any subcontractor to commence work on a subcontract until all similar insurance required of the

subcontractor has been so obtained and approved. Contractor shall furnish HACSB with satisfactory proof of the carriage of insurance required, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. Any policy of insurance required of Contractor under this Agreement shall also contain an endorsement providing that thirty (30) days' notice must be given in writing to HACSB of any pending change in the limits of liability or of any cancellation or modification of the policy. All insurance required hereunder shall be issued by a California admitted insurance carrier.

The insurance required to be carried by Contractor hereunder shall include:

- a. Compensation Insurance and Employer's Liability Insurance. Contractor shall take out and maintain during the entire term of this Agreement, Workers' Compensation Insurance and Employer's Liability Insurance for all of employees employed at the site of the project and, in case any work is sublet, Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance and Employer's Liability Insurance for all of the latter's employees unless such employees are covered by the protection afforded by Contractor.

In signing this Agreement, Contractor makes the following certification, required by Section 1861 of the Labor Code:

"I am aware of the provision of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

- b. General Liability Insurance. Contractor, at its own cost and expense, shall maintain personal injury liability and property damage insurance for the entire term of this Agreement in the amount of One Million and No/100 Dollars (\$1,000,000.00) per occurrence. Such coverage shall include, but shall not be limited to, protection against claims arising from, and damage to property resulting from, activities contemplated under this Agreement. Such insurance shall be with insurers and under forms of policies satisfactory in all respects to HACSB and shall provide that notice must be given to HACSB at least thirty (30) days prior to cancellation or material change. The following endorsements shall be attached to the policy:

Policy shall cover on an "occurrence" basis. Policy must cover personal injuries as well as bodily injuries. Exclusion of contractual liability must be eliminated from personal injury endorsement.

Broad form property damage endorsement must be attached. HACSB is to be named as an additional insured on any contracts of insurance under this paragraph b. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code. The policies of insurance shall be considered primary insurance before any policies of insurance maintained by HACSB. Contractor shall be named as an additional insured with respect to such general liability insurance policy.

- c. Automobile Liability. Contractor, at its own cost and expense, shall maintain automobile insurance for the period covered by the Contract in the amount of One Million and No/100 Dollars (\$1,000,000.00) combined single limit coverage. Contractor shall be named as an additional insured with respect to such automobile liability insurance policy.

14. **FORCE MAJEURE:** Contractor shall be excused for performing the Work hereunder in the event that Contractor is unable to perform the Work for one of the following reasons:

- a. Acts of God or of the public enemy, and
- b. Acts of the federal, state or local government in either its sovereign or contractual capacity.

Such delay shall be for the period of time that Contractor is delayed from performing the Work as a direct result of one of the foregoing reasons. Contractor shall provide HACSB notice within three (3) days of any such force majeure event.

15. **CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:**

- a. Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of HACSB, employees of HACSB, persons designated by HACSB for training, or any other person(s) other than agents or employees of Contractor, designated by HACSB for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the goods either at

Contractor's site or at HACSB's place of business, provided that the injury or damage was caused by the fault or negligence of Contractor.

- b. Contractor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by Contractor, or for damage to alterations or attachments that may result from the normal operation and maintenance of the goods provided by Contractor during the Agreement.
16. **INVOICES:** Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount. The State of California and other sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.
17. **REQUIRED PAYMENT DATE:** Payment will be made in accordance with the provisions of the Agreement for work completed through the date of invoice. HACSB will pay properly submitted, undisputed invoices not more than thirty (30) days after (i) the date of acceptance of goods or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.
18. **TAXES:** HACSB will only pay for any state or local sales or use taxes on the services rendered or goods supplied to HACSB pursuant to this Agreement.
19. **NEWLY MANUFACTURED GOODS:** All goods furnished under this contract shall be newly manufactured goods; used or reconditioned goods are prohibited, unless otherwise specified.
20. **NEWS RELEASES:** Unless otherwise exempted, news releases pertaining to this Agreement shall not be made without prior written approval of HACSB.
21. **PATENT, COPYRIGHT and TRADE SECRET INDEMNITY:**
 - a. Contractor shall hold HACSB, its officers, agents and employees, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the Agreement.
 - b. Contractor may be required to furnish a bond to HACSB against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.
 - c. Contractor, at its own expense, shall defend any action brought against HACSB to the extent that such action is based upon a claim that the goods or software supplied by Contractor or the operation of such goods pursuant to a current version of Contractor supplied operating software infringes a United States patent or copyright or violates a trade secret. Contractor shall pay those costs and damages finally awarded against HACSB in any such action. Such defense and payment shall be conditioned on the following:
 - i. That Contractor shall be notified within a reasonable time in writing by HACSB of any notice of such claim; and,
 - ii. That Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided, however, that when principles of government or public law are involved, HACSB shall have the option to participate in such action at its own expense.
 - d. Should the goods or software, or the operation thereof, become, or in Contractor's opinion are likely to become, the subject of a claim of infringement of a United States patent or copyright or a trade secret, HACSB shall permit Contractor at its option and expense either to procure for HACSB the right to continue using the goods or software, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such goods or software by HACSB shall be prevented by injunction, Contractor agrees to take back such goods or software and make every reasonable effort to assist HACSB in procuring substitute goods or software. If, in the sole opinion of HACSB, the return of such infringing goods or software makes the retention of other goods or software acquired from Contractor under this Agreement impractical, HACSB shall then have the option of terminating such Agreement, or applicable portions thereof, without penalty or termination charge. Contractor agrees to take back such goods or software and refund any sums HACSB has paid Contractor.
 - e. Contractor shall have no liability to HACSB under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:

- i. The combination or utilization of goods furnished hereunder with equipment or devices not made or furnished by Contractor; or,
 - ii. The operation of equipment furnished by Contractor under the control of any operating software other than, or in addition to, the current version of Contractor-supplied operating software; or
 - iii. The modification by HACSB of the equipment furnished hereunder or of the software; or
 - iv. The combination or utilization of software furnished hereunder with non-Contractor supplied software.
- f. Contractor certifies that it has appropriate systems and controls in place to ensure that HACSB funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- g. The foregoing states the entire liability of Contractor to HACSB with respect to infringement of patents, copyrights or trade secrets.

22. STOP WORK:

- a. HACSB may, at any time, by written Stop Work order ("Stop Work Order") to Contractor, require Contractor to stop all, or any part, of the Work called for by this Agreement for a period up to ninety (90) days after the Stop Work Order is delivered to Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to Contractor, or within any extension of that period to which the parties shall have agreed, HACSB shall either:
- i. Cancel the Stop Work Order; or
 - ii. Terminate the Work covered by the Stop Work Order as provided for in the termination for default or the voluntary termination provision of this Agreement.
 - iii. If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, Contractor shall resume work. HACSB shall make an equitable adjustment in the delivery schedule, the price, or both, and the Agreement shall be modified, in writing, accordingly, if:
 - 1. The Stop Work Order results in an increase in the time required for, or in Contractor's cost properly allocable to the performance of any part of this Agreement; and
 - 2. Contractor asserts its right to an equitable adjustment within thirty (30) days after the end of the period of work stoppage; provided that if HACSB decides the facts justify the action, HACSB may receive and act upon a proposal submitted at any time before final payment under this Agreement.
- b. If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated in accordance with the provision entitled Voluntary Termination, HACSB shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- c. HACSB shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this clause.

23. COVENANT AGAINST GRATUITIES: Contractor warrants that it complies with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3), and that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of HACSB with a view toward securing the Agreement or securing favorable treatment with respect to any determinations concerning the performance of the Agreement. For breach or violation of this warranty, HACSB shall have the right to terminate the Agreement, either in whole or in part, and any loss or damage sustained by HACSB in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by Contractor. The rights and remedies of HACSB provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

24. **COMPLIANCE WITH DAVIS-BACON ACT:** For construction agreements in excess of \$2,000, Contractor certifies that it complies with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 3). Unless otherwise indicated in the Statement of Work, Contractors of HACSB are required, pursuant to 24 CFR 85.36(h)(5), to pay Davis-Bacon wage rates for all "construction contracts and related subcontracts in excess of \$2000," which means, for such jobs, the wage rates paid must be equal to or exceed the listed applicable Davis-Bacon wage rate. Compliance with this clause also means that Contractor may be subject to completing certain reports and to audits by HACSB and the Department of Housing and Urban Development. Such reports and information relating to compliance can be obtained at the Internet website: <http://www.gpo.gov/davisbacon/>. Contractor shall include the wage provisions of this clause in all subcontracts to perform work under this Agreement.
- HACSB shall have the right to audit Contractor, at any time, in order to ensure compliance with the requirements of this Section. In connection therewith, Contractor agrees to maintain accurate books and records in connection with the Work, and all payments made or received by Contractor pursuant to this Agreement, and to provide such information to HACSB, within five (5) business days of any request by HACSB. In addition, Contractor shall provide, upon two (2) business days request, information to HACSB of each and every employee retained by Contractor in connection with the Work, and shall permit HACSB to interview any such employees, contractors or subcontractors. Contractor agrees that all maintenance laborers and mechanics employed by it in connection with the performance of the Work shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. 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 Contractor's payroll records accurately set forth the time spent in each classification in which the work is performed. The wage determination, including any additional classifications and wage rates approved by HUD shall be posted at all times by 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.
25. **CALIFORNIA PREVAILING WAGE (IF AGREEMENT PRICE IS LESS THAN \$2,000):** In the event the Agreement Price is less than \$2,000, Contractor agrees to comply with all prevailing rate requirements of the California Labor Code. HACSB shall have the right to audit and inspect Contractor's books and records, and interview Contractor's employees, contractors and subcontractors, all according to the same provisions set forth in Section 26 above.
26. **EQUAL EMPLOYMENT OPPORTUNITY:** For all construction agreements in excess of \$10,000, Contractor certifies its compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60).
27. **NONDISCRIMINATION CLAUSE:**
- a. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
 - b. Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.
28. **NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to

comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, Public Contract Code Section 10296.

29. **DRUG-FREE WORKPLACE CERTIFICATION:** Contractor certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:
- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
 - b. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - i. the dangers of drug abuse in the workplace;
 - ii. the person's or organization's policy of maintaining a drug-free workplace;
 - iii. any available counseling, rehabilitation and employee assistance programs; and,
 - iv. penalties that may be imposed upon employees for drug abuse violations.
 - c. Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting agreement:
 - i. will receive a copy of the company's drug-free policy statement; and,
 - ii. will agree to abide by the terms of the company's statement as a condition of employment on the agreement.
30. **RECYCLING:** Contractor shall certify in writing under penalty of perjury, compliance with Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to HACSB regardless of whether the product meets the requirements of Section 12209.
31. **LEAD BASED PAINT PROHIBITION:** For any contract for construction or rehabilitation, Contractor certifies that it shall comply with 24 CFR Part 35 prohibiting the use of lead-based paint.
32. **COMPLIANCE WITH CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:** For agreements in excess of \$2,000, and in excess of \$2500 for other agreements which involve the employment of mechanics or laborers, Contractor certifies that it complies with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).
33. **CHILD SUPPORT COMPLIANCE ACT:** For any contract in excess of \$100,000, Contractor acknowledges in accordance with Public Contract Code Section 7110, that:
- a. Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable State of California and Federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
 - b. Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
34. **ELECTRONIC WASTE RECYCLING ACT OF 2003:** Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.
35. **ENVIRONMENTAL REGULATIONS:** For agreements in excess of \$100,000, Contractor certifies that it complies with the requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (3 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 C.F.R. part 15).
36. **USE TAX COLLECTION:** In accordance with PCC Section 10295.1, Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will

immediately advise HACSB of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.

- 37. DOMESTIC PARTNERS:** For agreements over \$100,000 executed or amended after January 1, 2007, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

Exhibit “D”

Performance – Payment Bond

PERFORMANCE – PAYMENT BOND

KNOW ALL ME BY THESE PRESENTS: That we _____ (Contractor) _____, a _____ (corporation) hereinafter called "Principal" and _____ (Surety) of _____, State of _____, hereinafter called the "Surety", are held and firmly bound unto _____ (Owner) _____ of _____ (City and State), hereinafter called "Owner" in the penal sum of _____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered into a certain contract with the Owner, dated the _____ day of _____, 20____, a copy of which is hereto attached and made a part hereof for the construction of: _____

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extension thereof which may be granted to the Owner, which or without notice to the Surety, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, and shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

[END – SIGNATURES FOLLOW NEXT PAGE]

IN WITNESS WHEREOF, this instrument is executed in 2 (2) counterparts, each one of shall be deemed an original, this the _____ day of _____, 20_____.

ATTEST:

"PRINCIPAL"

(Principal) Secretary

(Seal)

BY: _____
NAME: _____

Witness as to Principal

(Address – Zip Code)

"SURETY"

(Surety) Secretary

(Seal)

BY: _____
NAME: _____
ITS: Attorney-in-Fact

Witness as to Surety

(Address – Zip Code)

(Address – Zip Code)

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all partners should execute bond.

Exhibit “E”

Stipulation of Lien

HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO
715 E. BRIER DRIVE
SAN BERNARDINO, CA 92408-2841
(909) 890-0644 FAX (909) 890-4618

STIPULATION OF LIEN

Contract Number:

KNOW ALL MEN BY THESE PRESENTS:

1. The undersigned certifies that all contract work executed under the aforesaid Contract Number***** will be performed in accordance with the contract terms thereof and there will be no claims of laborers or mechanics for unpaid wages arising out of the performance of said contract.
2. That, in consideration of the payment of the amount of any contract awarded, the undersigned does hereby release the Housing Authority of the County of San Bernardino from any and all claims arising from any contract awarded by this process.

IN WITNESS WHEREOF, the undersigned has signed and sealed this instrument this _____ day of _____, 20_____.

By: _____

Title: _____

NAME AND ADDRESS OF CONTRACTOR:

Sworn before me this _____ day of _____, 20_____.

(Notary Public)

My Commission Expires _____
(Date)

Exhibit “F”

Supplementary Conditions of the Contract for
Construction (form HUD-92554M)

SUPPLEMENTARY CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

U.S. Department of Housing
and Urban Development
Office of Housing

OMB Approval No. 2502-0598
(Exp. 12/31/2017)

Public Reporting Burden for this collection of information is estimated to average 0.2 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. Response to this request for information is required in order to receive the benefits to be derived. 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. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.

Article 1: Labor Standards

A. Applicability. The Project or program to which the construction work covered by this Contract pertains is being assisted or insured by the United States of America, and the following Federal Labor Standards Provisions are included in this Contract or related instrument pursuant to the provisions applicable to such Federal assistance or insurance. Any statute or regulation contained herein shall also include any subsequent amendment or successor statute or regulation.

B. Minimum Wages. Pursuant to Section 212 of the National Housing Act, as amended, 12 U.S.C. 1715c, the minimum wage provisions contained in this paragraph B do not apply to those projects with Security Instruments insured under Section 221(h)(1) designed for less than 9 families and they do not apply to those projects with Security Instruments insured under either Section 220 or 233 designed for less than 12 families.

1. (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the Project) shall 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 (40 U.S.C. 3141(2)(B)(ii)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each

classification for the time actually worked therein: *Provided*, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii)) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

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

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs B.1.(ii)(b) or (c) of this Article, shall be paid to all workers

performing work in the classification under this Contract from the first day on which work is performed in the classification.

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

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 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, sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

3. Payrolls, records, and certifications.

(i) 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 at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, 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 (40 U.S.C. 3141(2)(B)(ii))), daily and weekly number of hours worked, deductions made and actual wages paid.

Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1 (b)(2)(B) of the Davis-Bacon Act (40 U.S.C. 3141(2)(B)(ii)), the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii)(a) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the Contract, but if the agency is not such a party, the Contractor shall submit the payrolls to the applicant, sponsor, or Owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347.pdf> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant sponsor, or Owner, as the case may be, for transmission to HUD or its designee, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

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

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

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

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

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

(d) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Sections 3801 et seq of Title 31 of the United States Code.

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

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices shall 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, or with a State Apprenticeship Agency recognized by such Office, or if a person is employed in his or her first ninety (90) days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship, or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in

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

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees shall 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's hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the 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 on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws

approval of a training program, the Contractor shall no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

5. Compliance with Copeland Act Requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this Contract.

6. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs 1 through 10 of this paragraph B and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage determination, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all Contract clauses referenced in this subparagraph.

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

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

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

10. Certification of Eligibility.

(i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act (40 U.S.C. 3144(b)(2)) or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act (40

U.S.C. 3144(b)(2)) or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Department . . . makes, passes, utters or publishes any statement, knowing the same to be false . . . shall be fined under this title or imprisoned not more than two years, or both."

C. Contract Work Hours and Safety Standards Act.

1. Applicability and Definitions. This paragraph C of Article 1 is applicable only if a direct form of federal assistance is involved, such as Section 8, Section 202/811 Capital Advance, grants etc., and is applicable only where the prime contract is in an amount greater than \$100,000. As used in this paragraph C, the terms "laborers" and "mechanics" include watchmen and guards.

2. Overtime requirements. No contractor or subcontractor contracting for any part of the Contract work that may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (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 forty (40) hours in such workweek.

3. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the immediately preceding subparagraph C.2, the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, the 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 such subparagraph, 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 forty (40) hours without payment of the overtime wages required by the clause set forth in such subparagraph.

4. 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 under any other Federal contract with the same prime contractor, or under any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or

subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph 3 of this paragraph C.

5. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs 1 through 5 of this paragraph C and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in such subparagraphs 1 through 5.

D. Certification.

For projects with Security Instruments insured under the National Housing Act, as amended, that are subject to paragraph B of this Article 1, the Contractor is required to execute the Contractor's Prevailing Wage Certificate within HUD-92448 as a condition precedent to insurance by HUD of the Loan, or an advance thereof, made or to be made by the Lender in connection with the construction of the Project.

Article 2: Equal Employment Opportunity

A. Applicability. This Article 2 applies to any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee.

B. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, or national origin. 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, disability or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided setting forth the provisions of this nondiscrimination clause.

C. The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, disability, or national origin.

D. 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 a notice to be provided advising the said labor union or workers representatives of the Contractor's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

E. The Contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor.

F. The Contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and 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.

G. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and Contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations or order of the Secretary of Labor, or as otherwise provided by law.

H. The Contractor shall include the provisions of paragraphs A through H of this Article 2 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions shall be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as HUD or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance. *Provided, however,* that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD or the Secretary of Labor, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Article 3: Equal Opportunity for Businesses and Lower Income Persons Located Within the Project Area

A. This Article 3 is applicable to projects covered by Section 3, as defined in 24 CFR Part 135.

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

Article 4: Health and Safety

A. This Article 4 is applicable only where the prime contract is in an amount greater than \$100,000.

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

C. The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to 29 CFR Part 1926, and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

D. The Contractor shall include the provisions of this Article 4 in every subcontract so that such provisions shall be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as HUD or the Secretary of Labor shall direct as a means of enforcing such provisions.

Exhibit “G”

Federal Labor Standards Provisions
(form HUD-4010)

Applicability

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 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 any 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. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

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

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

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

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

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

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

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

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

4. Apprentices and Trainees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Exhibit “H”

Applicable prevailing wages determined by the
United States Department of Labor pursuant to the
Davis-Bacon Act.

"General Decision Number: CA20190017 11/15/2019

Superseded General Decision Number: CA20180028

State: California

Construction Type: Residential

Counties: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties in California.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.60 for calendar year 2019 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.60 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2019. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the

Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/04/2019
1	02/01/2019
2	02/22/2019
3	05/03/2019
4	07/26/2019
5	11/08/2019
6	11/15/2019

* ASBE0005-002 07/01/2019

	Rates	Fringes
Asbestos Workers/Insulator (Includes the application of all insulating materials, protective coverings, coatings, and finishes to all types of mechanical systems).....	\$ 43.77	22.48
Fire Stop Technician (Application of Firestopping Materials for wall openings and penetrations in walls, floors, ceilings and curtain walls).....	\$ 27.92	18.31

* ASBE0005-004 07/01/2019

	Rates	Fringes
Asbestos Removal worker/hazardous material handler (Includes preparation, wetting, stripping, removal,		

scrapping, vacuuming, bagging
and disposing of all
insulation materials from
mechanical systems, whether
they contain asbestos or not)....\$ 20.63 12.17

* BRCA0004-001 05/01/2018

	Rates	Fringes
Bricklayer; Marble Setter		
Los Angeles County.....	\$ 39.91	15.45
Orange County.....	\$ 39.13	15.11
Riverside & San Bernardino Counties.....	\$ 39.07	14.57
Ventura County.....	\$ 39.22	16.93

*The wage scale for prevailing wage projects performed in
Blythe, China lake, Death Valley, Fort Irwin, Twenty-Nine
Palms, Needles and 1-15 corridor (Barstow to the Nevada
State Line) will be Three Dollars (\$3.00) above the
standard San Bernardino/Riverside County hourly wage rate

BRCA0004-004 11/01/2017

IMPERIAL

	Rates	Fringes
BRICKLAYER; MARBLE SETTER.....	\$ 47.36	16.79

* BRCA0004-009 05/01/2018

SAN LUIS OBISPO AND SANTA BARBARA COUNTIES

	Rates	Fringes
BRICKLAYER; MARBLE SETTER.....	\$ 40.34	15.10

*The wage scale for prevailing wage projects performed in

Blythe, China lake, Death Valley, Fort Irwin, Twenty-Nine Palms, Needles and 1-15 corridor (Barstow to the Nevada State Line) will be Three Dollars (\$3.00) above the standard San Bernardino/Riverside County hourly wage rate

BRCA0018-001 07/01/2017

	Rates	Fringes
MARBLE FINISHER.....	\$ 30.93	12.95
TILE FINISHER.....	\$ 25.98	11.23

BRCA0018-002 07/01/2017

SAN LUIS OBISPO AND SANTA BARBARA

	Rates	Fringes
TILE LAYER.....	\$ 37.76	16.37

BRCA0018-003 07/01/2017

IMPERIAL, LOS ANGELES, ORANGE, RIVERSIDE, SAN BERNARDINO & VENTURA

	Rates	Fringes
TILE LAYER.....	\$ 37.76	16.37

BRCA0018-010 09/01/2017

	Rates	Fringes
TERRAZZO FINISHER.....	\$ 29.75	12.91
TERRAZZO WORKER/SETTER.....	\$ 36.75	13.82

* CARP0409-003 07/01/2019

	Rates	Fringes
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Drywall

(1) Work on Wood-Framed
Single Family Homes, and
Wood-Framed Apartment
Buildings up to and
including 4 Stories

Drywall Installer/Lather...	\$ 29.97	13.53
Stocker/Scraper.....	\$ 18.02	8.37

(2) All other Work

Drywall Installer/Lather...	\$ 50.35	13.53
Stocker/Scraper.....	\$ 18.02	8.37

CARP0409-004 07/01/2019

Work on wood frame single family homes and apartments up to and
including 4 stories:

	Rates	Fringes
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CARPENTER

Cabinet installer.....	\$ 39.21	13.53
Fence builder.....	\$ 37.66	13.37
Framer & finish carpenter...	\$ 39.50	13.53
Insulation installer.....	\$ 24.02	13.21
Roof loader of shingles.....	\$ 29.16	13.53
Shingler.....	\$ 38.65	13.53
Subterranean garage concrete construction and carpenters performing on grade slab concrete construction.....	\$ 38.13	13.53

CARP0409-009 01/01/2019

	Rates	Fringes
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Modular Furniture Installer.....	\$ 19.85	6.66
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ELEC0011-003 01/30/2017

LOS ANGELES

	Rates	Fringes
ELECTRICIAN (does not include fire alarm, hold-up alarm, burglar alarm and surveillance systems).....	\$ 20.20	9.70

ELEC0011-006 12/31/2018		

COMMUNICATIONS AND SYSTEMS WORK

LOS ANGELES COUNTY

	Rates	Fringes
Communications System		
Installer.....	\$ 36.07	3%+14.43
Technician.....	\$ 33.30	3%+27.82

SCOPE OF WORK: Installation, testing, service and maintenance of systems utilizing the transmission and/or transference of voice, sound, vision and digital for commercial, educational, security and entertainment purposes for the following: TV monitoring and surveillance, background - foreground music, intercom and telephone interconnect, microwave transmission, multi-media, multiplex, nurse call systems, radio page, burglar alarms and fire alarms.

Communication Systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems; inclusion or exclusion of terminations and testings of conductors determined by their function; excluding all other data systems or multiple systems which include control function or power supply; excluding installation of raceway systems, conduit systems, line voltage work, and energy management systems.

ELEC0413-002 01/01/2019

SANTA BARBARA COUNTY

	Rates	Fringes
Electricians.....	\$ 31.50	3%+3.00

WORK AT VANDENBERG AFB: \$3.75 additional per hour.

ELEC0413-004 12/31/2018

COMMUNICATIONS AND SYSTEMS WORK

SANTA BARBARA COUNTY

	Rates	Fringes
Communications System		
Installer.....	\$ 35.12	3%+12.71

SCOPE OF WORK: Installation, testing, service and maintenance of systems utilizing the transmission and/or transference of voice, sound, vision and digital for commercial, educational, security and entertainment purposes for the following: TV monitoring and surveillance, background - foreground music, intercom and telephone interconnect, microwave transmission, multi-media, multiplex, nurse call systems, radio page, burglar alarms and fire alarm (see last paragraph below).

Communication Systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems; inclusion or exclusion of terminations and testings of conductors determined by their function; excluding all other data systems or multiple systems which include control function or power supply; excluding installation of raceway systems, conduit systems, line voltage work, and energy management systems.

Fire alarm work shall be performed at the current inside

electrician total cost package.

ELEC0440-002 01/01/2018

RIVERSIDE

	Rates	Fringes
ELECTRICIAN.....	\$ 39.77	23.24

ELEC0440-005 12/31/2018

COMMUNICATIONS AND SYSTEMS WORK

RIVERSIDE AND SAN BERNARDINO COUNTIES

	Rates	Fringes
Communications System		
Installer.....	\$ 33.09	15.89
Technician.....	\$ 33.09	15.89

SCOPE OF WORK: Installation, testing, service and maintenance of systems utilizing the transmission and/or transference of voice, sound, vision and digital for commercial, educational, security and entertainment purposes for the following: TV monitoring and surveillance, background - foreground music, intercom and telephone interconnect, microwave transmission, multi-media, multiplex, nurse call systems, radio page, burglar alarms and fire alarms.

Communication Systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems; inclusion or exclusion of terminations and testings of conductors determined by their function; excluding all other data systems or multiple systems which include control function or power supply; excluding installation of raceway systems, conduit systems, line voltage work, and energy management systems.

ELEC0441-002 02/25/2019

ORANGE

	Rates	Fringes
ELECTRICIAN.....	\$ 26.50	9.11

ELEC0477-003 06/01/2019

SAN BERNARDINO

	Rates	Fringes
ELECTRICIAN.....	\$ 27.25	3%+7.10

ELEC0569-003 06/03/2019

IMPERIAL

	Rates	Fringes
ELECTRICIAN		
1 to 3 Stories.....	\$ 33.38	3%+6.61
1 to 3 stories.....	\$ 34.69	7.65

ELEC0639-002 03/01/2017

SAN LUIS OBISPO

	Rates	Fringes
ELECTRICIAN.....	\$ 23.50	7.72

ELEC0639-003 12/26/2016

COMMUNICATIONS AND SYSTEMS WORK

SAN LUIS OBISPO COUNTY

	Rates	Fringes
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Communications System

Installer.....	\$ 32.50	11.66
Technician.....	\$ 30.89	11.66

SCOPE OF WORK: Installation, testing, service and maintenance of systems utilizing the transmission and/or transference of voice, sound, vision and digital for commercial, educational, security and entertainment purposes for the following: TV monitoring and surveillance, background - foreground music, intercom and telephone interconnect, microwave transmission, multi-media, multiplex, nurse call systems, radio page, burglar alarms and fire alarm (see last paragraph below).

Communication Systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems; inclusion or exclusion of terminations and testings of conductors determined by their function; excluding all other data systems or multiple systems which include control function or power supply; excluding installation of raceway systems, conduit systems, line voltage work, and energy management systems.

Fire alarm work shall be performed at the current inside electrician total cost package.

ELEC0952-002 07/29/2019

VENTURA

	Rates	Fringes
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CABLE SPLICER

All work within 32 road miles or less from the nearest base point.....	\$ 44.72	27.44
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ELECTRICIAN

All work within 32 road		
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miles or less from the
nearest base point.....\$ 40.65 27.32

ALL WORK MORE THAN 32 ROAD MILES FROM NEAREST BASE POINT:
Add \$5.00 to the basic hourly rate. BASE POINTS: the main
Post Office in the cities of Camarillo, Oak View, Oxnard,
Santa Paula and Ventura.

ELEC0952-004 12/31/2018

COMMUNICATIONS AND SYSTEMS WORK

VENTURA COUNTY ONLY

	Rates	Fringes
Communications System		
Installer.....	\$ 34.37	14.61
Technician.....	\$ 30.10	12.78

SCOPE OF WORK: Installation, testing, service and maintenance
of systems utilizing the transmission and/or transference
of voice, sound, vision and digital for commercial,
educational, security and entertainment purposes for the
following: TV monitoring and surveillance, background -
foreground music, intercom and telephone interconnect,
microwave transmission, multi-media, multiplex, nurse call
systems, radio page, burglar alarms and fire alarm (see
last paragraph below).

Communication Systems that transmit or receive information
and/or control systems that are intrinsic to the above
listed systems; inclusion or exclusion of terminations and
testings of conductors determined by their function;
excluding all other data systems or multiple systems which
include control function or power supply; excluding
installation of raceway systems, conduit systems, line
voltage work, and energy management systems.

Fire alarm work shall be performed at the current inside

electrician total cost package.

ELEV0008-004 01/01/2019

SAN LUIS OBISPO

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 67.56	34.125

FOOTNOTE:

PAID VACATION: Employer contributes 8% of regular hourly rate as vacation pay credit for employees with more than 5 years of service, and 6% for 6 months to 5 years of service.

PAID HOLIDAYS: New Years Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

ELEV0018-004 01/01/2019

IMPERIAL, LOS ANGELES, ORANGE, RIVERSIDE, SAN BERNARDINO, SANTA BARBARA AND VENTURA

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 55.58	34.125

FOOTNOTE:

PAID VACATION: Employer contributes 8% of regular hourly rate as vacation pay credit for employees with more than 5 years of service, and 6% for 6 months to 5 years of service.

PAID HOLIDAYS: New Years Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

ENGI0012-001 07/01/2018

Rates

Fringes

OPERATOR: Power Equipment

(Cranes, Piledriving &
Hoisting)

GROUP 1.....	\$ 46.65	25.25
GROUP 2.....	\$ 47.43	25.25
GROUP 3.....	\$ 47.72	25.25
GROUP 4.....	\$ 47.86	25.25
GROUP 5.....	\$ 48.08	25.25
GROUP 6.....	\$ 48.19	25.25
GROUP 7.....	\$ 48.31	25.25
GROUP 8.....	\$ 48.48	25.25
GROUP 9.....	\$ 48.65	25.25
GROUP 10.....	\$ 49.65	25.25
GROUP 11.....	\$ 50.65	25.25
GROUP 12.....	\$ 51.65	25.25
GROUP 13.....	\$ 52.65	25.25

OPERATOR: Power Equipment

GROUP 1.....	\$ 45.30	25.25
GROUP 2.....	\$ 46.08	25.25
GROUP 3.....	\$ 46.37	25.25
GROUP 4.....	\$ 47.86	25.25
GROUP 5.....	\$ 48.96	25.25
GROUP 6.....	\$ 48.08	25.25
GROUP 7.....	\$ 49.18	25.25
GROUP 8.....	\$ 48.19	25.25
GROUP 9.....	\$ 49.29	25.25
GROUP 10.....	\$ 48.31	25.25
GROUP 11.....	\$ 49.41	25.25
GROUP 12.....	\$ 49.48	25.25
GROUP 13.....	\$ 48.58	25.25
GROUP 14.....	\$ 48.61	25.25
GROUP 15.....	\$ 48.69	25.25
GROUP 16.....	\$ 48.81	25.25
GROUP 17.....	\$ 48.98	25.25
GROUP 18.....	\$ 49.08	25.25
GROUP 19.....	\$ 49.19	25.25
GROUP 20.....	\$ 49.31	25.25
GROUP 21.....	\$ 49.48	25.25
GROUP 22.....	\$ 49.58	25.25

GROUP 23.....	\$ 49.69	25.25
GROUP 24.....	\$ 49.81	25.25
GROUP 25.....	\$ 49.98	25.25

PREMIUM PAY:

\$3.75 per hour shall be paid on all Power Equipment Operator work on the following Military Bases: China Lake Naval Reserve, Vandenberg AFB, Point Arguello, Seely Naval Base, Fort Irwin, Nebo Annex Marine Base, Marine Corp Logistics Base Yermo, Edwards AFB, 29 Palms Marine Base

Workers required to suit up and work in a hazardous material environment: \$2.00 per hour additional. Combination mixer and compressor operator on gunite work shall be classified as a concrete mobile mixer operator.

CRANES, PILEDRIVING AND HOISTING EQUIPMENT CLASSIFICATIONS

GROUP 1: Engineer oiler; Fork lift operator (includes loed, lull or similar types)

GROUP 2: Truck crane oiler

GROUP 3: A-frame or winch truck operator; Ross carrier operator (jobsite)

GROUP 4: Bridge-type unloader and turntable operator; Helicopter hoist operator

GROUP 5: Hydraulic boom truck; Stinger crane (Austin-Western or similar type); Tugger hoist operator (1 drum)

GROUP 6: Bridge crane operator; Cretor crane operator; Hoist operator (Chicago boom and similar type); Lift mobile operator; Lift slab machine operator (Vagtborg and similar types); Material hoist and/or manlift operator; Polar gantry crane operator; Self Climbing scaffold (or similar type); Shovel, backhoe, dragline, clamshell operator (over 3/4 yd. and up to 5 cu. yds. mrc); Tugger hoist operator

GROUP 7: Pedestal crane operator; Shovel, backhoe, dragline,

clamshell operator (over 5 cu. yds. mrc); Tower crane repair; Tugger hoist operator (3 drum)

GROUP 8: Crane operator (up to and including 25 ton capacity); Crawler transporter operator; Derrick barge operator (up to and including 25 ton capacity); Hoist operator, stiff legs, Guy derrick or similar type (up to and including 25 ton capacity); Shovel, backhoe, dragline, clamshell operator (over 7 cu. yds., M.R.C.)

GROUP 9: Crane operator (over 25 tons and up to and including 50 tons mrc); Derrick barge operator (over 25 tons up to and including 50 tons mrc); Highline cableway operator; Hoist operator, stiff legs, Guy derrick or similar type (over 25 tons up to and including 50 tons mrc); K-crane operator; Polar crane operator; Self erecting tower crane operator maximum lifting capacity ten tons

GROUP 10: Crane operator (over 50 tons and up to and including 100 tons mrc); Derrick barge operator (over 50 tons up to and including 100 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 50 tons up to and including 100 tons mrc), Mobile tower crane operator (over 50 tons, up to and including 100 tons M.R.C.); Tower crane operator and tower gantry

GROUP 11: Crane operator (over 100 tons and up to and including 200 tons mrc); Derrick barge operator (over 100 tons up to and including 200 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 100 tons up to and including 200 tons mrc); Mobile tower crane operator (over 100 tons up to and including 200 tons mrc)

GROUP 12: Crane operator (over 200 tons up to and including 300 tons mrc); Derrick barge operator (over 200 tons up to and including 300 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 200 tons, up to and including 300 tons mrc); Mobile tower crane operator (over 200 tons, up to and including 300 tons mrc)

GROUP 13: Crane operator (over 300 tons); Derrick barge

operator (over 300 tons); Helicopter pilot; Hoist operator, stiff legs, Guy derrick or similar type (over 300 tons); Mobile tower crane operator (over 300 tons)

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Bargeman; Brakeman; Compressor operator; Ditch Witch, with seat or similar type equipment; Elevator operator-inside; Engineer Oiler; Forklift operator (includes loed, lull or similar types under 5 tons; Generator operator; Generator, pump or compressor plant operator; Pump operator; Signalman; Switchman

GROUP 2: Asphalt-rubber plant operator (nurse tank operator); Concrete mixer operator-skip type; Conveyor operator; Fireman; Forklift operator (includes loed, lull or similar types over 5 tons; Hydrostatic pump operator; oiler crusher (asphalt or concrete plant); Petromat laydown machine; PJU side dum jack; Screening and conveyor machine oeprator (or similar types); Skiploader (wheel type up to 3/4 yd. without attachment); Tar pot fireman; Temporary heating plant operator; Trenching machine oiler

GROUP 3: Asphalt-rubber blend operator; Bobcat or similar type (side steer); Equipment greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter radioman (ground); Stationary pipe wrapping and cleaning machine operator

GROUP 4: Asphalt plant fireman; Backhoe operator (mini-max or similar type); Boring machine operator; Boxman or mixerman (asphalt or concrete); Chip spreading machine operator; Concrete cleaning decontamination machine operator; Concrete Pump Operator (small portable); Drilling machine operator, small auger types (Texoma super economatic or similar types - Hughes 100 or 200 or similar types - drilling depth of 30' maximum); Equipment greaser (grease truck); Guard rail post driver operator; Highline cableway signalman; Hydra-hammer-aero stomper; Micro Tunneling (above ground tunnel); Power concrete curing machine operator; Power concrete saw operator; Power-driven jumbo form setter operator; Power sweeper operator; Rock Wheel

Saw/Trencher; Roller operator (compacting); Screed operator (asphalt or concrete); Trenching machine operator (up to 6 ft.); Vacuum or much truck

GROUP 5: Equipment Greaser (Grease Truck/Multi Shift).

GROUP 6: Articulating material hauler; Asphalt plant engineer; Batch plant operator; Bit sharpener; Concrete joint machine operator (canal and similar type); Concrete planer operator; Dandy digger; Deck engine operator; Derrickman (oilfield type); Drilling machine operator, bucket or auger types (Calweld 100 bucket or similar types - Watson 1000 auger or similar types - Texoma 330, 500 or 600 auger or similar types - drilling depth of 45' maximum); Drilling machine operator (including water wells); Hydrographic seeder machine operator (straw, pulp or seed), Jackson track maintainer, or similar type; Kalamazoo Switch tamper, or similar type; Machine tool operator; Maginnis internal full slab vibrator, Mechanical berm, curb or gutter(concrete or asphalt); Mechanical finisher operator (concrete, Clary-Johnson-Bidwell or similar); Micro tunnel system (below ground); Pavement breaker operator (truck mounted); Road oil mixing machine operator; Roller operator (asphalt or finish), rubber-tired earth moving equipment (single engine, up to and including 25 yds. struck); Self-propelled tar pipelining machine operator; Skiploader operator (crawler and wheel type, over 3/4 yd. and up to and including 1-1/2 yds.); Slip form pump operator (power driven hydraulic lifting device for concrete forms); Tractor operator-bulldozer, tamper-scraper (single engine, up to 100 h.p. flywheel and similar types, up to and including D-5 and similar types); Tugger hoist operator (1 drum); Ultra high pressure waterjet cutting tool system operator; Vacuum blasting machine operator

GROUP 7: Welder - General

GROUP 8: Asphalt or concrete spreading operator (tamping or finishing); Asphalt paving machine operator (Barber Greene or similar type); Asphalt-rubber distribution operator; Backhoe operator (up to and including 3/4 yd.), small ford,

Case or similar; Cast-in-place pipe laying machine operator; Combination mixer and compressor operator (gunite work); Compactor operator (self-propelled); Concrete mixer operator (paving); Crushing plant operator; Drill Doctor; Drilling machine operator, Bucket or auger types (Calweld 150 bucket or similar types - Watson 1500, 2000 2500 auger or similar types - Texoma 700, 800 auger or similar types - drilling depth of 60' maximum); Elevating grader operator; Grade checker; Gradall operator; Grouting machine operator; Heavy-duty repairman; Heavy equipment robotics operator; Kalamazoo balliste regulator or similar type; Kolman belt loader and similar type; Le Tourneau blob compactor or similar type; Loader operator (Athey, Euclid, Sierra and similar types); Mobark Chipper or similar; Ozzie padder or similar types; P.C. slot saw; Pneumatic concrete placing machine operator (Hackley-Presswell or similar type); Pumpcrete gun operator; Rock Drill or similar types; Rotary drill operator (excluding caisson type); Rubber-tired earth-moving equipment operator (single engine, caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. up to and including 50 cu. yds. struck); Rubber-tired earth-moving equipment operator (multiple engine up to and including 25 yds. struck); Rubber-tired scraper operator (self-loading paddle wheel type-John Deere, 1040 and similar single unit); Self-propelled curb and gutter machine operator; Shuttle buggy; Skiploader operator (crawler and wheel type over 1-1/2 yds. up to and including 6-1/2 yds.); Soil remediation plant operator; Surface heaters and planer operator; Tractor compressor drill combination operator; Tractor operator (any type larger than D-5 - 100 flywheel h.p. and over, or similar-bulldozer, tamper, scraper and push tractor single engine); Tractor operator (boom attachments), Traveling pipe wrapping, cleaning and bending machine operator; Trenching machine operator (over 6 ft. depth capacity, manufacturer's rating); trenching Machine with Road Miner attachment (over 6 ft depth capacity): Ultra high pressure waterjet cutting tool system mechanic; Water pull (compaction) operator

GROUP 9: Heavy Duty Repairman

GROUP 10: Drilling machine operator, Bucket or auger types (Calweld 200 B bucket or similar types-Watson 3000 or 5000 auger or similar types-Texoma 900 auger or similar types-drilling depth of 105' maximum); Dual drum mixer, dynamic compactor LDC350 (or similar types); Monorail locomotive operator (diesel, gas or electric); Motor patrol-blade operator (single engine); Multiple engine tractor operator (Euclid and similar type-except Quad 9 cat.); Rubber-tired earth-moving equipment operator (single engine, over 50 yds. struck); Pneumatic pipe ramming tool and similar types; Prestressed wrapping machine operator; Rubber-tired earth-moving equipment operator (single engine, over 50 yds. struck); Rubber tired earth moving equipment operator (multiple engine, Euclid, caterpillar and similar over 25 yds. and up to 50 yds. struck), Tower crane repairman; Tractor loader operator (crawler and wheel type over 6-1/2 yds.); Woods mixer operator (and similar Pugmill equipment)

GROUP 11: Heavy Duty Repairman - Welder Combination, Welder - Certified.

GROUP 12: Auto grader operator; Automatic slip form operator; Drilling machine operator, bucket or auger types (Calweld, auger 200 CA or similar types - Watson, auger 6000 or similar types - Hughes Super Duty, auger 200 or similar types - drilling depth of 175' maximum); Hoe ram or similar with compressor; Mass excavator operator less tha 750 cu. yards; Mechanical finishing machine operator; Mobile form traveler operator; Motor patrol operator (multi-engine); Pipe mobile machine operator; Rubber-tired earth- moving equipment operator (multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck); Rubber-tired self- loading scraper operator (paddle-wheel-auger type self-loading - two (2) or more units)

GROUP 13: Rubber-tired earth-moving equipment operator operating equipment with push-pull system (single engine, up to and including 25 yds. struck)

GROUP 14: Canal liner operator; Canal trimmer operator;
Remote- control earth-moving equipment operator (operating
a second piece of equipment: \$1.00 per hour additional);
Wheel excavator operator (over 750 cu. yds.)

GROUP 15: Rubber-tired earth-moving equipment operator,
operating equipment with push-pull system (single engine,
Caterpillar, Euclid, Athey Wagon and similar types with any
and all attachments over 25 yds. and up to and including 50
yds. struck); Rubber-tired earth-moving equipment operator,
operating equipment with push-pull system (multiple
engine-up to and including 25 yds. struck)

GROUP 16: Rubber-tired earth-moving equipment operator,
operating equipment with push-pull system (single engine,
over 50 yds. struck); Rubber-tired earth-moving equipment
operator, operating equipment with push-pull system
(multiple engine, Euclid, Caterpillar and similar, over 25
yds. and up to 50 yds. struck)

GROUP 17: Rubber-tired earth-moving equipment operator,
operating equipment with push-pull system (multiple engine,
Euclid, Caterpillar and similar, over 50 cu. yds. struck);
Tandem tractor operator (operating crawler type tractors in
tandem - Quad 9 and similar type)

GROUP 18: Rubber-tired earth-moving equipment operator,
operating in tandem (scrapers, belly dumps and similar
types in any combination, excluding compaction units -
single engine, up to and including 25 yds. struck)

GROUP 19: Rotex concrete belt operator (or similar types);
Rubber-tired earth-moving equipment operator, operating in
tandem (scrapers, belly dumps and similar types in any
combination, excluding compaction units - single engine,
Caterpillar, Euclid, Athey Wagon and similar types with any
and all attachments over 25 yds. and up to and including 50
cu. yds. struck); Rubber-tired earth-moving equipment
operator, operating in tandem (scrapers, belly dumps and
similar types in any combination, excluding compaction
units - multiple engine, up to and including 25 yds. struck)

GROUP 20: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps, and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 21: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck)

GROUP 22: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, up to and including 25 yds. struck)

GROUP 23: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 yds. struck); Rubber-tired earth-moving equipment operator, operating with the tandem push-pull system (multiple engine, up to and including 25 yds. struck)

GROUP 24: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 25: Concrete pump operator-truck mounted; Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple engine, Euclid,

Caterpillar and similar type, over 50 cu. yds. struck)

IRON0433-005 01/01/2019

REMAINING COUNTIES

	Rates	Fringes
IRONWORKER		
Fence Erector.....	\$ 32.58	23.41
Ornamental, Reinforcing		
and Structural.....	\$ 39.00	32.05

PREMIUM PAY:

\$6.00 additional per hour at the following locations:

China Lake Naval Test Station, Chocolate Mountains Naval Reserve-Niland,
Edwards AFB, Fort Irwin Military Station, Fort Irwin Training Center-Goldstone, San Clemente Island, San Nicholas Island, Susanville Federal Prison, 29 Palms - Marine Corps, U.S. Marine Base - Barstow, U.S. Naval Air Facility - Sealey, Vandenberg AFB

\$4.00 additional per hour at the following locations:

Army Defense Language Institute - Monterey, Fallon Air Base, Naval Post Graduate School - Monterey, Yermo Marine Corps Logistics Center

\$2.00 additional per hour at the following locations:

Port Hueneme, Port Mugu, U.S. Coast Guard Station - Two Rock

LAB00220-003 07/01/2018

Residential, 4 Stories

SAN LUIS OBISPO AND SANTA BARBARA COUNTIES

	Rates	Fringes
LABORER		
GROUP 1.....	\$ 34.24	19.07
GROUP 2.....	\$ 34.79	19.07
GROUP 3.....	\$ 35.34	19.07
GROUP 4.....	\$ 36.89	19.07
GROUP 5.....	\$ 37.24	19.07

LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete and patching; post hole digger (manual); Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Slurry seal crew (mixer operator, applicator operator, squeegee person, shuttle person, top person), filling of cracks by any method on any surface; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asbestos abatement; Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curb, gutters and sidewalks; Concrete curer,

impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt installation of all asphalt overlay fabric and materials used for reinforcing asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer (lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellow

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; operation of remote controlled robotic tools in connection with Laborer's work; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Power post hole digger; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Any worker exposed to raw sewage; Asphalt raker, lute person, ironer, asphalt dump person and asphalt spreader boxes (all types); Concrete core cutter (walls,

floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt-rubber distributor boot person; Laser beam in connection with laborers' work; Over-size concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting, Porta Shot-Blast; Traffic lane closure, Certified.

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all types of mechanical drills without regard to the form of motive power; Toxic waste removal; Boring system electronic tracking locator

LAB00220-006 07/01/2018

SAN LUIS OBISPO AND SANTA BARBARA COUNTIES

	Rates	Fringes
Brick Tender.....	\$ 32.26	18.40

LAB00300-002 07/01/2018

LOS ANGELES COUNTY

	Rates	Fringes
Brick Tender.....	\$ 32.26	18.40

LABO0300-004 07/01/2018

Residential, 4 Stories

LOS ANGELES COUNTY

	Rates	Fringes
LABORER		
GROUP 1.....	\$ 34.24	19.07
GROUP 2.....	\$ 34.79	19.07
GROUP 3.....	\$ 35.34	19.07
GROUP 4.....	\$ 36.89	19.07
GROUP 5.....	\$ 37.24	19.07

LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete and patching; post hole digger (manual); Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Slurry seal crew (mixer operator, applicator operator, squeegee person, shuttle person, top person), filling of cracks by any method on any surface; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method;

Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asbestos abatement; Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curb, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt installation of all asphalt overlay fabric and materials used for reinforcing asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer (lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellow

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; operation of remote controlled robotic tools in connection with Laborer's work; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and

all other services; Power post hole digger; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Any worker exposed to raw sewage; Asphalt raker, lute person, ironer, asphalt dump person and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt-rubber distributor boot person; Laser beam in connection with laborers' work; Over-size concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting, Porta Shot-Blast; Traffic lane closure, Certified.

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all types of mechanical drills without regard to the form of motive power; Toxic waste removal; Boring system electronic tracking locator

LABO0300-006 01/01/2018

	Rates	Fringes
Asbestos Removal Laborer.....	\$ 33.19	17.78

SCOPE OF WORK: Includes site mobilization, initial site cleanup, site preparation, removal of asbestos containing material and toxic waste (including lead abatement and any other toxic material), encapsulation, enclosure and disposal of asbestos containing materials and toxic waste(including lead abatement and any other toxic materials) by hand or with equipment or machinery; scaffolding, fabrication of temporary wooden barriers and assembly of decontamination stations.

LAB00300-007 07/01/2018

Residential, 3 Stories and under

	Rates	Fringes
Laborers		
(1) Cleanup, Fencing (Chain Link or Wood), Landscaping.....	\$ 32.76	15.82
(2) All Other Work.....	\$ 33.76	15.82

LAB00585-002 07/01/2018

Residential, 4 Stories

VENTURA COUNTY

	Rates	Fringes
LABORER		
GROUP 1.....	\$ 34.24	19.07
GROUP 2.....	\$ 34.79	19.07
GROUP 3.....	\$ 35.34	19.07
GROUP 4.....	\$ 36.89	19.07
GROUP 5.....	\$ 37.24	19.07

LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete and patching; post hole digger (manual); Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Slurry seal crew (mixer operator, applicator operator, squeegee person, shuttle person, top person), filling of cracks by any method on any surface; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asbestos abatement; Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curb, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt installation of all asphalt overlay fabric and materials used for reinforcing asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot

tender); Septic tank digger and installer (lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellow

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; operation of remote controlled robotic tools in connection with Laborer's work; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Power post hole digger; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Any worker exposed to raw sewage; Asphalt raker, lute person, ironer, asphalt dump person and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt-rubber distributor boot person; Laser beam in connection with laborers' work; Over-size concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material,

whether pipe, metallic or non-metallic,conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting,Porta Shot-Blast; Traffic lane closure, Certified.

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all types of mechanical drills without regard to the form of motive power; Toxic waste removal; Boring system electronic tracking locator

LAB00585-004 07/01/2018

VENTURA COUNTY

	Rates	Fringes
Brick Tender.....	\$ 32.26	18.40

LAB00652-002 07/01/2018

Residential, 4 Stories

ORANGE COUNTY

	Rates	Fringes
LABORER		
GROUP 1.....	\$ 34.24	19.07
GROUP 2.....	\$ 34.79	19.07
GROUP 3.....	\$ 35.34	19.07
GROUP 4.....	\$ 36.89	19.07

GROUP 5.....\$ 37.24

19.07

LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete and patching; post hole digger (manual); Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Slurry seal crew (mixer operator, applicator operator, squeegee person, shuttle person, top person), filling of cracks by any method on any surface; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asbestos abatement; Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curb, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt installation of all asphalt overlay fabric and materials used for reinforcing asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet

sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer (lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellow

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; operation of remote controlled robotic tools in connection with Laborer's work; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Power post hole digger; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Any worker exposed to raw sewage; Asphalt raker, lute person, ironer, asphalt dump person and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt-rubber distributor boot person; Laser beam in connection with laborers' work; Over-size concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of

operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic,conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting,Porta Shot-Blast; Traffic lane closure, Certified.

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all types of mechanical drills without regard to the form of motive power; Toxic waste removal; Boring system electronic tracking locator

LAB00652-004 07/01/2018

ORANGE COUNTY

	Rates	Fringes
Brick Tender.....	\$ 32.26	18.40

LAB00783-003 07/01/2018

Residential, 4 Stories

SAN BERNARDINO COUNTY

	Rates	Fringes
LABORER		
GROUP 1.....	\$ 34.24	19.07
GROUP 2.....	\$ 34.79	19.07
GROUP 3.....	\$ 35.34	19.07

GROUP 4.....	\$ 36.89	19.07
GROUP 5.....	\$ 37.24	19.07
GROUP.....	\$ 35.84	18.24

LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete and patching; post hole digger (manual); Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Slurry seal crew (mixer operator, applicator operator, squeegee person, shuttle person, top person), filling of cracks by any method on any surface; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asbestos abatement; Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chuck tender; Chute handler, pouring concrete, the handling of the chute from ready mix trucks, such as walls, slabs, decks, floors, foundation, footings, curb, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt installation of all asphalt overlay fabric and materials used for reinforcing asphalt; Laborer, packing rod steel

and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer (lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellow

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; operation of remote controlled robotic tools in connection with Laborer's work; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Power post hole digger; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Any worker exposed to raw sewage; Asphalt raker, lute person, ironer, asphalt dump person and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt-rubber distributor boot person; Laser beam in connection with laborers' work; Over-size concrete vibrator operator, 70 lbs. and over; Pipelayer performing

all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting, Porta Shot-Blast; Traffic lane closure, Certified.

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all types of mechanical drills without regard to the form of motive power; Toxic waste removal; Boring system electronic tracking locator

LAB00783-006 07/01/2018

SAN BERNARDINO COUNTY

	Rates	Fringes
Brick Tender.....	\$ 32.26	18.40

LAB01184-001 07/01/2019

	Rates	Fringes
Laborers: (HORIZONTAL DIRECTIONAL DRILLING)		
(1) Drilling Crew Laborer...	\$ 36.70	15.05
(2) Vehicle Operator/Hauler.	\$ 36.87	15.05
(3) Horizontal Directional Drill Operator.....	\$ 38.72	15.05

(4) Electronic Tracking

Locator.....	\$ 40.72	15.05
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Laborers: (STRIPING/SLURRY

SEAL)

GROUP 1.....	\$ 37.91	18.06
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GROUP 2.....	\$ 39.21	18.06
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GROUP 3.....	\$ 41.22	18.06
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GROUP 4.....	\$ 42.96	18.06
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LABORERS - STRIPING CLASSIFICATIONS

GROUP 1: Protective coating, pavement sealing, including repair and filling of cracks by any method on any surface in parking lots, game courts and playgrounds; carstops; operation of all related machinery and equipment; equipment repair technician

GROUP 2: Traffic surface abrasive blaster; pot tender - removal of all traffic lines and markings by any method (sandblasting, waterblasting, grinding, etc.) and preparation of surface for coatings. Traffic control person: controlling and directing traffic through both conventional and moving lane closures; operation of all related machinery and equipment

GROUP 3: Traffic delineating device applicator: Layout and application of pavement markers, delineating signs, rumble and traffic bars, adhesives, guide markers, other traffic delineating devices including traffic control. This category includes all traffic related surface preparation (sandblasting, waterblasting, grinding) as part of the application process. Traffic protective delineating system installer: removes, relocates, installs, permanently affixed roadside and parking delineation barricades, fencing, cable anchor, guard rail, reference signs, monument markers; operation of all related machinery and equipment; power broom sweeper

GROUP 4: Striper: layout and application of traffic stripes and markings; hot thermo plastic; tape traffic stripes and markings, including traffic control; operation of all

related machinery and equipment

LAB01184-003 07/01/2018

Residential, 4 Stories

IMPERIAL AND RIVERSIDE COUNTIES

	Rates	Fringes
LABORER		
GROUP 1.....	\$ 34.24	19.07
GROUP 2.....	\$ 34.79	19.07
GROUP 3.....	\$ 35.34	19.07
GROUP 4.....	\$ 36.89	19.07
GROUP 5.....	\$ 37.24	19.07

LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete and patching; post hole digger (manual);Railroad maintenance, repair track person and road beds;Streetcar and railroad construction track laborers; Rigging andsignaling; Scaler; Slip form raiser; Slurry seal crew (mixer operator, applicator operator, squeegee person, shuttle person, top person), filling of cracks by any method on any surface; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asbestos abatement; Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curb, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt installation of all asphalt overlay fabric and materials used for reinforcing asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer (lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellow

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; operation of remote controlled robotic tools in connection with Laborer's work; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Power post hole digger; Rock slinger; Rotary scarifier or multiple head concrete chipping

scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Any worker exposed to raw sewage; Asphalt raker, lute person, ironer, asphalt dump person and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt-rubber distributor boot person; Laser beam in connection with laborers' work; Over-size concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting, Porta Shot-Blast; Traffic lane closure, Certified.

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all types of mechanical drills without regard to the form of motive power; Toxic waste removal; Boring system electronic tracking locator

LAB01184-005 07/01/2019

IMPERIAL AND RIVERSIDE COUNTIES

	Rates	Fringes
Brick Tender.....	\$ 33.06	19.17

LAB01414-002 08/07/2019

	Rates	Fringes
Laborers: (1 to 3 Stories)		
Plaster Clean-Up Laborer....	\$ 32.82	20.02
Plaster Tender.....	\$ 35.37	20.02
Laborers: (4 Stories)		
Plaster Clean-up Laborer....	\$ 32.82	20.02
Plaster Tender.....	\$ 35.37	20.02

Work on a swing stage scaffold: \$1.00 per hour additional.

Work at Military Bases - \$3.00 additional per hour:

Coronado Naval Amphibious Base, Fort Irwin, George AFB,
Marine Corps Air Station-29 Palms, Imperial Beach Naval Air
Station, Marine Corps Logistics Supply Base, Marine Corps
Pickle Meadows, Mountain Warfare Training Center, Naval
Air Facility-Seeley, North Island Naval Air Station,
Vandenberg AFB.

PAIN0036-005 07/01/2018

	Rates	Fringes
PAINTER (including lead abatement)		
Imperial, Los Angeles, Orange, Riverside & San Bernardino		
(1) Repaint.....	\$ 27.59	14.92
(2) All other work.....	\$ 31.12	15.04
(3) Journeyman & Industrial.....	\$ 32.02	12.93
San Luis Obispo, Santa Barbara & Ventura		

(1) Repaint.....	\$ 24.40	14.82
(2) All other work.....	\$ 29.04	14.98
(3) Journeyman & Industrial.....	\$ 32.52	15.44

PAIN0036-011 10/01/2018

IMPERIAL, LOS ANGELES, ORANGE, RIVERSIDE, SAN BERNARDINO, SAN
LUIS OBISPO, SANTA BARBARA AND VENTURA COUNTIES

	Rates	Fringes
DRYWALL FINISHER/TAPER.....	\$ 24.02	17.01

PAIN0036-014 06/01/2019

IMPERIAL

	Rates	Fringes
GLAZIER.....	\$ 43.45	26.93

PAIN0036-018 06/01/2018

LOS ANGELES, ORANGE, RIVERSIDE, SAN BERNARDINO, SANTA BARBARA
AND VENTURA

	Rates	Fringes
GLAZIER.....	\$ 42.20	25.50

FOOTNOTE: Additional \$1.25 per hour for work in a condo,
from the third (3rd) floor and up. Additional \$1.25 per
hour for work on the outside of the building from a swing
stage or any suspended contrivance, from the ground up.

PAIN0036-020 01/01/2019

IMPERIAL

	Rates	Fringes
SOFT FLOOR LAYER.....	\$ 31.02	14.37

PAIN0169-007 01/01/2018		

SAN LUIS OBISPO

	Rates	Fringes
GLAZIER.....	\$ 35.00	26.26

PAIN1247-003 01/01/2019		

LOS ANGELES, ORANGE, RIVERSIDE, SAN BERNARDINO, SAN LUIS
OBISPO, SANTA BARBARA AND VENTURA

	Rates	Fringes
SOFT FLOOR LAYER.....	\$ 35.35	14.56

PLAS0200-002 08/02/2017		

IMPERIAL, KERN, LOS ANGELES, ORANGE, RIVERSIDE, SAN BERNARDINO,
SAN LUIS OBISPO, SANTA BARBARA AND VENTURA

	Rates	Fringes
PLASTERER		
1 - 3 stories.....	\$ 32.61	20.08
4-stories.....	\$ 35.61	20.08

PLAS0500-003 07/01/2018		

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 35.75	22.48

PLUM0016-011 09/01/2018		
	Rates	Fringes
PLUMBER/PIPEFITTER		
Residential.....	\$ 40.23	18.08

PLUM0250-001 09/04/2017		
LOS ANGELES AND ORANGE		
	Rates	Fringes
REFRIGERATION MECHANIC		
Refrigeration Fitter.....	\$ 45.50	21.65

ROOF0036-001 08/01/2018		
LOS ANGELES, ORANGE, RIVERSIDE, SAN BERNARDINO, SAN LUIS OBISPO, SANTA BARBARA AND VENTURA		
	Rates	Fringes
Roofer.....	\$ 38.12	16.97
FOOTNOTE: Pitch premium: Work on which employees are exposed to pitch fumes or required to handle pitch, pitch base or pitch impregnated products, or any material containing coal tar pitch, the entire roofing crew shall receive \$1.75 per hour ""pitch premium"" pay.		

ROOF0045-003 07/01/2019		
IMPERIAL		
	Rates	Fringes

Roofer.....\$ 34.259.10

SFCA0669-005 04/01/2018

AREA 1: IMPERIAL COUNTY; LOS ANGELES COUNTY (does not include the city of Pomona, Catalina Island, and that part of Los Angeles County within 25 miles of the city limits of Los Angeles); ORANGE COUNTY (does not include Catalina Island; San Clemente Island; City of Santa Ana; and remainder of Orange County within 25 miles of the city limits of Los Angeles); RIVERSIDE COUNTY; AND SAN BERNARDINO COUNTY (does not include the northern part of City of Chino, or the cities of Montclair and Ontario)

AREA 2: SAN LUIS OBISPO, SANTA BARBARA COUNTIES, VENTURA (does not include Port Hueneme, Port Mugu, the city of Santa Paula, and that part of Ventura County within 25 miles of the city limits of Los Angeles) COUNTIES

	Rates	Fringes
SPRINKLER FITTER		
Area 1.....	\$ 38.28	15.84
Area 2.....	\$ 38.85	21.87

SFCA0709-002 01/01/2018

LOS ANGELES COUNTY (the city of Pomona, Catalina Island, and that part of Los Angeles County within 25 miles of the city limits of Los Angeles); ORANGE COUNTY (San Clemente Island, the city of Santa Ana, and that part of Orange County within 25 miles of the city limits of Los Angeles); SAN BERNARDINO COUNTY (the northern part of the city of Chino, and the cities of Montclair and Ontario); VENTURA COUNTY (Port Hueneme, Port Mugu, the city of Santa Paula, and that part of Ventura County within 25 miles of the city limits of Los Angeles)

	Rates	Fringes
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SPRINKLER FITTER.....\$ 42.2625.92

SHEE0105-001 07/01/2018

AREA 1: LOS ANGELES COUNTY (South of a straight line drawn between gorman and Big Pines, excluding the area South of Imperial Highway East of the Los Angeles River, excluding the cities of Long Beach, Claremont, and Pomona, excluding Catalina Island)

AREA 2: LOS ANGELES (Remainder), ORANGE, RIVERSIDE & SAN BERNARDINO COUNTIES

Work on general sheet metal and heating and air conditioning on single family dwellings, multiple family dwellings, track homes and apartment buildings individually conditioned by separate and independent units or systems

	Rates	Fringes
SHEET METAL WORKER		
AREA 1.....	\$ 26.57	10.42
AREA 2.....	\$ 29.54	19.09

SHEE0206-003 07/01/2019

IMPERIAL

	Rates	Fringes
Sheet Metal (TECHNICIAN).....	\$ 29.25	8.87
SHEET METAL WORKER.....	\$ 38.94	28.51

SHEET METAL TECHNICIAN - SCOPE:

a. Existing residential buildings, both single and multi-family, where each unit is heated and/or cooled by a separate system b. New single family residential buildings including tracts. c. New multi-family residential buildings, not exceeding five stories of living space in height, provided each unit is heated or cooled by a

separate system. Hotels and motels are excluded. d. LIGHT
COMMERCIAL WORK: Any sheet metal, heating and air
conditioning work performed on a project where the total
construction cost, excluding land, is under \$1,000,000 e.
TENANT IMPROVEMENT WORK: Any work necessary to finish
interior spaces to conform to the occupants of commercial
buildings, after completion of the building shell

SHEE0273-001 08/01/2018

SAN LUIS OBISPO, SANTA BARBARA AND VENTURA

	Rates	Fringes
SHEET METAL WORKER.....	\$ 43.88	28.97
HOLIDAYS: New Year's Day, Martin Luther King Day, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans Day,Thanksgiving Day & Friday after, Christmas Day		

TEAM0011-001 07/01/2018

	Rates	Fringes
Truck drivers:		
GROUP 1.....	\$ 30.59	28.59
GROUP 2.....	\$ 30.74	28.59
GROUP 3.....	\$ 30.87	28.59
GROUP 4.....	\$ 31.06	28.59
GROUP 5.....	\$ 31.09	28.59
GROUP 6.....	\$ 31.12	28.59
GROUP 7.....	\$ 31.37	28.59
GROUP 8.....	\$ 31.62	28.59
GROUP 9.....	\$ 31.82	28.59
GROUP 10.....	\$ 31.12	28.59
GROUP 11.....	\$ 32.62	28.59
GROUP 12.....	\$ 33.05	28.59

WORK ON ALL MILITARY BASES - \$3.00 PER HOUR ADDITIONAL:

[29 palms Marine Base, Camp Roberts, China Lake, Edwards AFB,
El Centro Naval Facility, Fort Irwin, George AFB, Marine
Corps Logistics Base at Nebo & Yermo, Mountain Warfare
Training Center, Bridgeport, Point Arguello, Point
Conception, Vandenberg AFB]

TRUCK DRIVERS CLASSIFICATIONS

GROUP 1: Truck driver

GROUP 2: Driver of vehicle or combination of vehicles - 2
axles; Traffic control pilot car excluding moving heavy
equipment permit load; Truck mounted broom

GROUP 3: Driver of vehicle or combination of vehicles - 3
axles; Boot person; Cement mason distribution truck; Fuel
truck driver; Water truck - 2 axle; Dump truck, less than
16 yds. water level; Erosion control driver

GROUP 4: Driver of transit mix truck, under 3 yds.; Dumpcrete
truck, less than 6-1/2 yds. water level

GROUP 5: Water truck, 3 or more axles; Truck greaser and tire
person (\$0.50 additional for tire person); Pipeline and
utility working truck driver, including winch truck and
plastic fusion, limited to pipeline and utility work;
Slurry truck driver

GROUP 6: Transit mix truck, 3 yds. or more; Dumpcrete truck,
6-1/2 yds. water level and over; Vehicle or combination of
vehicles - 4 or more axles; Oil spreader truck; Dump truck,
16 yds. to 25 yds. water level

GROUP 7: A Frame, Swedish crane or similar; Forklift driver;
Ross carrier driver

GROUP 8: Dump truck, 25 yds. to 49 yds. water level; Truck
repair person; Water pull - single engine; Welder

GROUP 9: Truck repair person/welder; Low bed driver, 9 axles
or over

GROUP 10: Dump truck - 50 yds. or more water level; Water
pull - single engine with attachment

GROUP 11: Water pull - twin engine; Water pull - twin engine
with attachments; Winch truck driver - \$1.25 additional
when operating winch or similar special attachments

GROUP 12: Boom Truck 17K and above

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

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

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)).

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

Union Rate Identifiers

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

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

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all

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

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

Union Average Rate Identifiers

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

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

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"

REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION

December 08, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Construction Contract for Roofing and Insulation Work at the Williams Senior Affordable Housing Complex

RECOMMENDATION(S)

1. Award a construction contract, effective December 9, 2020, to Commercial Waterproofing Systems, Inc. dba ERC Roofing & Waterproofing for roofing and insulation work at the Williams Senior Affordable Housing complex located in the City of Barstow in an amount not to exceed \$305,927.69.
2. Authorize and direct the Executive Director to execute and deliver the contract with Commercial Waterproofing Systems, Inc. dba ERC Roofing & Waterproofing and, upon consultation with Legal Counsel, to approve any non-financial revisions necessary to complete the transaction.

(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

HACSB is a leading developer and provider of affordable housing in the County of San Bernardino.

HACSB residents live in safe and desirable homes and communities.

FINANCIAL IMPACT

This item is not expected to exceed \$305,927.69, which will be funded through the Housing Authority of the County of San Bernardino's (HACSB) reserve account that has been established for this property's Rental Assistance Demonstration (RAD) conversion process.

BACKGROUND INFORMATION

HACSB has actively pursued the United States Department of Housing and Urban Development's (HUD) RAD program in order to convert its Public Housing units to Project-Based Housing Choice Voucher (HCV) units. This allows for the stabilization of revenue to these communities as traditionally HCV funding has been less prone to federal funding cuts than the Public Housing program. HACSB has converted over 1,000 units under the RAD program since 2013 and the Barstow Public Housing community is one of the most recent RAD conversions. This contract is for site-based roofing and insulation work pertaining to 40 units at the Williams Senior Complex.

One requirement of a property's RAD conversion is to conduct a Physical Condition Assessment (PCA) of the properties to determine capital needs improvements at each property. Completing the work identified in the PCA is a condition that must be met for the RAD conversion. The capital improvement work that has been identified in the PCA includes the replacement of the roof system and installation of additional attic insulation. This work will address potential roof leaks, reduce the electrical utility usage, improve resident comfort, and improve the curb appeal for the property. HACSB has communicated to the contractor that they must work with HACSB staff to minimize any inconvenience to residents. Approval of this construction contract to Commercial

Waterproofing Systems, Inc. will allow for roofing and insulation work at the Williams Senior Affordable Housing Complex.

PROCUREMENT

On September 21, 2020, HACSB issued an Invitation for Bid (IFB) PC1195 for Roofing and Insulation which resulted in the receipt of two proposals. Outreach efforts included email invitations to contractors and 53 vendor notifications through the agency's electronic bidding software, PlanetBids.com. The proposals were evaluated per the requirements of the IFB in which Commercial Waterproofing Systems, Inc. dba ERC Roofing & Waterproofing had the lowest price, was considered responsive, and determined qualified to provide this service to HACSB.

Sealed bids were received by the deadline from the following organizations:		
<u>Contractors Name</u>	<u>Location</u>	<u>Bid Amount</u>
Commercial Waterproofing Systems, Inc. dba ERC Roofing & Waterproofing	Santa Ana, CA	\$305,927.69
Final Touch Construction & Design, Inc.	Fontana, CA	\$365,014.70

Based on the responses for these services, which were solicited to an adequate number of sources and in accordance with Title 2 Code of Federal Regulations Part 200, staff recommends awarding a contract for roofing and insulation work to Commercial Waterproofing Systems, Inc. dba ERC Roofing & Waterproofing and authorize and direct the Executive Director to execute and deliver the contract with Commercial Waterproofing Systems, Inc. dba ERC Roofing & Waterproofing and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on November 23, 2020.

CONTRACT FOR CONSTRUCTION
(FOR CONSTRUCTION CONTRACTS GREATER THAN \$150,000)

THIS CONTRACT FOR CONSTRUCTION AGREEMENT ("Agreement") is made as of the 9th day of December, 2020 by and between Commercial Waterproofing Systems, Inc. dba ERC Roofing & Waterproofing ("Contractor"), and the Housing Authority of the County of San Bernardino, a public entity ("HACSB").

RECITALS

WHEREAS, HACSB is a public entity in San Bernardino County, State of California, committed to provide affordable and safe public housing for low and moderate income families; and

WHEREAS, Contractor has offered to provide certain services to HACSB, and HACSB wishes to retain Contractor for the provision of such services.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the foregoing Recitals, which Recitals are incorporated herein by this reference, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the mutual covenants contained herein, Contractor and HACSB hereby agree as follows:

ARTICLE 1. Description of Work. Contractor will furnish all work, labor, tools, equipment, materials, supervision, scheduling, coordination, and contract administration ("Work") necessary to construct and complete those certain improvements described on Exhibit "A", attached hereto and incorporated herein by reference ("Work"), which Work shall be performed in compliance with the plans and specifications described in the I.F.B PC1195, incorporated herein by reference. The Work shall be performed in a good and workmanlike manner. In connection with the performance of the Work, Contractor shall comply with all of the Contract Documents (as hereinafter defined).

ARTICLE 2. Time of Completion. Contractor shall commence the Work on or after the date specified in the written Notice to Proceed issued by HACSB, and shall fully complete all Work within 60 calendar days after the commencement date.

ARTICLE 3. Price. This is a firm Fixed Price Agreement as that phrase is defined in the General Conditions (as hereinafter defined). The price shall be \$305,927.69. This amount is full consideration for this Agreement as written.

ARTICLE 4. Payment. Unless otherwise specified, Payment shall be made in accordance with and in the manner specified in the General Conditions.

ARTICLE 5. Contract Documents. This Agreement incorporates by reference all of the following documents (the "Contract Documents"):

1. Scope of work attached hereto as Exhibit "A" and incorporated herein by reference.
2. General Conditions (form HUD 5370), attached hereto as Exhibit "B" and incorporated herein by reference.
3. Additional General Provisions, attached hereto as Exhibit "C" and incorporated herein by reference ("Additional Provisions").
4. Performance-Payment Bond ("Performance Bond"), attached hereto as Exhibit "D" and incorporated herein by reference.
5. Stipulation of Lien ("Stipulation of Lien"), attached hereto as Exhibit "E" and incorporated herein by reference.
6. Supplementary Conditions of the Contract for Construction (form HUD-92554M) attached hereto as Exhibit "F" and incorporated herein by reference.

7. Federal Labor Standards Provisions (form HUD-4010) attached hereto as Exhibit "G" and incorporated herein by reference.
8. Applicable prevailing wages determined by the United States Department of Labor pursuant to the Davis-Bacon Act. Information relating to the Davis-Bacon Act may be found at <http://www.gpo.gov/davisbacon/>. **Wage Determination CA20200017 10/09/2020 MOD 18**, attached hereto as Exhibit "H" and incorporated herein by reference.
9. All agreements, addendums, representations, warranties, covenants, and certifications of Contractor made in connection with the procurement of this Agreement including all documents that are included in the bid package for PC1195.
10. All applicable Federal, State, and Local laws, ordinances and regulations related to this Agreement shall be incorporated herein by reference. This Agreement is funded by the U.S. Department of Housing and Urban Development, and is subject to all regulations and requirements for agreements funded by HUD. Federal Regulations may be found at <http://www.gpoaccess.gov>. State of California regulations may be found at <http://www.leginfo.ca.gov>. For laws the County of San Bernardino, go to <http://www.sblawlibrary.org>.

ARTICLE 6. Best Efforts. Contractor shall perform its duties on premises approved by HACSB, during HACSB'S regular work days and normal work hours and warrants that it shall perform its services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Contractor acknowledges that HACSB has the right to review the services performed by Contractor and may in its reasonable business discretion, reject such services in writing.

ARTICLE 7. No Conflicts. HACSB acknowledges that Contractor has other business and personal interests, separate and apart from the services contemplated by this Agreement, and nothing in this Agreement is intended to preclude Contractor from devoting time and attention to such business and personal interests. HACSB further acknowledges that Contractor has the right to accept other engagements as long as said engagements do not represent a conflict of interest with respect to the Work or the obligations of Contractor to HACSB pursuant to this Agreement. In connection with Contractor's performance of the Work hereunder, Contractor represents that there exists no actual, potential or appearance of conflict arising out of Contractor's business and financial interests.

ARTICLE 8. Limit of Engagement. This Agreement does not and shall not be construed to create any partnership or agency whatsoever beyond the purposes set forth in Article 1 hereof. Contractor shall not be deemed to be a partner, joint venturer, agent or legal representative of HACSB for any purpose, nor shall Consultant have any authority or power to act for, or to undertake any obligation or responsibility, on behalf of HACSB or corporations affiliated with HACSB, other than as expressly herein provided.

ARTICLE 9. Responsibilities of HACSB. If information, data, or documentation necessary to facilitate Contractor's performance of the Work is required to be provided by HACSB, HACSB shall provide such information upon request by Contractor. Should Contractor determine that a delay in its performance has occurred, which is solely attributable to a failure of HACSB, Contractor will promptly notify HACSB in writing.

ARTICLE 10. Change Orders. HACSB shall have the right, from time to time, to make changes to the Work by change order as set forth in the Contract Documents.

ARTICLE 11. Return of HACSB Property. All reports, plans, designs, specifications, field data, construction documents, and other documents and instruments, including electronic files, but excluding Contractor's notes, relating to the Work shall be and remain the property of HACSB and shall be turned over to HACSB promptly upon the completion of the Work, or upon the earlier termination of this Agreement. Contractor hereby waives and assigns to HACSB all intellectual property or common law rights Contractor may develop in the Work. Contractor shall not use any trademarks owned by HACSB without HACSB's prior written authorization.

ARTICLE 12. Confidential Information. HACSB agrees to make available to Contractor information that may be needed to perform the Work. Such information may include information HACSB considers to be confidential. For

purposes hereof, "Confidential Information" of HACSB means any nonpublic, proprietary information or technology used in HACSB's business, and any materials evidencing the same (specifically, including, without limitation, technical data or know-how relating to development plans, business plans, services, customers, markets, inventions (whether patentable or not), processes, designs, drawings, research, developments, strategies, marketing and/or financial information). Unless HACSB acknowledges that any such information provided under this Agreement is not Confidential Information, all information provided by HACSB to Contractor shall be considered to be Confidential Information. Unless approved in advance in writing or compelled to make such disclosure by a government agency, by court order, or by law, Contractor shall not disclose, transfer, distribute or allow access to any of HACSB's Confidential Information to any third parties, except those individuals employed by Contractor and who are specifically authorized by Contractor to perform the Work contemplated in this Agreement.

ARTICLE 13. Performance Bond. Contractor certifies that prior to its commencement of Work it shall provide to HACSB a written, fully executed Performance Bond, in substantially the form attached hereto as Exhibit "D", and incorporated herein by reference.

ARTICLE 14. Indemnity; Hold Harmless. Contractor agrees to defend, save, indemnify and hold harmless HACSB and all its officers, employees, and agents, against any and all liabilities, claims, judgments, or demands, including demands arising from injuries or death of persons (Contractor's employees included) and damage to property, arising directly or indirectly out of the performance of the Work, the obligations herein undertaken or out of the operations conducted by Contractor, save and except claims or litigation to the extent arising through the active negligence or willful misconduct of HACSB. Contractor shall reimburse HACSB for any expenditures, including reasonable attorneys' fees, HACSB may incur arising out of any such claim or litigation, and, if requested by HACSB, Contractor shall defend any such suits at the sole cost and expense of Contractor with counsel selected by HACSB.

ARTICLE 15. Compliance with Contract Documents. Contractor shall comply with all of the Contract Documents in connection with the performance of the Work hereunder. In the event of any conflict between this Agreement and the Contract Documents, the Contract Documents shall control.

ARTICLE 16. Warranty/Guarantee.

- a. Contractor warrants and guarantees that any work and/or materials supplied or installed in Contractor's performance of all contracts awarded and executed under this Agreement for HACSB will be done in accordance with the Plans and Specifications and that the Work, as installed, will fulfill the requirements of the Specifications. Contractor agrees to repair or replace any or all of its Work, together with any adjacent Work which may be displaced by so doing, that may prove to be defective in its workmanship or material within a period of two (2) years from the date of completion of the Project, except for ordinary wear and tear, unusual abuse or neglect on the part of HACSB.
- b. Contractor's warranty in no way supersedes any manufacturer's warranty or guarantee for any equipment or material supplied, or process used in the installation. The full effect of all manufacturers' warranties voided by improper installation or process will be guaranteed by Contractor for the full life of the manufacturer's warranty.
- c. In the event of Contractor's failure to comply with the conditions of this Article within a reasonable period of time as determined by HACSB and after being notified in writing, Contractor hereby authorizes HACSB to proceed to have said defect repaired and made good at Contractor's expense and will honor and pay the costs and charges therefore upon demand.

ARTICLE 17. Superintendence by Contractor. Contractor shall give his personal superintendence to the Work or have a competent superintendent, satisfactory to HACSB and/or the Architect, if any, on the Project at all times during progress with full authority to act for him.

ARTICLE 18. Accident Prevention. Contractor shall exercise proper precaution at all times for the protection of persons and property. The safety provisions of applicable law, building and construction codes shall be observed, and Contractor shall take or cause to be taken such additional safety and health measures as HACSB may determine to be reasonably necessary. Machinery, equipment and all hazards shall be guarded in accordance with the safety provisions of the State of California Construction Safety Orders (CCR Title 8, Chapter 4, Subchapter 4, as amended) and the "Manual of Accident Prevention in Construction", published by the Associated General Contractors of America, to the extent that such provisions are not in contravention of applicable laws.

ARTICLE 19. Removal of Debris, Cleaning. Contractor shall, daily or as directed during the progress of the Work on the Project, remove and properly dispose of the resultant trash, dirt and debris, and keep the premises reasonably clear.

ARTICLE 20. Designation of Subcontractors.

- a. In compliance with the Subletting and Subcontracting Fair Practices Act (California Public Contract Code section 4100 et seq.) and any amendments thereof, each bidder shall set forth: (a) the name, the location of the place of business, and the California contractor license number of each subcontractor who will perform work or labor or render service to Contractor in or about the construction of the Project under this Agreement or a subcontractor licensed by the State of California who, under subcontract to Contractor, specially fabricates and installs a portion of the Project according to the Plans and Specifications in an amount in excess of one-half of one percent of Contractor's total bid, and (b) the portion of the Work which will be done by each subcontractor.
- b. If Contractor fails to specify a subcontractor or if Contractor specifies more than one subcontractor for the same portion of the Work performed for the Project in excess of one-half of one percent of Contractor's total bid, he shall be deemed to have agreed that he is fully qualified to perform that portion himself, and that he shall perform that portion himself.
- c. Contractor shall not: (a) substitute any subcontractor, (b) permit any subcontract to be voluntarily assigned or transferred or allow it to be performed by any one other than the original subcontractor listed in the original bid, or (c) sublet or subcontract any portion of the Work on the Project in excess of one-half of one percent of Contractor's total bid as to which the original bid did not designate a subcontractor, except as authorized by HACSB.
- d. Subletting or subcontracting of any portion of the Work on the Project in excess of one-half of one percent of Contractor's total bid as to which no subcontractor has been designated in the original bid shall only be permitted in cases of public record of HACSB wherein HACSB has set forth the facts constituting the emergency or necessity.

ARTICLE 21. Stipulation of Lien. Contractor certifies that all Work executed under this Agreement will be performed in accordance with the Agreement terms and there will be no claims of laborers or mechanics for unpaid wages arising out of the performance of said Agreement. In consideration of the payment under the terms of the Agreement, Contractor hereby does release HACSB from any and all claims arising from any contract awarded by this process. Contractor shall prepare and submit to HACSB, a written Stipulation of Lien, in substantially the form

attached hereto as Exhibit "E", and incorporated herein by reference. The Stipulation of Lien shall be recorded in the County Recorder's Office of San Bernardino County, California.

ARTICLE 22. Assignment. Neither the Agreement, nor any part thereof, nor moneys due or to become due there under may be assigned by Contractor without the prior written approval of HACSB.

ARTICLE 23. Rights and Remedies of HACSB for Default.

In the event any goods furnished or services provided by Contractor in the performance of the Work should fail to conform to the requirements herein, or to the sample submitted by Contractor, HACSB may reject the same, and it shall become the duty of Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to HACSB, and immediately replace all such rejected items with others conforming to the Agreement.

- a. In addition to any other rights and remedies HACSB may have, HACSB may require Contractor, at Contractor's expense, to ship goods via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of Contractor.
- b. In the event of the termination of the Agreement, either in whole or in part, by reason of default or breach by Contractor, any loss or damage sustained by HACSB in procuring any items which Contractor agreed to supply shall be borne and paid for by Contractor.
- c. HACSB reserves the right to offset the reasonable cost of all damages caused to HACSB against any outstanding invoices or amounts owed to Contractor or to make a claim against Contractor therefore.

ARTICLE 24. Termination. In addition to the rights of Termination for Convenience of HACSB and Termination for Default set forth in the Contract Documents, HACSB may terminate this Agreement if Contractor should file a bankruptcy petition and/or be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of insolvency (as referenced in HUD Form 5370 Section 34 page 12). HACSB may serve written notice upon Contractor of its intention to terminate the Agreement. The notice shall contain the reasons for such intention to terminate the Agreement, and, unless within ten (10) days after serving such notice, such violation shall cease and satisfactory arrangements for correction thereof be made, upon the expiration of the ten (10) days, the Agreement shall cease and terminate. In the event of any such termination, HACSB shall serve written notice thereof upon any surety and Contractor, and any such surety shall have the right to take over and perform Contractor's obligations pursuant to this Agreement; provided, however, that if such surety does not provide HACSB written notice of its intention to take over and perform the Work required under this Agreement within fifteen (15) days after receiving such written notice, or such surety does not commence performance thereof within thirty (30) days after providing such written notice to HACSB, HACSB shall have the right to perform all uncompleted portions of the Work and to prosecute the same to completion by contract or by any other method it deems advisable, for the account and at the expense of Contractor, and Contractor and its surety shall be liable to HACSB for any excess costs occasioned HACSB thereby and, in such event, HACSB may, without liability for doing so, take possession of and utilize in completing the Work, such materials, appliances, and other property belonging to Contractor as may be on the site of the Work and necessary for the performance of the Work.

ARTICLE 25. Notices. All notices required pursuant to this Agreement shall be communicated in writing, and shall be delivered in person, by commercial courier providing proof of delivery, or by certified mail, return receipt requested.

All notices sent pursuant to this Agreement shall be addressed as follows:

If to HACSB:

Angie Lardapide, Procurement & Contracts
Housing Authority of the County of San Bernardino
715 E. Brier Drive
San Bernardino, CA 92408-2841
alardipide@hacsb.com

If to Contractor:

Garrett Clark, President
Commercial Waterproofing Systems, Inc. dba ERC
Roofing & Waterproofing.
1630 Palm Street
Santa Ana, CA 92701
estimating@ercroofing.com

Notices will be deemed effective upon receipt or rejection only.

ARTICLE 26. Complete Agreement. This written Agreement is the final, complete and exclusive statement and expression of the agreement between HACSB and Contractor and of all the terms of this Agreement and cannot be varied, contradicted, nor supplemented by evidence of any prior or contemporaneous oral or written agreements.

ARTICLE 27. Applicable Law/Venue. This Agreement shall be construed and interpreted in accordance with the internal laws of the State of California, with proper venue for any litigation in San Bernardino County, California.

ARTICLE 28. Severability; Headings. If any portion of this Agreement is held invalid or inoperative, the other portions of this Agreement shall be deemed valid and operative and so far as is reasonable and possible, effect shall be given to the intent manifested by the portion held invalid or inoperative. The section headings herein are for reference purposes only and are not intended in any way to describe, interpret, define or limit the extent or intent of this Agreement or of any part hereof.

ARTICLE 29. Interpretation. Should any provision of this Agreement require interpretation, it is agreed that the person or persons interpreting or construing the same shall not apply a presumption that the terms of this Agreement shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent or counsel prepared the same or caused the same to be prepared; it being agreed that the agents and counsel of all of the parties have participated equally in the negotiation and preparation of this Agreement. The language in all parts of this Agreement shall be in all cases construed simply, fairly, equitably and reasonably, according to its plain meaning and not strictly for or against any of the parties.

ARTICLE 30. Counterparts. This Agreement may be executed in multiple counterparts, and when so executed by each of the parties hereto shall constitute a single agreement binding upon all of the parties hereto.

ARTICLE 31. Licensed Contractor. Contractor represents and warrants that it is a licensed contractor in good standing with the California Contractors State License Board.

[END – SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, HACSB and Contractor have entered into this Agreement as of the Effective Date. December 9, 2020 (PC1195 Roofing & Insulation, Williams RAD Project)

Date: _____

Commercial Waterproofing Systems, Inc. dba ERC Roofing & Waterproofing

By: _____ (Affix seal if a corporation)

Name: _____

Its: _____

CERTIFICATE OF CORPORATE AUTHORITY

I, _____ certify that I am the _____ of the corporation named as Contractor herein; that _____ who signed this Agreement on behalf of Contractor, was then _____ of said corporation; that said Contract was duly signed for and in behalf of said corporation and its governing body and is within the scope of its corporate powers.

By: _____

Name: _____

Its: _____

Date: _____

HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO

By: _____

Name: Maria Razo

Its: Executive Director

Date: _____

Exhibit “A”

Scope Of Work

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1 PROJECT INFORMATION

PROJECT NAME	PC1122 Concrete and Masonry, Barstow RAD Rehab
OWNER	Housing Authority of the County of San Bernardino (HACSB)
PROJECT SITE	921 Bighorn Drive Barstow, CA 92311
CONTACT INFORMATION	Mark VanWey, Project Coordinator, HACSB (909)-332-6858 mvanwey@hacsb.com
PROJECT DESCRIPTION	Concrete and Masonry Repairs and Replacement

2 PROJECT OVERVIEW

The Housing Authority of the County of San Bernardino is seeking qualified licensed contractor(s) to provide installation, repair and/or replacement of damaged concrete flatwork, steps, drainage swales, and concrete masonry unit (CMU) retaining walls, utility access doors and site grading work in the City of Barstow. The estimated total project cost is \$238,682.00.

2.1 BACKGROUND

Starting in 2008, the Housing Authority engaged in strategic planning to realize our commitment to creating a world in which all people have a stable and enriched quality of life. Most importantly, we learned that our mission is not just property management, but empowering families in need to achieve an enriched quality of life by providing housing opportunities and resources throughout San Bernardino County. Our Strategic Plan now reaches 30 years into the future and focuses on Goals (or milestones) that will make our noble mission possible, and a corresponding Strategy has been created to achieve the Goal. Any proposed new projects or activities must directly contribute to achieving a Strategic Goal. Occasionally a project may contribute to more than one Strategic Goal, making it a high profile project.

In October 2018, Housing Authority leadership successfully enrolled the Barstow Public Housing Portfolio in HUD's new Rental Assistance Demonstration (RAD) Program. This innovative program provides the opportunity to stabilize HACSB's financial base for its Public Housing operations that will allow the Authority to submit applications to investors, lenders and/or the California Tax Credit Allocation Committee (CTCAC) for 4% and 9% Low-Income Housing Tax Credits (as necessary) that helps secure funding for revitalization and/or renovation of our aging Public Housing properties. This enhances our resident's safety, makes the rental units more desirable, and raises HACSB's public image, proving that HACSB is a leading developer and provider of affordable housing in the County of San Bernardino.

Successful execution of this project directly contributes to these Strategic Goals:

Goal #4, HACSB leaders and supporters are innovative policy makers and influencers of legislation.

Goal #5, HACSB has secured the resources needed for accomplishing its Mission.

Goal #6, HACSB is a leading developer and provider of affordable housing in the County of San Bernardino.

Goal #10, HACSB clients, programs and properties are embraced by all communities.

Goal #11, HACSB clients live in safe and desirable homes and communities where they can develop and prosper.

2.2 SCOPE

Contractor shall supply all labor, materials, tools, equipment, debris-waste removal/disposal, transportation of materials and anything else deemed necessary to provide concrete flatwork, site grading, concrete masonry unit (CMU) walls, and a utility access door in a public sidewalk. Work will be performed at 3 separate site locations within the City of Barstow, California.

The table below shows the approximate quantities of concrete flatwork and masonry repairs at each location.

Property Code	Main Site Address	Approx. Flatwork (Sq. Ft.)	Approx. Grading (Sq. Ft.)	Approx. CMU (Lin. Ft.)	Utility Access Door
481172	921 Bighorn Dr.	7500	7750	4800	None
481173	1050 Deseret	900	None	None	None
481174	1929 Yosemite	2700	1250	300	1

Due to scheduling and budget reasons, HACSB may choose to re-schedule or cancel work at individual sites in order to meet the total rehab project budget. Bidders should price the work on each site individually, including overhead, permits, and other costs. HACSB will not know the exact sites chosen for execution until all bids from all other trades are received.

HACSB reserves the right, unless otherwise stated, to accept or reject any or all bids, or any part thereof, either separately or as a whole, or to waive any informality in a bid. HACSB reserves the right to reject, in its sole discretion, any or all bids, or to waive any informality in the bids, and to reject any items thereon. HACSB may, at its sole discretion, cancel this Proposal or any part of this Proposal at any time prior to award.

2.3 MAIN OBJECTIVES

This project has 3 main objectives:

1. Increased resident safety and comfort. This project will contribute to a safe environment for the residents and their families by replacing damaged concrete walkways and steps around their dwelling units and re-grading to prevent water intrusion.
2. Reduction in maintenance costs and recurring work. Current and future maintenance costs will be reduced by repairing concrete and masonry surfaces. Crack repairs prevent water entry from causing further damage due to freeze-thaw cycles. Re-grading will remove years of turf build-up and help prevent water intrusion into the dwelling units.
3. Reduced exposure to premises liability litigation claims. Reducing the chance of slips, trips and falls on walkways and steps in common areas will limit the agency's exposure to litigation due to slip and fall incidents by members of the public when using HACSB facilities.

3 TASKS

Contractor shall provide all labor, materials, tools, equipment, debris-waste removal/disposal, transportation of materials and anything else deemed necessary for complete and functional repair and replacement of concrete and masonry structures as detailed on the "TASK LIST" attached at "EXHIBIT A".

The document is also hosted online with photographs at:

<https://app.smartsheet.com/b/publish?EQBCT=88c9084bb4b740d1b588f00034395b02>

3.1 TASK DEFINITIONS

Trade Description Terms used in the Task List are defined below:

CMU - Grind	Removal of damaged masonry areas on vertical surfaces with abrasive or diamond tipped grinder. Finished surfaces to be within 1/8".
CMU - Crack Chase & Grout	Crack repairs to masonry walls. All cracks to be repaired shall be opened with diamond tipped "crack chaser" blade, then tuck-pointed with masonry grout.
CMU - Add Course(s)	Add additional courses to existing block wall. May require doweling and/or removal of existing cap.
CMU - Demo & Replace	Repair of sections that have failed due to tree roots, soil expansion, erosion, hydraulic pressure. Demolish affected sections, dowel as needed & install new block.
CMU - New Wall	Complete new footings and masonry block wall. All walls less than 4 feet high.
GRADING	Removal or relocation of soils as needed to assure water drainage away from buildings. Includes removal of small plants & trees under 4" diameter as necessary.
SLAB - Access Door	Replace utility vault access door. Saw cut, demo and pour new concrete curb as needed.
SLAB - Demo Only	Demolish & dispose of concrete slab and reinforcing metal. No replacement.
SLAB - Demo & New Concrete	Demolish & dispose of concrete slab and reinforcing metal. Re-grade as necessary to ensure proper drainage. Install forms, reinforcing metal & pour new concrete.
SLAB - Saw Cut & New Concrete	Saw cut existing areas at edge of area to be removed. Demolish & dispose of concrete slab and reinforcing metal. Re-grade as necessary to ensure proper drainage. Install forms, reinforcing metal & pour new concrete.
SLAB - New Concrete	Re-grade as necessary to ensure proper drainage. Install forms, reinforcing metal & pour new concrete.
STEPS - Demo & Replace	Saw-cut, demo as necessary to make required repairs. Install forms, reinforcing metal. Pour and finish concrete steps.
STEPS - New Concrete	Re-grade as necessary. Install forms and reinforcing metal. Pour and finish concrete steps.

3.2 EXCLUSIONS

Fencing, Metal handrails, Painting, Stucco, Tree removals over 4" in diameter, Utility relocation.

4 SCHEDULE

Due to scheduling and budget reasons, HACSB may choose to re-schedule or cancel work at individual sites in order to meet the total rehab project budget. HACSB will not know the exact groups chosen for execution until all bids from all other trades are received.

Contractor shall submit proposed work schedule detailing work location, work to be performed & work duration with the bid documents. Liquidated damages in the amount of \$250 per day will be assessed for this project if it is not completed within 180 calendar days from notice to proceed.

Tentative Construction Start: 2/3/2020

Tentative Construction End: 4/3/2020

5 PROJECT REQUIREMENTS

5.1 CONTRACTOR RESPONSIBILITIES

5.1.1 *GENERAL CONDITIONS*

Contractor is responsible to secure any/all required permits required by local authorities and ordinances.

The Contractor shall coordinate the work for each area with HACSB 2 weeks prior to start.

A jobsite foreman is required to be present on site every day and have the authority to conduct business without delay to the construction project.

It is the responsibility of the contractor to verify all dimensions and quantities to meet the intent of the plans, scope of work and specifications.

New material shall be stored neatly on pallets, covered and with proper ventilation.

Installation of Contractor's material constitutes acceptance of all adjacent work as being qualified to accept the new material.

Contractor and subcontractors are to protect adjacent materials at all times. Damage to adjacent material will be the responsibility of the contractor causing damage to repair at no additional cost to HACSB.

Storage or sale of removed items or materials on-site will not be permitted.

The Contractor shall pick up all debris (including nails, scrap lumber, concrete forms, spikes...) continuously throughout each work day.

Clean adjacent buildings and improvements of dust, dirt and debris caused by construction operations. Return adjacent areas to condition existing before start of construction.

Entire construction site will be kept safe from public access at all times. Adequate barriers will be furnished and installed by the contractor as to provide public safety at all times, as well as work site safety at all times

Contractor shall limit hours of operation to Monday through Friday during the hours of 8:00 a.m. to 5:00 p.m. Special hours of operation outside the normal hours must be approved by the Authority.

5.1.2 *PROJECT CONDITIONS*

Contractor to locate all utilities prior to work. This includes, but is not limited to Gas, Electric, Cable TV, FIOS, Sewer, Telephone, and Water.

Remove any debris, root growth or electrical cables from area of work.

Existing trees 4" in diameter or more located over 10 feet from the work area shall remain and be protected during demolition and construction.

Curb/Gutter and Driveway approach shall remain in place and be protected during demolition and construction.

Patio slabs must be installed with ¼" per foot slope to ensure proper drainage. All new walkways and steps are to meet applicable local code requirements and match adjacent areas in dimension, color and texture.

Any walkways and steps within a defined "Accessible Route" shall meet ADA requirements per CBC Chapter 11B. Location of "Accessible Routes" shall be defined by HACSB or the local building department.

Ensure proper soil compaction and consistency of compaction under areas of concrete replacement.

Grade Control: Establish and maintain required lines and elevations so that proper drainage is maintained at all times during construction.

5.1.3 *POLLUTION CONTROLS*

Use water mist, temporary enclosures, and other suitable methods to limit the spread of dust and dirt. Comply with governing environmental protection regulations.

Do not create hazardous or objectionable conditions, such as ice, flooding, and pollution, when using water. No water runoff from site into curb/gutters.

Remove and transport debris in a manner that will prevent spillage on adjacent surfaces and areas.

5.1.4 *SUBMITTALS*

Material Certificates: Provide a copy of material certificates (and Technical Bulletins) signed by material producer and Contractor, certifying that each material item complies with or exceeds specified requirements. Submit with bid package.

5.2 HACSB RESPONSIBILITIES

5.2.1 *PROJECT CONDITIONS*

Conditions existing at time of inspection for bidding purposes will be maintained by HACSB as far as practical.

5.2.2 *NOTIFICATIONS*

HACSB will notify residents in advance of the project based on Contractor's project schedule.

Notification will include language to require removal of all personal property in any areas affected by construction operations.

5.2.3 *RESIDENT PERSONAL PROPERTY*

Resident's personal property left in construction areas will be subject to removal or disposal at HACSB property manager's discretion.

5.3 MUTUAL RESPONSIBILITIES

5.3.1 *SCHEDULING*

Contractor shall submit proposed work schedule detailing work location, work to be performed & work duration with the bid documents.

HACSB will coordinate proposed work schedule(s) with other trades working at the site to ensure multiple trades are not working in the same location concurrently.

5.3.2 *INSPECTIONS*

Contractor must notify HACSB to allow inspection prior to pouring concrete for form placement, reinforcing steel, underground utilities.

If HACSB is not available or not available within a reasonable time, it shall be the Contractor's responsibility to take photographs and furnish proof that the repairs were performed and completed properly.

6 PROJECT RISKS

6.1 RISKS

HACSB has entered into a binding contract with the U.S. Department of Housing & Urban Development to restructure certain real estate holdings. A major requirement of this contract includes funding for repairs to the public areas and exteriors of the complexes. The terms of this contract stipulate that funding is dependent on timely completion of the work.

6.2 CONTINGENCY

Liquidated damages in the amount of \$250 per day will be assessed for this project if it is not completed within 180 calendar days from notice to proceed.

7 CONTRACT COMPLIANCE

7.1 COMMUNICATIONS PLAN

A pre-construction meeting will be held at the jobsite prior to the start date.

Contractor shall provide accurate construction schedule at the time of pre-construction meeting.

A contact list with email and mobile phone numbers of key personnel will be disseminated to both parties prior to the start date.

Contractor shall monitor & update the construction schedule weekly if changes are necessary.

All communication between HACSB and Contractor shall be in writing.

Text messaging (SMS, MMS) are **not valid or binding** for change orders, notices, requests for information and other legal communication.

7.2 QUALITY MANAGEMENT PLAN

7.2.1 *QUALITY ASSURANCE*

Work performed by the general contractors and/or subcontractors shall be performed in a good workmanlike manner and quality. Workmanlike quality is defined as workmanship that meets or exceeds United Building Codes or specific city codes, whichever is more stringent.

All work performed shall be in strict compliance with all plans and specifications for the project. The quality of the general contractor and subcontractor's installation is expected to support the quality intent of the architect and builders design and specified materials.

7.2.2 *INSPECTION PARAMETERS*

7.2.2.1 LOCAL BUILDING AGENCY

Contractor is responsible to secure any/all required permits required by local authorities and ordinances.

Contractor to schedule inspections prior to covering work.

Contractor to submit final inspection cards and/or other permit documents to HACSB upon completion and prior to final payment requisition.

7.2.2.2 HACSB

HACSB may inspect work while installation in progress to verify square footage is being completed and proper installation of materials.

HACSB will inspect all repairs and overall conditions upon completion.

HACSB shall give written notice of rejection of goods delivered or services performed hereunder within a reasonable time after receipt of such goods or performance of such

services. Such notice of rejection will state the respects in which the goods do not substantially conform to their specifications.

7.2.3 CORRECTIONS

In the event any goods furnished or services provided by Contractor in the performance of the Work should fail to conform to the requirements herein, or to the sample submitted by Contractor, HACSB may reject the same, and it shall become the duty of Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to HACSB, and immediately replace all such rejected items with others conforming to the Agreement.

It is the responsibility of each contractor to protect their work from damage until such time that HACSB has accepted such work in writing. All defects/damage will be repaired by contractor at the expense of the contractor prior to final acceptance.

7.2.4 WARRANTY

Contractor warrants and guarantees that any work and/or materials supplied or installed in Contractor's performance of all contracts awarded and executed under this Agreement for HACSB will be done in accordance with the Plans and Specifications and that the Work, as installed, will fulfill the requirements of the Specifications.

Contractor agrees to repair or replace any or all of its Work, together with any adjacent Work which may be displaced by so doing, that may prove to be defective in its workmanship or material within a period of two (2) years from the date of completion of the Project, except for ordinary wear and tear, unusual abuse or neglect on the part of HACSB.

Contractor's warranty in no way supersedes any manufacturer's warranty or guarantee for any equipment or material supplied, or process used in the installation.

The full effect of all manufacturers' warranties voided by improper installation or process will be guaranteed by Contractor for the full life of the manufacturer's warranty.

In the event of Contractor's failure to comply with the conditions of this Article within a reasonable period of time as determined by HACSB and after being notified in writing, Contractor hereby authorizes HACSB to proceed to have said defect repaired and made good at Contractor's expense and will honor and pay the costs and charges therefore upon demand.

All warranties begin on the date of completion, documented by written acceptance of material and workmanship by HACSB.

8 STANDARDS COMPLIANCE

8.1 MATERIALS SPECIFICATIONS

Alternate materials must be submitted with bid documents. Any changes must be submitted and approved in writing by HACSB prior to installation of any materials.

8.1.1 CMU BLOCK

Concrete blocks shall be 8-inch hollow load bearing concrete masonry units, Grade N, Type II units conforming to ASTM C90-81.

Masonry units shall have been air-dried for not less than 28 days prior to being placed in the structure. Wetting of the block units shall not be permitted.

Mortar shall conform to the requirements of ASTM C270-89 or shall be proportioned based on laboratory or field experience to provide the required strength and workability.

Grout shall be mixed in the ratio, by volume, of one part Portland cement, up to 1/10 part lime, 2-1/4 parts minimum to 3 parts maximum damp loose sand and up to 2 parts coarse aggregate. The grout shall be of a fluid consistency suitable for placing without segregation.

Cement shall conform to ASTM C150-86 Type I, IA, II, or IIA.

Hydrated Lime shall conform to ASTM C150-86 Type II.

Aggregate shall be clean, hard and well graded, free of injurious amounts of dust, lumps, shale alkali, surface coatings, and organic matter.

Admixtures, such as fly ash or other flow improving and water retention agents, may be used in the grout mix.

Water used in mixing and curing concrete shall be clean and free from injurious amounts of oil, salt, acid, alkali, organic matter or other deleterious substances.

8.1.2 CONCRETE

Portland cement: ASTM C150, type I or II, low alkali.

Aggregate – General: Comply with ASTM C30 uniformly graded and clean. Concrete is to have a minimum compressive strength of 3000 psi unless otherwise specified. Do not use aggregate known to cause excessive shrinkage.

Aggregate – Course: Provide crushed rock or washed gravel with minimum size number 4.

Aggregate – Fine: Natural washed sand of hard and durable particles varying from fine to particles vary from fine to particles passing a 3/8" screen of which at least 12% shall pass a 50-mesh screen.

Aggregate: - Water: Use only clean and potable water.

Surface Treatment I: Where sealer or hardener is called for, provide "Ashford Formula" manufactured by Cure-Crete Chemical Company of Orem, Utah. Provide the manufacturers standard written 20 year/10 year warranty.

Surface Treatment II: Except as otherwise directed, on concrete slabs, curbs and walkways, provide "Hunt TLF" curing agent manufactured by Hunt Process Co., Inc., or an approved equal.

8.1.3 REINFORCING METALS

Bars: ASTM 615 grade 40 using deformed bars for number 3 and larger.

Welded Wire Fabric: ASTM A185.

Bending: Bending shall comply with ACI318

8.1.4 SIDEWALK UTILITY ACCESS DOOR

Double leaf doors with lift assistant mechanism and hold-open latch, 1/4" diamond plate aluminum cover shall be reinforced to support 300 Pounds per square foot live load, extruded aluminum angle frame w/mill finish, 316 Stainless Hardware, Flush mounted padlock hasp. Hinges on short sides of frame. Floor Door Specifications attached separately at "EXHIBIT C"

8.1.5 OTHER MATERIALS

Any other materials not specifically described, but required for complete and proper installation, as selected by the Contractor are subject to HACSB approval. Submit proposed materials or substitutions with bid package.

8.2 WORKMANSHIP SPECIFICATIONS

8.2.1 CONCRETE DEMO

Saw cut, remove and legally dispose of all concrete and unsuitable base materials off-site. Saw cuts shall be laid out perpendicular to the path of travel, and as straight as possible at the starting

point. The cut edge of the remaining concrete shall be ground to a rounded shape prior to placement of new material.

The Contractor shall inspect all grade surfaces for proper compaction and consistency. Any hidden problems, such as root growth or below ground plumbing, shall be brought to the attention of HACSB.

The Contractor shall provide protection and warnings as necessary to protect residents during performance of this work (using barricades, cones, lighting, temporary plywood, etc., as required). No holes should be open more than 25 hours, weather permitting.

8.2.2 CONCRETE REPLACEMENT

Re-grade, add new base material as necessary, and properly mechanically compact prior to pouring concrete.

Construct forms to the exact size and dimensions to complete concrete casting to match the existing structures, slabs, curbs, etc. Forms shall be constructed with mechanical "KEY" on any edge that will be poured at a later stage. Forms are to be completely removed as soon as it is practical to do so.

All concrete is to be minimum 3000 PSI, to match existing in color, texture and thickness.

Elevation change at of old/new concrete must be within $\frac{1}{4}$ "

Expansion and control joints are to be provided as necessary to match existing.

Contractor must mask adjacent areas to prevent spilling/staining of existing materials. Cement stains on existing concrete is not acceptable.

The Contractor is to take proper steps to avoid concrete cracking during the curing process.

When the mean daily temperature outdoors is less than 40 degrees Fahrenheit, maintain the temperature of the concrete between 50 degrees Fahrenheit and 70 degrees Fahrenheit for the required curing period. Provide any required heating systems which will uniformly heat the entire curing area without exposing the area to hazardous exhaust gases.

8.2.3 CMU BLOCK WALL REPAIRS

8.2.3.1 CRACK REPAIRS

Chase the crack to $\frac{1}{2}$ " x $\frac{1}{2}$ " minimum using a 4" right-angle grinder or diamond crack chaser. Do not remove mortar in excess of one third the depth of the masonry unit above. The mortar being removed should be raked out to the full width of the joint to the proper depth so that the void formed is in the shape of a rectangle, NOT a "U" or "V" shape. Loose particles should be removed by brushing or water rinse. After moistening, place mortar into the joints with a narrow tuck-pointing tool. Mortar should be placed in the joints in $\frac{1}{4}$ " lifts to avoid shrinkage. Subsequent lifts should be applied when the previous lift is thumbprint hard. The joints are tooled when thumbprint hard. For the greatest resistance to moisture penetration, concave-tooled joints are recommended due to the compression of the mortar as the joints are tooled. Excess mortar and tags can be removed by brushing or wiping the work after the mortar has set up enough to prevent smearing.

8.2.3.2 CMU BLOCK REPLACEMENT

Broken & damaged sections shall be removed back to sound material. Grind old mortar to ensure a flat surface for new block placement. If possible, re-use existing reinforcing metal in the same positions. If doweling is needed, drill holes in the center of the block to prevent chipping of the existing block. Prior to placement of new CMU blocks, subgrade shall be free of chips, sawdust, debris, water, extraneous oil, mortar, or other harmful substances. The

replacement block to be embedded in or placed on the wall shall be laid with full mortar coverage on the bed joint. Blocks shall be positioned accurately and anchored firmly. Allow mortar joints to stiffen to “thumbprint hardness” before tooling. For the greatest resistance to moisture penetration, concave-tooled joints are recommended due to the compression of the mortar as the joints are tooled. Excess mortar and tags can be removed by brushing or wiping the work after the mortar has set up enough to prevent smearing.

8.2.4 NEW CMU BLOCK WALLS

New CMU walls shall be less than 4 ft. high measured from the top of the footing to the top of the wall cap.

All horizontal and vertical reinforcements shall maintain a min. 3” clearance from the bottom and sides of the trench.

Prior to placement of concrete masonry units, subgrade shall be free of chips, sawdust, debris, water, extraneous oil, mortar, or other harmful substances. Earth surfaces shall be firm and damp. Placement of concrete masonry units on mud, dried earth or un-compacted fill will not be permitted. Items to be embedded in or placed on the concrete shall be positioned accurately and anchored firmly. The top surface of the concrete foundation shall be clean, free of laitance and the aggregate shall be exposed, but not undercut, before the initial masonry course is placed. The starting joint on foundations shall be laid with full mortar coverage on the bed joint, except that the area where grout occurs shall be kept free from significant accumulations of mortar so that the grout will contact the foundation.

For specific details, see original construction plans, attached separately at “EXHIBIT B”

8.2.5 GRADING

All grading operations shall be routine maintenance to maintain the original line and grade, hydraulic capacity, and original purpose of facility. Grading includes removal of soils, built up thatch and clearing & grubbing up to 1 foot depth. All refuse and debris shall be legally disposed of off-site. Holes and depressions shall be backfilled. Fill materials shall be composed of native soils recovered from spoil at other locations within this project. Minimum soil compaction shall be 95 percent of maximum density as defined in ASTM D 1557. The contractor will provide all necessary grading to insure adequate drainage so that no areas will be flooded due to a rainfall of a 10-year frequency. Drainage of the area should be compatible with the existing terrain. Building ground floor finished elevation shall be a minimum 6” above adjacent grade and outside grade shall slope away from the building on all sides at a minimum slope of 5% for a distance of 10 feet.

For specific details, see original construction plans, attached separately at “EXHIBIT B”

8.2.6 UTILITY ACCESS DOOR REPLACEMENT

Remove and replace flush-mounted metal utility access floor doors in sidewalk and driveway locations. Contractor shall provide pedestrian and automobile signage and barricades to prevent unauthorized access during installation. Remove and properly recycle existing metal door(s). Saw-cut surrounding slab as needed to provide room for new curb. Pour new concrete curb/frame per manufacturer’s specifications. Install new metal floor door(s) per manufacturer’s specifications.

For product specifications, refer to section 8.1.4 UTILITY ACCESS DOORS

8.3 REGULATORY COMPLIANCE

All work shall be in compliance with the following regulations:

8.3.1 *FEDERAL REGULATIONS*

8.3.1.1 UNITED STATES CODE

40 USC 3141-3148 Davis-Bacon Wage Act

8.3.2 *CALIFORNIA REGULATIONS*

8.3.2.1 CALIFORNIA BUILDING CODE

CHAPTER 11B Accessibility to Public Buildings, Public Accommodations &
Public Housing

CHAPTER 18 Soils and Foundations

CHAPTER 19 Concrete

CHAPTER 20 Aluminum

CHAPTER 21 Masonry

CHAPTER 22 Steel

CHAPTER 32 Encroachments into Public Right of Way

8.3.2.2 CALIFORNIA GOVERNMENT CODE

SECTION 4216 Protection of Underground Infrastructure (Dig Alert)

8.3.3 *CITY OF BARSTOW REGULATIONS*

8.3.3.1 BARSTOW MUNICIPAL CODE

TITLE 5 Business Licenses

TITLE 12 Public Improvements (Sidewalk Encroachment)

TITLE 15 Buildings & Construction

8.3.3.2 BARSTOW CODE OF ORDINANCES

950-2017 Construction Waste Management Plan

9 BUSINESS TERMS

9.1 PAYMENTS

9.1.1 *Invoices may be submitted at the following milestones:*

Mobilization - 10% of contract total at the end of the second week.

Progress - Upon completion of milestones as grouped on the BID PRICE SHEET, attached at "EXHIBIT F". Invoice should be pro-rated to 85% of the completed unit amount.

Job Completion - All units are complete & all third party inspections approved - up to 95% of contract total.

Retention - Thirty days after project acceptance, 5% of the contract total.

9.1.2 *PROGRESS INVOICE - The following documents shall be submitted:*

Hazardous waste manifests

HACSB acceptance of stated completed work

Contractor's Invoice with contractor's address & license number, HACSB job name & address on invoice.

Schedule of Values (HUD form #51000)

Periodic Estimate for Partial Payment (HUD form #51001)

Conditional Waiver and Release upon Progress Payment
On-site daily sign in sheets
Daily Activity logs
Weekly Safety Meeting Report
Certified Payroll completed in LCP Tracker

9.1.3 *JOB COMPLETION INVOICE - The following documents shall be submitted:*

Same documents as a PROGRESS INVOICE listed above.
Unconditional Waiver and Releases for all previously paid invoices
Conditional Waiver and Release upon Final Payment.
Original signed off permit cards (if permits were required)
Contractor's Warranty

9.1.4 *RETENTION INVOICE - The following documents shall be submitted:*

Contractor's Invoice
Unconditional Waiver and Release upon Final Payment.

9.1.5 *HACSB TERMS ARE NET 30 DAYS*

Invoices will be processed only after all supporting documents have been approved by HACSB.

9.2 ADJUSTMENTS TO CONTRACT TIME / AMOUNT

Contractor cannot change materials, timeline, or contract sum without the express written approval of HACSB. (See HUD 5370)

9.2.1 *CONTRACT TIME*

If a proposed change to the scope of work results in additional time to complete the contract, contractor must submit a Request for Adjustment on the Contract Time within five business days of the change.

9.2.2 *CONTRACT AMOUNT*

If a proposed change to the scope of work results in an increase in the amount of the total contract, contractor must submit a Request for Adjustment on the Contract Amount within five business days of the change.

10 ATTACHMENTS

- 10.1 EXHIBIT A - Task Listing
- 10.2 EXHIBIT B - Original Construction Plans - Bighorn Site
- 10.3 EXHIBIT C - Sidewalk Door Specifications

11 END OF SOW

Exhibit “B”

GENERAL CONDITIONS FOR CONSTRUCTION
CONTRACTS
PUBLIC HOUSING PROGRAMS
(form HUD – 5370)

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. 3/31/2020)

Applicability. This form is applicable to any construction/development contract greater than \$150,000.

This form includes those clauses required by OMB's common rule on grantee procurement, implemented at HUD in 2 CFR 200, 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 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

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

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

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 nowise 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).

41. Interest of Members of Congress

No member of 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

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.

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.

Exhibit “C”

Additional General Provisions

ADDITIONAL GENERAL PROVISIONS

1. **DEFINITIONS:** The following terms shall be given the meaning shown, unless context requires otherwise or a unique meaning is otherwise specified.
 - a. **Business Entity** means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability corporation, limited liability partnership, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
 - b. **Contractor** means the Business Entity with whom the Housing Authority of the County of San Bernardino enters into this Agreement. Contractor shall be synonymous with "supplier", "vendor" or other similar term.
 - c. **Firm Price** means the Agreement requires the delivery of products or services at a specific price, fixed at the time of the Agreement and not subject to any adjustment on the basis of Contractor's cost experience in performing under the terms of the Agreement.
 - d. **HACSB** means the Housing Authority of the County of San Bernardino, its employees and authorized representatives, including without limitation any department, agency, or other unit of HACSB.
2. **COMPLIANCE WITH STATUTES AND REGULATIONS:** Contractor warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, regulations and orders of the United States, the State of California and HACSB and agrees to indemnify HACSB against any loss, cost, damage or liability by reason of Contractor's violation of this provision.
3. **CONTRACTOR'S POWER AND AUTHORITY:** Contractor warrants that it has full power and authority to enter into and perform its obligations under this Agreement, and will hold HACSB harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this Agreement. Further, Contractor agrees that it will not enter into any arrangement with any third party which might abridge any rights of HACSB under this Agreement.
4. **TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES:** No charge for delivery, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by HACSB unless expressly included and itemized in the Agreement.
 - a. Contractor must strictly follow Agreement requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. HACSB may permit use of an alternate carrier at no additional cost to HACSB with advance written authorization of HACSB.
 - b. If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by HACSB and a waiver is granted in writing and in advance of shipping.
 - c. On "F.O.B. Shipping Point" transactions, should any shipments under the Agreement be received by HACSB in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the equipment and/or material, contractor, on request of HACSB, shall at Contractor's own expense assist HACSB in establishing carrier liability by supplying evidence that the equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.
5. **TIME IS OF THE ESSENCE:** Time is of the essence in this Agreement.
6. **DELIVERY:** Contractor shall strictly adhere to the delivery and completion schedules specified in the Agreement. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Contractor delivers in excess of the quantities specified herein, HACSB shall not be required to make any payment for the excess goods, and may return them to Contractor, at Contractor's expense, or utilize any other rights available to HACSB at law or in equity.
7. **SUBSTITUTIONS:** Substitution of goods may not be tendered, without advance written consent of HACSB. Contractor shall not use any specification in lieu of those contained in the Agreement, without written consent of HACSB.

8. INSPECTION, ACCEPTANCE AND REJECTION:

- a. Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to HACSB covering goods and services under this Agreement and will tender to HACSB only those goods that have been inspected and found to conform to the requirements of this Agreement. Contractor will keep records evidencing inspections and their result, and will make these records available to HACSB during performance of the Work and for three years after final payment. Contractor shall permit HACSB to review procedures, practices, processes and related documents to determine the acceptability of Contractor's quality assurance system or other business practices related to performance of the Work.
- b. All goods may be subject to inspection and test by HACSB or its authorized representatives.
- c. Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to HACSB. Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
- d. All goods to be delivered hereunder may be subject to final inspection, test and acceptance by HACSB at destination, notwithstanding any payment or inspection at source.
- e. HACSB shall give written notice of rejection of goods delivered or services performed hereunder within a reasonable time after receipt of such goods or performance of such services. Such notice of rejection will state the respects in which the goods do not substantially conform to their specifications. If HACSB does not provide such notice of rejection within thirty (30) days, unless otherwise specified in the Statement of Work, of delivery, such goods and services will be deemed to have been accepted. Acceptance by HACSB will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that HACSB might have at law or by express reservation in this Agreement with respect to any nonconformity.

9. SAMPLES:

- a. Samples of items may be required by HACSB for inspection and specification testing and must be furnished free of expense to HACSB. The samples furnished must be identical in all respects to the products bid and/or specified in the Agreement.
- b. Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at Contractor's expense.

10. WARRANTY: Unless otherwise specified, the warranties contained in this Agreement begin after acceptance has occurred.

- a. Contractor warrants that goods and services furnished hereunder will conform to the requirements of this Agreement (including all descriptions, specifications and drawings made a part hereof), and such goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by HACSB, free from defects in design. HACSB's approval of designs or specifications furnished by Contractor shall not relieve Contractor of its obligations under this warranty.
- b. All warranties, including special warranties specified elsewhere herein, shall inure to HACSB, its successors, assigns, customer agencies and users of the goods or services.

11. SAFETY AND ACCIDENT PREVENTION: In performing the Work under this Agreement on HACSB premises, Contractor shall conform to any specific safety requirements contained in the Agreement or as required by law or regulation. Contractor shall take any additional precautions as HACSB may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Agreement in accordance with the default provisions hereof.

12. ACCIDENT PREVENTION: Precaution shall be exercised at all times for the protection of persons (including employees) and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment, and other hazards shall be guarded or eliminated in accordance with the safety provisions issued by the Industrial Accident Commission of the State of California.

13. INSURANCE: Contractor shall not commence Work under this Agreement until all insurance required under this paragraph has been obtained and such insurance has been approved by HACSB, nor shall Contractor allow any subcontractor to commence work on a subcontract until all similar insurance required of the

subcontractor has been so obtained and approved. Contractor shall furnish HACSB with satisfactory proof of the carriage of insurance required, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. Any policy of insurance required of Contractor under this Agreement shall also contain an endorsement providing that thirty (30) days' notice must be given in writing to HACSB of any pending change in the limits of liability or of any cancellation or modification of the policy. All insurance required hereunder shall be issued by a California admitted insurance carrier.

The insurance required to be carried by Contractor hereunder shall include:

- a. Compensation Insurance and Employer's Liability Insurance. Contractor shall take out and maintain during the entire term of this Agreement, Workers' Compensation Insurance and Employer's Liability Insurance for all of employees employed at the site of the project and, in case any work is sublet, Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance and Employer's Liability Insurance for all of the latter's employees unless such employees are covered by the protection afforded by Contractor.

In signing this Agreement, Contractor makes the following certification, required by Section 1861 of the Labor Code:

"I am aware of the provision of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

- b. General Liability Insurance. Contractor, at its own cost and expense, shall maintain personal injury liability and property damage insurance for the entire term of this Agreement in the amount of One Million and No/100 Dollars (\$1,000,000.00) per occurrence. Such coverage shall include, but shall not be limited to, protection against claims arising from, and damage to property resulting from, activities contemplated under this Agreement. Such insurance shall be with insurers and under forms of policies satisfactory in all respects to HACSB and shall provide that notice must be given to HACSB at least thirty (30) days prior to cancellation or material change. The following endorsements shall be attached to the policy:

Policy shall cover on an "occurrence" basis. Policy must cover personal injuries as well as bodily injuries. Exclusion of contractual liability must be eliminated from personal injury endorsement.

Broad form property damage endorsement must be attached. HACSB is to be named as an additional insured on any contracts of insurance under this paragraph b. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code. The policies of insurance shall be considered primary insurance before any policies of insurance maintained by HACSB. Contractor shall be named as an additional insured with respect to such general liability insurance policy.

- c. Automobile Liability. Contractor, at its own cost and expense, shall maintain automobile insurance for the period covered by the Contract in the amount of One Million and No/100 Dollars (\$1,000,000.00) combined single limit coverage. Contractor shall be named as an additional insured with respect to such automobile liability insurance policy.

14. FORCE MAJEURE: Contractor shall be excused for performing the Work hereunder in the event that Contractor is unable to perform the Work for one of the following reasons:

- a. Acts of God or of the public enemy, and
- b. Acts of the federal, state or local government in either its sovereign or contractual capacity.

Such delay shall be for the period of time that Contractor is delayed from performing the Work as a direct result of one of the foregoing reasons. Contractor shall provide HACSB notice within three (3) days of any such force majeure event.

15. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:

- a. Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of HACSB, employees of HACSB, persons designated by HACSB for training, or any other person(s) other than agents or employees of Contractor, designated by HACSB for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the goods either at

Contractor's site or at HACSB's place of business, provided that the injury or damage was caused by the fault or negligence of Contractor.

- b. Contractor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by Contractor, or for damage to alterations or attachments that may result from the normal operation and maintenance of the goods provided by Contractor during the Agreement.
16. **INVOICES:** Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount. The State of California and other sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.
17. **REQUIRED PAYMENT DATE:** Payment will be made in accordance with the provisions of the Agreement for work completed through the date of invoice. HACSB will pay properly submitted, undisputed invoices not more than thirty (30) days after (i) the date of acceptance of goods or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.
18. **TAXES:** HACSB will only pay for any state or local sales or use taxes on the services rendered or goods supplied to HACSB pursuant to this Agreement.
19. **NEWLY MANUFACTURED GOODS:** All goods furnished under this contract shall be newly manufactured goods; used or reconditioned goods are prohibited, unless otherwise specified.
20. **NEWS RELEASES:** Unless otherwise exempted, news releases pertaining to this Agreement shall not be made without prior written approval of HACSB.
21. **PATENT, COPYRIGHT and TRADE SECRET INDEMNITY:**
- a. Contractor shall hold HACSB, its officers, agents and employees, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the Agreement.
 - b. Contractor may be required to furnish a bond to HACSB against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.
 - c. Contractor, at its own expense, shall defend any action brought against HACSB to the extent that such action is based upon a claim that the goods or software supplied by Contractor or the operation of such goods pursuant to a current version of Contractor supplied operating software infringes a United States patent or copyright or violates a trade secret. Contractor shall pay those costs and damages finally awarded against HACSB in any such action. Such defense and payment shall be conditioned on the following:
 - i. That Contractor shall be notified within a reasonable time in writing by HACSB of any notice of such claim; and,
 - ii. That Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided, however, that when principles of government or public law are involved, HACSB shall have the option to participate in such action at its own expense.
 - d. Should the goods or software, or the operation thereof, become, or in Contractor's opinion are likely to become, the subject of a claim of infringement of a United States patent or copyright or a trade secret, HACSB shall permit Contractor at its option and expense either to procure for HACSB the right to continue using the goods or software, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such goods or software by HACSB shall be prevented by injunction, Contractor agrees to take back such goods or software and make every reasonable effort to assist HACSB in procuring substitute goods or software. If, in the sole opinion of HACSB, the return of such infringing goods or software makes the retention of other goods or software acquired from Contractor under this Agreement impractical, HACSB shall then have the option of terminating such Agreement, or applicable portions thereof, without penalty or termination charge. Contractor agrees to take back such goods or software and refund any sums HACSB has paid Contractor.
 - e. Contractor shall have no liability to HACSB under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:

- i. The combination or utilization of goods furnished hereunder with equipment or devices not made or furnished by Contractor; or,
 - ii. The operation of equipment furnished by Contractor under the control of any operating software other than, or in addition to, the current version of Contractor-supplied operating software; or
 - iii. The modification by HACSB of the equipment furnished hereunder or of the software; or
 - iv. The combination or utilization of software furnished hereunder with non-Contractor supplied software.
- f. Contractor certifies that it has appropriate systems and controls in place to ensure that HACSB funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- g. The foregoing states the entire liability of Contractor to HACSB with respect to infringement of patents, copyrights or trade secrets.

22. STOP WORK:

- a. HACSB may, at any time, by written Stop Work order ("Stop Work Order") to Contractor, require Contractor to stop all, or any part, of the Work called for by this Agreement for a period up to ninety (90) days after the Stop Work Order is delivered to Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to Contractor, or within any extension of that period to which the parties shall have agreed, HACSB shall either:
- i. Cancel the Stop Work Order; or
 - ii. Terminate the Work covered by the Stop Work Order as provided for in the termination for default or the voluntary termination provision of this Agreement.
 - iii. If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, Contractor shall resume work. HACSB shall make an equitable adjustment in the delivery schedule, the price, or both, and the Agreement shall be modified, in writing, accordingly, if:
 - 1. The Stop Work Order results in an increase in the time required for, or in Contractor's cost properly allocable to the performance of any part of this Agreement; and
 - 2. Contractor asserts its right to an equitable adjustment within thirty (30) days after the end of the period of work stoppage; provided that if HACSB decides the facts justify the action, HACSB may receive and act upon a proposal submitted at any time before final payment under this Agreement.
- b. If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated in accordance with the provision entitled Voluntary Termination, HACSB shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- c. HACSB shall not be liable to Contractor for loss of profits because of a Stop Work Order issued under this clause.

23. COVENANT AGAINST GRATUITIES: Contractor warrants that it complies with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3), and that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of HACSB with a view toward securing the Agreement or securing favorable treatment with respect to any determinations concerning the performance of the Agreement. For breach or violation of this warranty, HACSB shall have the right to terminate the Agreement, either in whole or in part, and any loss or damage sustained by HACSB in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by Contractor. The rights and remedies of HACSB provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

24. **COMPLIANCE WITH DAVIS-BACON ACT:** For construction agreements in excess of \$2,000, Contractor certifies that it complies with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 3). Unless otherwise indicated in the Statement of Work, Contractors of HACSB are required, pursuant to 24 CFR 85.36(h)(5), to pay Davis-Bacon wage rates for all "construction contracts and related subcontracts in excess of \$2000," which means, for such jobs, the wage rates paid must be equal to or exceed the listed applicable Davis-Bacon wage rate. Compliance with this clause also means that Contractor may be subject to completing certain reports and to audits by HACSB and the Department of Housing and Urban Development. Such reports and information relating to compliance can be obtained at the Internet website: <http://www.gpo.gov/davisbacon/>. Contractor shall include the wage provisions of this clause in all subcontracts to perform work under this Agreement.
- HACSB shall have the right to audit Contractor, at any time, in order to ensure compliance with the requirements of this Section. In connection therewith, Contractor agrees to maintain accurate books and records in connection with the Work, and all payments made or received by Contractor pursuant to this Agreement, and to provide such information to HACSB, within five (5) business days of any request by HACSB. In addition, Contractor shall provide, upon two (2) business days request, information to HACSB of each and every employee retained by Contractor in connection with the Work, and shall permit HACSB to interview any such employees, contractors or subcontractors. Contractor agrees that all maintenance laborers and mechanics employed by it in connection with the performance of the Work shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. 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 Contractor's payroll records accurately set forth the time spent in each classification in which the work is performed. The wage determination, including any additional classifications and wage rates approved by HUD shall be posted at all times by 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.
25. **CALIFORNIA PREVAILING WAGE (IF AGREEMENT PRICE IS LESS THAN \$2,000):** In the event the Agreement Price is less than \$2,000, Contractor agrees to comply with all prevailing rate requirements of the California Labor Code. HACSB shall have the right to audit and inspect Contractor's books and records, and interview Contractor's employees, contractors and subcontractors, all according to the same provisions set forth in Section 26 above.
26. **EQUAL EMPLOYMENT OPPORTUNITY:** For all construction agreements in excess of \$10,000, Contractor certifies its compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60).
27. **NONDISCRIMINATION CLAUSE:**
- a. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
 - b. Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.
28. **NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to

comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, Public Contract Code Section 10296.

29. **DRUG-FREE WORKPLACE CERTIFICATION:** Contractor certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:
- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
 - b. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - i. the dangers of drug abuse in the workplace;
 - ii. the person's or organization's policy of maintaining a drug-free workplace;
 - iii. any available counseling, rehabilitation and employee assistance programs; and,
 - iv. penalties that may be imposed upon employees for drug abuse violations.
 - c. Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting agreement:
 - i. will receive a copy of the company's drug-free policy statement; and,
 - ii. will agree to abide by the terms of the company's statement as a condition of employment on the agreement.
30. **RECYCLING:** Contractor shall certify in writing under penalty of perjury, compliance with Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to HACSB regardless of whether the product meets the requirements of Section 12209.
31. **LEAD BASED PAINT PROHIBITION:** For any contract for construction or rehabilitation, Contractor certifies that it shall comply with 24 CFR Part 35 prohibiting the use of lead-based paint.
32. **COMPLIANCE WITH CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:** For agreements in excess of \$2,000, and in excess of \$2500 for other agreements which involve the employment of mechanics or laborers, Contractor certifies that it complies with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).
33. **CHILD SUPPORT COMPLIANCE ACT:** For any contract in excess of \$100,000, Contractor acknowledges in accordance with Public Contract Code Section 7110, that:
- a. Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable State of California and Federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
 - b. Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
34. **ELECTRONIC WASTE RECYCLING ACT OF 2003:** Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.
35. **ENVIRONMENTAL REGULATIONS:** For agreements in excess of \$100,000, Contractor certifies that it complies with the requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (3 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 C.F.R. part 15).
36. **USE TAX COLLECTION:** In accordance with PCC Section 10295.1, Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will

immediately advise HACSB of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.

- 37. DOMESTIC PARTNERS:** For agreements over \$100,000 executed or amended after January 1, 2007, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

Exhibit “D”

Performance – Payment Bond

PERFORMANCE – PAYMENT BOND

KNOW ALL ME BY THESE PRESENTS: That we _____ (Contractor) _____, a _____ (corporation) hereinafter called "Principal" and _____ (Surety) of _____, State of _____, hereinafter called the "Surety", are held and firmly bound unto _____ (Owner) _____ of _____ (City and State), hereinafter called "Owner" in the penal sum of _____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered into a certain contract with the Owner, dated the _____ day of _____, 20____, a copy of which is hereto attached and made a part hereof for the construction of: _____

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extension thereof which may be granted to the Owner, which or without notice to the Surety, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, and shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

[END – SIGNATURES FOLLOW NEXT PAGE]

IN WITNESS WHEREOF, this instrument is executed in 2 (2) counterparts, each one of shall be deemed an original, this the _____ day of _____, 20____.

ATTEST:

"PRINCIPAL"

(Principal) Secretary

(Seal)

BY: _____
NAME: _____

Witness as to Principal

(Address – Zip Code)

"SURETY"

(Surety) Secretary

(Seal)

BY: _____
NAME: _____
ITS: Attorney-in-Fact

Witness as to Surety

(Address – Zip Code)

(Address – Zip Code)

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all partners should execute bond.

Exhibit “E”

Stipulation of Lien

HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO
715 E. BRIER DRIVE
SAN BERNARDINO, CA 92408-2841
(909) 890-0644 FAX (909) 890-4618

STIPULATION OF LIEN

Contract Number:

KNOW ALL MEN BY THESE PRESENTS:

1. The undersigned certifies that all contract work executed under the aforesaid Contract Number***** will be performed in accordance with the contract terms thereof and there will be no claims of laborers or mechanics for unpaid wages arising out of the performance of said contract.
2. That, in consideration of the payment of the amount of any contract awarded, the undersigned does hereby release the Housing Authority of the County of San Bernardino from any and all claims arising from any contract awarded by this process.

IN WITNESS WHEREOF, the undersigned has signed and sealed this instrument this _____ day of _____, 20_____.

By: _____

Title: _____

NAME AND ADDRESS OF CONTRACTOR:

Sworn before me this _____ day of _____, 20_____.

(Notary Public)

My Commission Expires _____
(Date)

Exhibit “F”

Supplementary Conditions of the Contract for
Construction (form HUD-92554)

SUPPLEMENTARY CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

U.S. Department of Housing
and Urban Development
Office of Housing

OMB Approval No. 2502-0598
(Exp. 12/31/2017)

Public Reporting Burden for this collection of information is estimated to average 0.2 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. Response to this request for information is required in order to receive the benefits to be derived. 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. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.

Article 1: Labor Standards

A. Applicability. The Project or program to which the construction work covered by this Contract pertains is being assisted or insured by the United States of America, and the following Federal Labor Standards Provisions are included in this Contract or related instrument pursuant to the provisions applicable to such Federal assistance or insurance. Any statute or regulation contained herein shall also include any subsequent amendment or successor statute or regulation.

B. Minimum Wages. Pursuant to Section 212 of the National Housing Act, as amended, 12 U.S.C. 1715c, the minimum wage provisions contained in this paragraph B do not apply to those projects with Security Instruments insured under Section 221(h)(1) designed for less than 9 families and they do not apply to those projects with Security Instruments insured under either Section 220 or 233 designed for less than 12 families.

1. (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the Project) shall 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 (40 U.S.C. 3141(2)(B)(ii)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each

classification for the time actually worked therein: *Provided*, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii)) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

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

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs B.1.(ii)(b) or (c) of this Article, shall be paid to all workers

performing work in the classification under this Contract from the first day on which work is performed in the classification.

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

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 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, sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

3. Payrolls, records, and certifications.

(i) 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 at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, 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 (40 U.S.C. 3141(2)(B)(ii))), daily and weekly number of hours worked, deductions made and actual wages paid.

Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1 (b)(2)(B) of the Davis-Bacon Act (40 U.S.C. 3141(2)(B)(ii)), the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii)(a) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the Contract, but if the agency is not such a party, the Contractor shall submit the payrolls to the applicant, sponsor, or Owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347.pdf> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant sponsor, or Owner, as the case may be, for transmission to HUD or its designee, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

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

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

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

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

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

(d) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Sections 3801 et seq of Title 31 of the United States Code.

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

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices shall 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, or with a State Apprenticeship Agency recognized by such Office, or if a person is employed in his or her first ninety (90) days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship, or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in

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

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees shall 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's hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the 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 on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws

approval of a training program, the Contractor shall no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

5. Compliance with Copeland Act Requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this Contract.

6. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs 1 through 10 of this paragraph B and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage determination, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all Contract clauses referenced in this subparagraph.

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

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

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

10. Certification of Eligibility.

(i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act (40 U.S.C. 3144(b)(2)) or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act (40

U.S.C. 3144(b)(2)) or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Department . . . makes, passes, utters or publishes any statement, knowing the same to be false . . . shall be fined under this title or imprisoned not more than two years, or both."

C. Contract Work Hours and Safety Standards Act.

1. Applicability and Definitions. This paragraph C of Article 1 is applicable only if a direct form of federal assistance is involved, such as Section 8, Section 202/811 Capital Advance, grants etc., and is applicable only where the prime contract is in an amount greater than \$100,000. As used in this paragraph C, the terms "laborers" and "mechanics" include watchmen and guards.

2. Overtime requirements. No contractor or subcontractor contracting for any part of the Contract work that may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (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 forty (40) hours in such workweek.

3. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the immediately preceding subparagraph C.2, the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, the 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 such subparagraph, 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 forty (40) hours without payment of the overtime wages required by the clause set forth in such subparagraph.

4. 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 under any other Federal contract with the same prime contractor, or under any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or

subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph 3 of this paragraph C.

5. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs 1 through 5 of this paragraph C and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in such subparagraphs 1 through 5.

D. Certification.

For projects with Security Instruments insured under the National Housing Act, as amended, that are subject to paragraph B of this Article 1, the Contractor is required to execute the Contractor's Prevailing Wage Certificate within HUD-92448 as a condition precedent to insurance by HUD of the Loan, or an advance thereof, made or to be made by the Lender in connection with the construction of the Project.

Article 2: Equal Employment Opportunity

A. Applicability. This Article 2 applies to any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee.

B. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, or national origin. 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, disability or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided setting forth the provisions of this nondiscrimination clause.

C. The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, disability, or national origin.

D. 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 a notice to be provided advising the said labor union or workers representatives of the Contractor's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

E. The Contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor.

F. The Contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and 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.

G. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and Contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations or order of the Secretary of Labor, or as otherwise provided by law.

H. The Contractor shall include the provisions of paragraphs A through H of this Article 2 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions shall be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as HUD or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance. *Provided, however,* that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD or the Secretary of Labor, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Article 3: Equal Opportunity for Businesses and Lower Income Persons Located Within the Project Area

A. This Article 3 is applicable to projects covered by Section 3, as defined in 24 CFR Part 135.

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

Article 4: Health and Safety

A. This Article 4 is applicable only where the prime contract is in an amount greater than \$100,000.

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

C. The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to 29 CFR Part 1926, and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

D. The Contractor shall include the provisions of this Article 4 in every subcontract so that such provisions shall be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as HUD or the Secretary of Labor shall direct as a means of enforcing such provisions.

Exhibit “G”

Federal Labor Standards Provisions
(form HUD-4010)

Applicability

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 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 any 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. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

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

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

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

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

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

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

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

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

4. Apprentices and Trainees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Exhibit “H”

Applicable prevailing wages determined by the
United States Department of Labor pursuant to the
Davis-Bacon Act.

"General Decision Number: CA20200017 10/09/2020

Superseded General Decision Number: CA20190017

State: California

Construction Type: Residential

Counties: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties in California.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.80 for calendar year 2020 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.80 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2020. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/03/2020
1	01/17/2020
2	01/31/2020
3	03/06/2020
4	03/13/2020
5	05/08/2020
6	05/15/2020
7	05/29/2020
8	06/12/2020
9	07/03/2020
10	07/17/2020
11	07/31/2020
12	08/07/2020
13	08/14/2020
14	08/28/2020
15	09/04/2020
16	09/25/2020
17	10/02/2020
18	10/09/2020

ASBE0005-002 09/01/2019

	Rates	Fringes
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Asbestos Workers/Insulator (Includes the application of all insulating materials, protective coverings, coatings, and finishes to all types of mechanical systems).....	\$ 43.77	22.48
Fire Stop Technician (Application of Firestopping Materials for wall openings and penetrations in walls, floors, ceilings and curtain walls).....	\$ 28.92	18.73

ASBE0005-004 07/01/2019

	Rates	Fringes
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Asbestos Removal worker/hazardous material handler (Includes preparation, wetting, stripping, removal, scrapping, vacuuming, bagging and disposing of all insulation materials from mechanical systems, whether they contain asbestos or not)....	\$ 20.63	12.17
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* BRCA0004-001 05/01/2020

	Rates	Fringes
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Bricklayer; Marble Setter Los Angeles County.....	\$ 41.53	19.48
Orange County.....	\$ 41.39	18.95
Riverside & San Bernardino Counties.....	\$ 41.48	18.63
Ventura County.....	\$ 41.39	18.81

*The wage scale for prevailing wage projects performed in
Blythe, China lake, Death Valley, Fort Irwin, Twenty-Nine
Palms, Needles and 1-15 corridor (Barstow to the Nevada
State Line) will be Three Dollars (\$3.00) above the
standard San Bernardino/Riverside County hourly wage rate

BRCA0004-004 11/01/2018

IMPERIAL

	Rates	Fringes
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BRICKLAYER; MARBLE SETTER.....	\$ 48.11	17.54
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* BRCA0004-009 05/01/2020

SAN LUIS OBISPO AND SANTA BARBARA COUNTIES

	Rates	Fringes
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BRICKLAYER; MARBLE SETTER.....	\$ 41.83	17.51
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*The wage scale for prevailing wage projects performed in Blythe, China lake, Death Valley, Fort Irwin, Twenty-Nine Palms, Needles and 1-15 corridor (Barstow to the Nevada State Line) will be Three Dollars (\$3.00) above the standard San Bernardino/Riverside County hourly wage rate

BRCA0018-001 06/01/2019

	Rates	Fringes
MARBLE FINISHER.....	\$ 33.43	14.11
TILE FINISHER.....	\$ 28.23	12.65

BRCA0018-002 06/01/2019

SAN LUIS OBISPO AND SANTA BARBARA

	Rates	Fringes
TILE LAYER.....	\$ 40.07	18.36

BRCA0018-003 06/01/2019

IMPERIAL, LOS ANGELES, ORANGE, RIVERSIDE, SAN BERNARDINO & VENTURA

	Rates	Fringes
TILE LAYER.....	\$ 40.07	18.36

BRCA0018-010 09/01/2020

	Rates	Fringes
TERRAZZO FINISHER.....	\$ 33.66	14.20
TERRAZZO WORKER/SETTER.....	\$ 41.60	14.73

CARP0409-003 07/01/2019

	Rates	Fringes
Drywall		
(1) Work on Wood-Framed Single Family Homes, and Wood-Framed Apartment Buildings up to and including 4 Stories		
Drywall Installer/Lather...	\$ 29.97	13.53
Stocker/Scraper.....	\$ 18.02	8.37
(2) All other Work		
Drywall Installer/Lather...	\$ 50.35	13.53
Stocker/Scraper.....	\$ 18.02	8.37

CARP0409-004 07/01/2019

Work on wood frame single family homes and apartments up to and including 4 stories:

	Rates	Fringes
CARPENTER		
Cabinet installer.....	\$ 39.21	13.53

Fence builder.....\$	37.66	13.37
Framer & finish carpenter...\$	39.50	13.53
Insulation installer.....\$	24.02	13.21
Roof loader of shingles.....\$	29.16	13.53
Shingler.....\$	38.65	13.53
Subterranean garage concrete construction and carpenters performing on grade slab concrete construction.....\$	38.13	13.53

 CARP0409-009 01/01/2019

	Rates	Fringes
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Modular Furniture Installer.....\$	19.85	6.66
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 ELEC0011-003 09/30/2019

LOS ANGELES

	Rates	Fringes
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ELECTRICIAN (does not include fire alarm, hold-up alarm, burglar alarm and surveillance systems).....\$	27.75	3%+6.55
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 ELEC0011-006 12/31/2018

COMMUNICATIONS AND SYSTEMS WORK

LOS ANGELES COUNTY

	Rates	Fringes
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Communications System Installer.....\$	36.07	3%+14.43
Technician.....\$	33.30	3%+27.82

SCOPE OF WORK: Installation, testing, service and maintenance of systems utilizing the transmission and/or transference of voice, sound, vision and digital for commercial, educational, security and entertainment purposes for the following: TV monitoring and surveillance, background - foreground music, intercom and telephone interconnect, microwave transmission, multi-media, multiplex, nurse call systems, radio page, burglar alarms and fire alarms.

Communication Systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems; inclusion or exclusion of terminations and testings of conductors determined by their function; excluding all other data systems or multiple systems which include control function or power supply; excluding installation of raceway systems, conduit systems, line voltage work, and energy management systems.

 ELEC0413-002 01/01/2020

SANTA BARBARA COUNTY

	Rates	Fringes
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Electricians.....\$ 34.00

3%+3.50

WORK AT VANDENBERG AFB: \$3.75 additional per hour.

ELEC0413-004 12/01/2019

COMMUNICATIONS AND SYSTEMS WORK

SANTA BARBARA COUNTY

	Rates	Fringes
Communications System		
Installer.....	\$ 36.72	3%+13.71

SCOPE OF WORK: Installation, testing, service and maintenance of systems utilizing the transmission and/or transference of voice, sound, vision and digital for commercial, educational, security and entertainment purposes for the following: TV monitoring and surveillance, background - foreground music, intercom and telephone interconnect, microwave transmission, multi-media, multiplex, nurse call systems, radio page, burglar alarms and fire alarm (see last paragraph below).

Communication Systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems; inclusion or exclusion of terminations and testings of conductors determined by their function; excluding all other data systems or multiple systems which include control function or power supply; excluding installation of raceway systems, conduit systems, line voltage work, and energy management systems.

Fire alarm work shall be performed at the current inside electrician total cost package.

ELEC0440-002 01/01/2018

RIVERSIDE

	Rates	Fringes
ELECTRICIAN.....	\$ 39.77	23.24

ELEC0440-005 12/01/2019

COMMUNICATIONS AND SYSTEMS WORK

RIVERSIDE AND SAN BERNARDINO COUNTIES

	Rates	Fringes
Communications System		
Installer.....	\$ 35.09	3%+15.50
Technician.....	\$ 33.09	15.89

SCOPE OF WORK: Installation, testing, service and maintenance of systems utilizing the transmission and/or transference of voice, sound, vision and digital for commercial, educational, security and entertainment purposes for the following: TV monitoring and surveillance, background - foreground music, intercom and telephone interconnect, microwave transmission, multi-media, multiplex, nurse call

systems, radio page, burglar alarms and fire alarms.

Communication Systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems; inclusion or exclusion of terminations and testings of conductors determined by their function; excluding all other data systems or multiple systems which include control function or power supply; excluding installation of raceway systems, conduit systems, line voltage work, and energy management systems.

ELEC0441-002 08/31/2020

ORANGE

	Rates	Fringes
ELECTRICIAN.....	\$ 28.75	9.53

ELEC0477-003 06/01/2020

SAN BERNARDINO

	Rates	Fringes
ELECTRICIAN.....	\$ 30.00	3%+7.60

ELEC0569-003 08/31/2020

IMPERIAL

	Rates	Fringes
ELECTRICIAN		
1 to 3 Stories.....	\$ 35.74	7.68

ELEC0639-002 03/01/2017

SAN LUIS OBISPO

	Rates	Fringes
ELECTRICIAN.....	\$ 23.50	7.72

ELEC0639-003 12/01/2019

COMMUNICATIONS AND SYSTEMS WORK

SAN LUIS OBISPO COUNTY

	Rates	Fringes
Communications System		
Installer.....	\$ 36.72	14.76
Technician.....	\$ 30.89	11.66

SCOPE OF WORK: Installation, testing, service and maintenance of systems utilizing the transmission and/or transference of voice, sound, vision and digital for commercial, educational, security and entertainment purposes for the following: TV monitoring and surveillance, background - foreground music, intercom and telephone interconnect, microwave transmission, multi-media, multiplex, nurse call systems, radio page, burglar alarms and fire alarm (see

last paragraph below).

Communication Systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems; inclusion or exclusion of terminations and testings of conductors determined by their function; excluding all other data systems or multiple systems which include control function or power supply; excluding installation of raceway systems, conduit systems, line voltage work, and energy management systems.

Fire alarm work shall be performed at the current inside electrician total cost package.

ELEC0952-002 07/27/2020

VENTURA

	Rates	Fringes
CABLE SPLICER		
All work within 32 road miles or less from the nearest base point.....	\$ 46.20	27.99
ELECTRICIAN		
All work within 32 road miles or less from the nearest base point.....	\$ 42.00	27.86

ALL WORK MORE THAN 32 ROAD MILES FROM NEAREST BASE POINT:
Add \$5.00 to the basic hourly rate. BASE POINTS: the main Post Office in the cities of Camarillo, Oak View, Oxnard, Santa Paula and Ventura.

ELEC0952-004 12/01/2019

COMMUNICATIONS AND SYSTEMS WORK

VENTURA COUNTY ONLY

	Rates	Fringes
Communications System		
Installer.....	\$ 36.97	14.69
Technician.....	\$ 30.10	12.78

SCOPE OF WORK: Installation, testing, service and maintenance of systems utilizing the transmission and/or transference of voice, sound, vision and digital for commercial, educational, security and entertainment purposes for the following: TV monitoring and surveillance, background - foreground music, intercom and telephone interconnect, microwave transmission, multi-media, multiplex, nurse call systems, radio page, burglar alarms and fire alarm (see last paragraph below).

Communication Systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems; inclusion or exclusion of terminations and testings of conductors determined by their function; excluding all other data systems or multiple systems which include control function or power supply; excluding installation of raceway systems, conduit systems, line

voltage work, and energy management systems.

Fire alarm work shall be performed at the current inside electrician total cost package.

ELEV0008-004 01/01/2020

SAN LUIS OBISPO

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 69.78	34.765+a+b

FOOTNOTE:

- a. PAID VACATION: Employer contributes 8% of regular hourly rate as vacation pay credit for employees with more than 5 years of service, and 6% for 6 months to 5 years of service.
b. PAID HOLIDAYS: New Years Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

ELEV0018-004 01/01/2020

IMPERIAL, LOS ANGELES, ORANGE, RIVERSIDE, SAN BERNARDINO, SANTA BARBARA AND VENTURA

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 57.40	34.765+a+b

FOOTNOTE:

- PAID VACATION: Employer contributes 8% of regular hourly rate as vacation pay credit for employees with more than 5 years of service, and 6% for 6 months to 5 years of service.
PAID HOLIDAYS: New Years Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

ENGI0012-001 07/01/2018

	Rates	Fringes
OPERATOR: Power Equipment (Cranes, Piledriving & Hoisting)		
GROUP 1.....	\$ 46.65	25.25
GROUP 2.....	\$ 47.43	25.25
GROUP 3.....	\$ 47.72	25.25
GROUP 4.....	\$ 47.86	25.25
GROUP 5.....	\$ 48.08	25.25
GROUP 6.....	\$ 48.19	25.25
GROUP 7.....	\$ 48.31	25.25
GROUP 8.....	\$ 48.48	25.25
GROUP 9.....	\$ 48.65	25.25
GROUP 10.....	\$ 49.65	25.25
GROUP 11.....	\$ 50.65	25.25
GROUP 12.....	\$ 51.65	25.25
GROUP 13.....	\$ 52.65	25.25
OPERATOR: Power Equipment		
GROUP 1.....	\$ 45.30	25.25
GROUP 2.....	\$ 46.08	25.25

GROUP 3.....	\$ 46.37	25.25
GROUP 4.....	\$ 47.86	25.25
GROUP 5.....	\$ 48.96	25.25
GROUP 6.....	\$ 48.08	25.25
GROUP 7.....	\$ 49.18	25.25
GROUP 8.....	\$ 48.19	25.25
GROUP 9.....	\$ 49.29	25.25
GROUP 10.....	\$ 48.31	25.25
GROUP 11.....	\$ 49.41	25.25
GROUP 12.....	\$ 49.48	25.25
GROUP 13.....	\$ 48.58	25.25
GROUP 14.....	\$ 48.61	25.25
GROUP 15.....	\$ 48.69	25.25
GROUP 16.....	\$ 48.81	25.25
GROUP 17.....	\$ 48.98	25.25
GROUP 18.....	\$ 49.08	25.25
GROUP 19.....	\$ 49.19	25.25
GROUP 20.....	\$ 49.31	25.25
GROUP 21.....	\$ 49.48	25.25
GROUP 22.....	\$ 49.58	25.25
GROUP 23.....	\$ 49.69	25.25
GROUP 24.....	\$ 49.81	25.25
GROUP 25.....	\$ 49.98	25.25

PREMIUM PAY:

\$3.75 per hour shall be paid on all Power Equipment Operator work on the following Military Bases: China Lake Naval Reserve, Vandenberg AFB, Point Arguello, Seely Naval Base, Fort Irwin, Nebo Annex Marine Base, Marine Corp Logistics Base Yermo, Edwards AFB, 29 Palms Marine Base

Workers required to suit up and work in a hazardous material environment: \$2.00 per hour additional. Combination mixer and compressor operator on gunite work shall be classified as a concrete mobile mixer operator.

CRANES, PILEDRIVING AND HOISTING EQUIPMENT CLASSIFICATIONS

GROUP 1: Engineer oiler; Fork lift operator (includes loed, lull or similar types)

GROUP 2: Truck crane oiler

GROUP 3: A-frame or winch truck operator; Ross carrier operator (jobsite)

GROUP 4: Bridge-type unloader and turntable operator; Helicopter hoist operator

GROUP 5: Hydraulic boom truck; Stinger crane (Austin-Western or similar type); Tugger hoist operator (1 drum)

GROUP 6: Bridge crane operator; Cretor crane operator; Hoist operator (Chicago boom and similar type); Lift mobile operator; Lift slab machine operator (Vagtborg and similar types); Material hoist and/or manlift operator; Polar gantry crane operator; Self Climbing scaffold (or similar type); Shovel, backhoe, dragline, clamshell operator (over 3/4 yd. and up to 5 cu. yds. mrc); Tugger hoist operator

GROUP 7: Pedestal crane operator; Shovel, backhoe, dragline, clamshell operator (over 5 cu. yds. mrc); Tower crane repair; Tugger hoist operator (3 drum)

GROUP 8: Crane operator (up to and including 25 ton

capacity); Crawler transporter operator; Derrick barge operator (up to and including 25 ton capacity); Hoist operator, stiff legs, Guy derrick or similar type (up to and including 25 ton capacity); Shovel, backhoe, dragline, clamshell operator (over 7 cu. yds., M.R.C.)

GROUP 9: Crane operator (over 25 tons and up to and including 50 tons mrc); Derrick barge operator (over 25 tons up to and including 50 tons mrc); Highline cableway operator; Hoist operator, stiff legs, Guy derrick or similar type (over 25 tons up to and including 50 tons mrc); K-crane operator; Polar crane operator; Self erecting tower crane operator maximum lifting capacity ten tons

GROUP 10: Crane operator (over 50 tons and up to and including 100 tons mrc); Derrick barge operator (over 50 tons up to and including 100 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 50 tons up to and including 100 tons mrc), Mobile tower crane operator (over 50 tons, up to and including 100 tons M.R.C.); Tower crane operator and tower gantry

GROUP 11: Crane operator (over 100 tons and up to and including 200 tons mrc); Derrick barge operator (over 100 tons up to and including 200 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 100 tons up to and including 200 tons mrc); Mobile tower crane operator (over 100 tons up to and including 200 tons mrc)

GROUP 12: Crane operator (over 200 tons up to and including 300 tons mrc); Derrick barge operator (over 200 tons up to and including 300 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 200 tons, up to and including 300 tons mrc); Mobile tower crane operator (over 200 tons, up to and including 300 tons mrc)

GROUP 13: Crane operator (over 300 tons); Derrick barge operator (over 300 tons); Helicopter pilot; Hoist operator, stiff legs, Guy derrick or similar type (over 300 tons); Mobile tower crane operator (over 300 tons)

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Bargeman; Brakeman; Compressor operator; Ditch Witch, with seat or similar type equipment; Elevator operator-inside; Engineer Oiler; Forklift operator (includes loed, lull or similar types under 5 tons; Generator operator; Generator, pump or compressor plant operator; Pump operator; Signalman; Switchman

GROUP 2: Asphalt-rubber plant operator (nurse tank operator); Concrete mixer operator-skip type; Conveyor operator; Fireman; Forklift operator (includes loed, lull or similar types over 5 tons; Hydrostatic pump operator; oiler crusher (asphalt or concrete plant); Petromat laydown machine; PJU side dum jack; Screening and conveyor machine operator (or similar types); Skiploader (wheel type up to 3/4 yd. without attachment); Tar pot fireman; Temporary heating plant operator; Trenching machine oiler

GROUP 3: Asphalt-rubber blend operator; Bobcat or similar type (side steer); Equipment greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter radioman (ground); Stationary pipe wrapping and cleaning machine operator

GROUP 4: Asphalt plant fireman; Backhoe operator (mini-max or similar type); Boring machine operator; Boxman or mixerman (asphalt or concrete); Chip spreading machine operator; Concrete cleaning decontamination machine operator; Concrete Pump Operator (small portable); Drilling machine operator, small auger types (Texoma super economatic or similar types - Hughes 100 or 200 or similar types - drilling depth of 30' maximum); Equipment greaser (grease truck); Guard rail post driver operator; Highline cableway signalman; Hydra-hammer-aero stomper; Micro Tunneling (above ground tunnel); Power concrete curing machine operator; Power concrete saw operator; Power-driven jumbo form setter operator; Power sweeper operator; Rock Wheel Saw/Trencher; Roller operator (compacting); Screed operator (asphalt or concrete); Trenching machine operator (up to 6 ft.); Vacuum or much truck

GROUP 5: Equipment Greaser (Grease Truck/Multi Shift).

GROUP 6: Articulating material hauler; Asphalt plant engineer; Batch plant operator; Bit sharpener; Concrete joint machine operator (canal and similar type); Concrete planer operator; Dandy digger; Deck engine operator; Derrickman (oilfield type); Drilling machine operator, bucket or auger types (Calweld 100 bucket or similar types - Watson 1000 auger or similar types - Texoma 330, 500 or 600 auger or similar types - drilling depth of 45' maximum); Drilling machine operator (including water wells); Hydrographic seeder machine operator (straw, pulp or seed), Jackson track maintainer, or similar type; Kalamazoo Switch tamper, or similar type; Machine tool operator; Maginnis internal full slab vibrator, Mechanical berm, curb or gutter (concrete or asphalt); Mechanical finisher operator (concrete, Clary-Johnson-Bidwell or similar); Micro tunnel system (below ground); Pavement breaker operator (truck mounted); Road oil mixing machine operator; Roller operator (asphalt or finish), rubber-tired earth moving equipment (single engine, up to and including 25 yds. struck); Self-propelled tar pipelining machine operator; Skiploader operator (crawler and wheel type, over 3/4 yd. and up to and including 1-1/2 yds.); Slip form pump operator (power driven hydraulic lifting device for concrete forms); Tractor operator-bulldozer, tamper-scraper (single engine, up to 100 h.p. flywheel and similar types, up to and including D-5 and similar types); Tugger hoist operator (1 drum); Ultra high pressure waterjet cutting tool system operator; Vacuum blasting machine operator

GROUP 7: Welder - General

GROUP 8: Asphalt or concrete spreading operator (tamping or finishing); Asphalt paving machine operator (Barber Greene or similar type); Asphalt-rubber distribution operator; Backhoe operator (up to and including 3/4 yd.), small ford, Case or similar; Cast-in-place pipe laying machine operator; Combination mixer and compressor operator (gunite work); Compactor operator (self-propelled); Concrete mixer operator (paving); Crushing plant operator; Drill Doctor; Drilling machine operator, Bucket or auger types (Calweld 150 bucket or similar types - Watson 1500, 2000 2500 auger or similar types - Texoma 700, 800 auger or similar types - drilling depth of 60' maximum); Elevating grader operator; Grade checker; Gradall operator; Grouting machine operator; Heavy-duty repairman; Heavy equipment robotics operator; Kalamazoo balliste regulator or similar type; Kolman belt

loader and similar type; Le Tourneau blob compactor or similar type; Loader operator (Athey, Euclid, Sierra and similar types); Mobark Chipper or similar; Ozzie padder or similar types; P.C. slot saw; Pneumatic concrete placing machine operator (Hackley-Presswell or similar type); Pumpcrete gun operator; Rock Drill or similar types; Rotary drill operator (excluding caisson type); Rubber-tired earth-moving equipment operator (single engine, caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. up to and including 50 cu. yds. struck); Rubber-tired earth-moving equipment operator (multiple engine up to and including 25 yds. struck); Rubber-tired scraper operator (self-loading paddle wheel type-John Deere, 1040 and similar single unit); Self-propelled curb and gutter machine operator; Shuttle buggy; Skiploader operator (crawler and wheel type over 1-1/2 yds. up to and including 6-1/2 yds.); Soil remediation plant operator; Surface heaters and planer operator; Tractor compressor drill combination operator; Tractor operator (any type larger than D-5 - 100 flywheel h.p. and over, or similar-bulldozer, tamper, scraper and push tractor single engine); Tractor operator (boom attachments), Traveling pipe wrapping, cleaning and bending machine operator; Trenching machine operator (over 6 ft. depth capacity, manufacturer's rating); trenching Machine with Road Miner attachment (over 6 ft depth capacity): Ultra high pressure waterjet cutting tool system mechanic; Water pull (compaction) operator

GROUP 9: Heavy Duty Repairman

GROUP 10: Drilling machine operator, Bucket or auger types (Calweld 200 B bucket or similar types-Watson 3000 or 5000 auger or similar types-Texoma 900 auger or similar types-drilling depth of 105' maximum); Dual drum mixer, dynamic compactor LDC350 (or similar types); Monorail locomotive operator (diesel, gas or electric); Motor patrol-blade operator (single engine); Multiple engine tractor operator (Euclid and similar type-except Quad 9 cat.); Rubber-tired earth-moving equipment operator (single engine, over 50 yds. struck); Pneumatic pipe ramming tool and similar types; Prestressed wrapping machine operator; Rubber-tired earth-moving equipment operator (single engine, over 50 yds. struck); Rubber tired earth moving equipment operator (multiple engine, Euclid, caterpillar and similar over 25 yds. and up to 50 yds. struck), Tower crane repairman; Tractor loader operator (crawler and wheel type over 6-1/2 yds.); Woods mixer operator (and similar Pugmill equipment)

GROUP 11: Heavy Duty Repairman - Welder Combination, Welder - Certified.

GROUP 12: Auto grader operator; Automatic slip form operator; Drilling machine operator, bucket or auger types (Calweld, auger 200 CA or similar types - Watson, auger 6000 or similar types - Hughes Super Duty, auger 200 or similar types - drilling depth of 175' maximum); Hoe ram or similar with compressor; Mass excavator operator less tha 750 cu. yards; Mechanical finishing machine operator; Mobile form traveler operator; Motor patrol operator (multi-engine); Pipe mobile machine operator; Rubber-tired earth- moving equipment operator (multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck); Rubber-tired self- loading scraper operator (paddle-wheel-auger type

self-loading - two (2) or more units)

GROUP 13: Rubber-tired earth-moving equipment operator operating equipment with push-pull system (single engine, up to and including 25 yds. struck)

GROUP 14: Canal liner operator; Canal trimmer operator; Remote- control earth-moving equipment operator (operating a second piece of equipment: \$1.00 per hour additional); Wheel excavator operator (over 750 cu. yds.)

GROUP 15: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine-up to and including 25 yds. struck)

GROUP 16: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 17: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine, Euclid, Caterpillar and similar, over 50 cu. yds. struck); Tandem tractor operator (operating crawler type tractors in tandem - Quad 9 and similar type)

GROUP 18: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, up to and including 25 yds. struck)

GROUP 19: Rotex concrete belt operator (or similar types); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple engine, up to and including 25 yds. struck)

GROUP 20: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps, and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 21: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck)

GROUP 22: Rubber-tired earth-moving equipment operator,

operating equipment with the tandem push-pull system
(single engine, up to and including 25 yds. struck)

GROUP 23: Rubber-tired earth-moving equipment operator,
operating equipment with the tandem push-pull system
(single engine, Caterpillar, Euclid, Athey Wagon and
similar types with any and all attachments over 25 yds. and
up to and including 50 yds. struck); Rubber-tired
earth-moving equipment operator, operating with the tandem
push-pull system (multiple engine, up to and including 25
yds. struck)

GROUP 24: Rubber-tired earth-moving equipment operator,
operating equipment with the tandem push-pull system
(single engine, over 50 yds. struck); Rubber-tired
earth-moving equipment operator, operating equipment with
the tandem push-pull system (multiple engine, Euclid,
Caterpillar and similar, over 25 yds. and up to 50 yds.
struck)

GROUP 25: Concrete pump operator-truck mounted; Rubber-tired
earth-moving equipment operator, operating equipment with
the tandem push-pull system (multiple engine, Euclid,
Caterpillar and similar type, over 50 cu. yds. struck)

IRON0433-006 07/01/2020

	Rates	Fringes
IRONWORKER		
Fence Erector.....	\$ 34.58	24.81
Ornamental, Reinforcing and Structural.....	\$ 41.00	33.45

PREMIUM PAY:

\$6.00 additional per hour at the following locations:

China Lake Naval Test Station, Chocolate Mountains Naval
Reserve-Niland,
Edwards AFB, Fort Irwin Military Station, Fort Irwin Training
Center-Goldstone, San Clemente Island, San Nicholas Island,
Susanville Federal Prison, 29 Palms - Marine Corps, U.S. Marine
Base - Barstow, U.S. Naval Air Facility - Sealey, Vandenberg AFB

\$4.00 additional per hour at the following locations:

Army Defense Language Institute - Monterey, Fallon Air Base,
Naval Post Graduate School - Monterey, Yermo Marine Corps
Logistics Center

\$2.00 additional per hour at the following locations:

Port Hueneme, Port Mugu, U.S. Coast Guard Station - Two Rock

LAB00220-003 07/01/2019

Residential, 4 Stories

SAN LUIS OBISPO AND SANTA BARBARA COUNTIES

Rates	Fringes
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LABORER

GROUP 1.....	\$ 35.24	20.09
GROUP 2.....	\$ 35.79	20.09
GROUP 3.....	\$ 36.34	20.09
GROUP 4.....	\$ 37.89	20.09
GROUP 5.....	\$ 38.24	20.09

LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete and patching; post hole digger (manual); Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Slurry seal crew (mixer operator, applicator operator, squeegee person, shuttle person, top person), filling of cracks by any method on any surface; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asbestos abatement; Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curb, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt installation of all asphalt overlay fabric and materials used for reinforcing asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer (lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellower

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and

similar mechanical tools not separately classified herein; operation of remote controlled robotic tools in connection with Laborer's work; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Power post hole digger; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Any worker exposed to raw sewage; Asphalt raker, lute person, ironer, asphalt dump person and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt-rubber distributor boot person; Laser beam in connection with laborers' work; Over-size concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting, Porta Shot-Blast; Traffic lane closure, Certified.

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all types of mechanical drills without regard to the form of motive power; Toxic waste removal; Boring system electronic tracking locator

LAB00220-006 07/01/2020

SAN LUIS OBISPO AND SANTA BARBARA COUNTIES

	Rates	Fringes
Brick Tender.....	\$ 34.00	19.77

LAB00300-002 07/01/2018

LOS ANGELES COUNTY

	Rates	Fringes
Brick Tender.....	\$ 32.26	18.40

LAB00300-004 07/01/2019

Residential, 4 Stories

LOS ANGELES COUNTY

	Rates	Fringes
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LABORER

GROUP 1.....	\$ 35.24	20.09
GROUP 2.....	\$ 35.79	20.09
GROUP 3.....	\$ 36.34	20.09
GROUP 4.....	\$ 37.89	20.09
GROUP 5.....	\$ 38.24	20.09

LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete and patching; post hole digger (manual); Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Slurry seal crew (mixer operator, applicator operator, squeegee person, shuttle person, top person), filling of cracks by any method on any surface; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asbestos abatement; Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curb, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt installation of all asphalt overlay fabric and materials used for reinforcing asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer (lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellow

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing);

Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; operation of remote controlled robotic tools in connection with Laborer's work; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Power post hole digger; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Any worker exposed to raw sewage; Asphalt raker, lute person, ironer, asphalt dump person and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt-rubber distributor boot person; Laser beam in connection with laborers' work; Over-size concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting, Porta Shot-Blast; Traffic lane closure, Certified.

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all types of mechanical drills without regard to the form of motive power; Toxic waste removal; Boring system electronic tracking locator

LAB00300-006 01/01/2018		
	Rates	Fringes
Asbestos Removal Laborer.....	\$ 33.19	17.78
SCOPE OF WORK: Includes site mobilization, initial site cleanup, site preparation, removal of asbestos containing material and toxic waste (including lead abatement and any other toxic material), encapsulation, enclosure and disposal of asbestos containing materials and toxic waste(including lead abatement and any other toxic materials) by hand or with equipment or machinery; scaffolding, fabrication of temporary wooden barriers and assembly of decontamination stations.		

LAB00300-007 07/01/2019		

Residential, 3 Stories and under

	Rates	Fringes
Laborers		
(1) Cleanup, Fencing (Chain Link or Wood), Landscaping.....	\$ 33.76	16.84
(2) All Other Work.....	\$ 34.76	16.84

LAB00585-002 07/01/2019

Residential, 4 Stories

VENTURA COUNTY

	Rates	Fringes
LABORER		
GROUP 1.....	\$ 35.24	20.09
GROUP 2.....	\$ 35.79	20.09
GROUP 3.....	\$ 36.34	20.09
GROUP 4.....	\$ 37.89	20.09
GROUP 5.....	\$ 38.24	20.09

LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete and patching; post hole digger (manual); Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Slurry seal crew (mixer operator, applicator operator, squeegee person, shuttle person, top person), filling of cracks by any method on any surface; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asbestos abatement; Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curb, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt installation of all asphalt overlay fabric and materials used for reinforcing asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot

tender); Septic tank digger and installer (lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellow

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; operation of remote controlled robotic tools in connection with Laborer's work; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Power post hole digger; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Any worker exposed to raw sewage; Asphalt raker, lute person, ironer, asphalt dump person and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt-rubber distributor boot person; Laser beam in connection with laborers' work; Over-size concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting, Porta Shot-Blast; Traffic lane closure, Certified.

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all types of mechanical drills without regard to the form of motive power; Toxic waste removal; Boring system electronic tracking locator

LAB00585-004 07/01/2018

VENTURA COUNTY

Rates

Fringes

Brick Tender.....	\$ 32.26	18.40
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LAB00652-002 07/01/2019

Residential, 4 Stories

ORANGE COUNTY

Rates

Fringes

LABORER

GROUP 1.....	\$ 35.24	20.09
GROUP 2.....	\$ 35.79	20.09
GROUP 3.....	\$ 36.34	20.09
GROUP 4.....	\$ 37.89	20.09
GROUP 5.....	\$ 38.24	20.09

LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete and patching; post hole digger (manual); Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Slurry seal crew (mixer operator, applicator operator, squeegee person, shuttle person, top person), filling of cracks by any method on any surface; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asbestos abatement; Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curb, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt installation of all asphalt overlay fabric and materials used for reinforcing asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer (lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellow

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete

pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; operation of remote controlled robotic tools in connection with Laborer's work; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Power post hole digger; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Any worker exposed to raw sewage; Asphalt raker, lute person, ironer, asphalt dump person and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt-rubber distributor boot person; Laser beam in connection with laborers' work; Over-size concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting, Porta Shot-Blast; Traffic lane closure, Certified.

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all types of mechanical drills without regard to the form of motive power; Toxic waste removal; Boring system electronic tracking locator

LAB00652-004 07/01/2018		
ORANGE COUNTY		
	Rates	Fringes
Brick Tender.....	\$ 32.26	18.40

LAB00783-003 07/01/2019		

Residential, 4 Stories

SAN BERNARDINO COUNTY

	Rates	Fringes
LABORER		
GROUP 1.....	\$ 35.24	20.09
GROUP 2.....	\$ 35.79	20.09
GROUP 3.....	\$ 36.34	20.09
GROUP 4.....	\$ 37.89	20.09
GROUP 5.....	\$ 38.24	20.09

LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete and patching; post hole digger (manual); Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Slurry seal crew (mixer operator, applicator operator, squeegee person, shuttle person, top person), filling of cracks by any method on any surface; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asbestos abatement; Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curb, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt installation of all asphalt overlay fabric and materials used for reinforcing asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer (lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellow

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold,

creosote, lime caustic and similar type materials
 ("applying" means applying, dipping, brushing or handling
 of such materials for pipe wrapping and waterproofing);
 Operator of pneumatic, gas, electric tools, vibrating
 machine, pavement breaker, air blasting, come-alongs, and
 similar mechanical tools not separately classified herein;
 operation of remote controlled robotic tools in connection
 with Laborer's work; Pipelayer's backup person, coating,
 grouting, making of joints, sealing, caulking, diapering
 and including rubber gasket joints, pointing and any and
 all other services; Power post hole digger; Rock slinger;
 Rotary scarifier or multiple head concrete chipping
 scarifier; Steel headerboard and guideline setter; Tamper,
 Barko, Wacker and similar type; Trenching machine,
 hand-propelled

GROUP 4: Any worker exposed to raw sewage; Asphalt raker,
 lute person, ironer, asphalt dump person and asphalt
 spreader boxes (all types); Concrete core cutter (walls,
 floors or ceilings), grinder or sander; Concrete saw
 person, cutting walls or flat work, scoring old or new
 concrete; Cribber, shorer, lagging, sheeting and trench
 bracing, hand-guided lagging hammer; Head rock slinger;
 Laborer, asphalt-rubber distributor boot person; Laser beam
 in connection with laborers' work; Over-size concrete
 vibrator operator, 70 lbs. and over; Pipelayer performing
 all services in the laying and installation of pipe from
 the point of receiving pipe in the ditch until completion of
 operation, including any and all forms of tubular material,
 whether pipe, metallic or non-metallic, conduit and any
 other stationary type of tubular device used for the
 conveying of any substance or element, whether water,
 sewage, solid gas, air, or other product whatsoever and
 without regard to the nature of material from which the
 tubular material is fabricated; No-joint pipe and stripping
 of same; Prefabricated manhole installer; Sandblaster
 (nozzle person), water blasting, Porta Shot-Blast; Traffic
 lane closure, Certified.

GROUP 5: Blaster powder, all work of loading holes, placing
 and blasting of all powder and explosives of whatever type,
 regardless of method used for such loading and placing;
 Driller: All power drills, excluding jackhammer, whether
 core, diamond, wagon, track, multiple unit, and any and all
 types of mechanical drills without regard to the form of
 motive power; Toxic waste removal; Boring system electronic
 tracking locator

 LAB00783-006 07/01/2018

SAN BERNARDINO COUNTY

	Rates	Fringes
Brick Tender.....	\$ 32.26	18.40

 LAB01184-001 07/01/2020

	Rates	Fringes
Laborers: (HORIZONTAL DIRECTIONAL DRILLING)		
(1) Drilling Crew Laborer...	\$ 37.85	15.99
(2) Vehicle Operator/Hauler.	\$ 38.02	15.99

(3) Horizontal Directional Drill Operator.....\$ 39.87	15.99
(4) Electronic Tracking Locator.....\$ 41.87	15.99
Laborers: (STRIPING/SLURRY SEAL)	
GROUP 1.....\$ 39.06	19.01
GROUP 2.....\$ 40.36	19.01
GROUP 3.....\$ 42.37	19.01
GROUP 4.....\$ 44.11	19.01

LABORERS - STRIPING CLASSIFICATIONS

GROUP 1: Protective coating, pavement sealing, including repair and filling of cracks by any method on any surface in parking lots, game courts and playgrounds; carstops; operation of all related machinery and equipment; equipment repair technician

GROUP 2: Traffic surface abrasive blaster; pot tender - removal of all traffic lines and markings by any method (sandblasting, waterblasting, grinding, etc.) and preparation of surface for coatings. Traffic control person: controlling and directing traffic through both conventional and moving lane closures; operation of all related machinery and equipment

GROUP 3: Traffic delineating device applicator: Layout and application of pavement markers, delineating signs, rumble and traffic bars, adhesives, guide markers, other traffic delineating devices including traffic control. This category includes all traffic related surface preparation (sandblasting, waterblasting, grinding) as part of the application process. Traffic protective delineating system installer: removes, relocates, installs, permanently affixed roadside and parking delineation barricades, fencing, cable anchor, guard rail, reference signs, monument markers; operation of all related machinery and equipment; power broom sweeper

GROUP 4: Striper: layout and application of traffic stripes and markings; hot thermo plastic; tape traffic stripes and markings, including traffic control; operation of all related machinery and equipment

LAB01184-003 07/01/2019

Residential, 4 Stories

IMPERIAL AND RIVERSIDE COUNTIES

	Rates	Fringes
LABORER		
GROUP 1.....\$ 35.24		20.09
GROUP 2.....\$ 35.79		20.09
GROUP 3.....\$ 36.34		20.09
GROUP 4.....\$ 37.89		20.09
GROUP 5.....\$ 38.24		20.09

LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing;

Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete and patching; post hole digger (manual); Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Slurry seal crew (mixer operator, applicator operator, squeegee person, shuttle person, top person), filling of cracks by any method on any surface; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asbestos abatement; Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curb, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt installation of all asphalt overlay fabric and materials used for reinforcing asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer (lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellow

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; operation of remote controlled robotic tools in connection with Laborer's work; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Power post hole digger; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Any worker exposed to raw sewage; Asphalt raker,

lute person, ironer, asphalt dump person and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt-rubber distributor boot person; Laser beam in connection with laborers' work; Over-size concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting, Porta Shot-Blast; Traffic lane closure, Certified.

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all types of mechanical drills without regard to the form of motive power; Toxic waste removal; Boring system electronic tracking locator

LAB01184-005 07/01/2020

IMPERIAL AND RIVERSIDE COUNTIES

	Rates	Fringes
Brick Tender.....	\$ 34.00	19.77

LAB01414-002 08/05/2020

	Rates	Fringes
Laborers: (1 to 3 Stories)		
Plaster Clean-Up Laborer....	\$ 34.03	21.01
Plaster Tender.....	\$ 36.58	21.01
Laborers: (4 Stories)		
Plaster Clean-up Laborer....	\$ 34.03	21.01
Plaster Tender.....	\$ 36.58	21.01

Work on a swing stage scaffold: \$1.00 per hour additional.

Work at Military Bases - \$3.00 additional per hour:
 Coronado Naval Amphibious Base, Fort Irwin, George AFB,
 Marine Corps Air Station-29 Palms, Imperial Beach Naval Air
 Station, Marine Corps Logistics Supply Base, Marine Corps
 Pickle Meadows, Mountain Warfare Training Center, Naval
 Air Facility-Seeley, North Island Naval Air Station,
 Vandenberg AFB.

PAIN0036-005 07/01/2019

Rates	Fringes
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PAINTER (including lead
abatement)Imperial, Los Angeles,
Orange, Riverside & San
Bernardino

(1) Repaint.....\$ 28.59 15.97

(2) All other work.....\$ 32.12 16.09

(3) Journeyman &
Industrial.....\$ 34.02 16.49

San Luis Obispo, Santa

Barbara & Ventura

(1) Repaint.....\$ 25.40 15.87

(2) All other work.....\$ 30.04 16.03

(3) Journeyman &
Industrial.....\$ 34.02 16.49-----
PAIN0036-011 10/01/2019IMPERIAL, LOS ANGELES, ORANGE, RIVERSIDE, SAN BERNARDINO, SAN
LUIS OBISPO, SANTA BARBARA AND VENTURA COUNTIES

Rates Fringes

DRYWALL FINISHER/TAPER.....\$ 25.11 17.06

PAIN0036-014 01/01/2020

IMPERIAL

Rates Fringes

GLAZIER.....\$ 44.55 17.06

PAIN0036-018 01/01/2020

LOS ANGELES, ORANGE, RIVERSIDE, SAN BERNARDINO, SANTA BARBARA
AND VENTURA

Rates Fringes

GLAZIER.....\$ 43.45 23.39

FOOTNOTE: Additional \$1.25 per hour for work in a condo,
from the third (3rd) floor and up. Additional \$1.25 per
hour for work on the outside of the building from a swing
stage or any suspended contrivance, from the ground up.-----
PAIN0036-020 06/01/2020

IMPERIAL

Rates Fringes

SOFT FLOOR LAYER.....\$ 32.27 17.24

PAIN0169-007 06/01/2020

SAN LUIS OBISPO

Rates Fringes

GLAZIER.....	\$ 40.00	26.76
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PAIN1247-003 01/01/2020

LOS ANGELES, ORANGE, RIVERSIDE, SAN BERNARDINO, SAN LUIS
OBISPO, SANTA BARBARA AND VENTURA

Rates	Fringes
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SOFT FLOOR LAYER.....	\$ 37.55	13.78
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PLAS0200-002 08/02/2017

IMPERIAL, KERN, LOS ANGELES, ORANGE, RIVERSIDE, SAN BERNARDINO,
SAN LUIS OBISPO, SANTA BARBARA AND VENTURA

Rates	Fringes
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PLASTERER

1 - 3 stories.....	\$ 32.61	20.08
4-stories.....	\$ 35.61	20.08

PLAS0500-003 07/01/2020

Rates	Fringes
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CEMENT MASON/CONCRETE FINISHER...	\$ 38.50	25.91
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PLUM0016-011 09/01/2020

Rates	Fringes
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PLUMBER/PIPEFITTER

Residential.....	\$ 41.62	20.63
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PLUM0250-001 09/04/2017

LOS ANGELES AND ORANGE

Rates	Fringes
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REFRIGERATION MECHANIC

Refrigeration Fitter.....	\$ 45.50	21.65
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* PLUM0345-001 09/01/2020

Rates	Fringes
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PLUMBER

Landscape/Irrigation Fitter..	\$ 35.30	24.10
Sewer & Storm Drain Work....	\$ 39.39	21.48

ROOF0036-001 08/01/2019

LOS ANGELES, ORANGE, RIVERSIDE, SAN BERNARDINO, SAN LUIS
OBISPO, SANTA BARBARA AND VENTURA

Rates	Fringes
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Roofer.....	\$ 39.52	17.47
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FOOTNOTE: Pitch premium: Work on which employees are exposed

to pitch fumes or required to handle pitch, pitch base or pitch impregnated products, or any material containing coal tar pitch, the entire roofing crew shall receive \$1.75 per hour ""pitch premium"" pay.

ROOF0045-003 07/01/2020

IMPERIAL

	Rates	Fringes
Roofer.....	\$ 36.25	9.24

SFCA0669-005 04/01/2019

AREA 1: IMPERIAL COUNTY; LOS ANGELES COUNTY (does not include the city of Pomona, Catalina Island, and that part of Los Angeles County within 25 miles of the city limits of Los Angeles); ORANGE COUNTY (does not include Catalina Island; San Clemente Island; City of Santa Ana; and remainder of Orange County within 25 miles of the city limits of Los Angeles); RIVERSIDE COUNTY; AND SAN BERNARDINO COUNTY (does not include the northern part of City of Chino, or the cities of Montclair and Ontario)

AREA 2: SAN LUIS OBISPO, SANTA BARBARA COUNTIES, VENTURA (does not include Port Hueneme, Port Mugu, the city of Santa Paula, and that part of Ventura County within 25 miles of the city limits of Los Angeles) COUNTIES

	Rates	Fringes
SPRINKLER FITTER		
Area 1.....	\$ 39.73	23.90
Area 2.....	\$ 38.85	23.85

SFCA0709-002 01/01/2020

LOS ANGELES COUNTY (the city of Pomona, Catalina Island, and that part of Los Angeles County within 25 miles of the city limits of Los Angeles); ORANGE COUNTY (San Clemente Island, the city of Santa Ana, and that part of Orange County within 25 miles of the city limits of Los Angeles); SAN BERNARDINO COUNTY (the northern part of the city of Chino, and the cities of Montclair and Ontario); VENTURA COUNTY (Port Hueneme, Port Mugu, the city of Santa Paula, and that part of Ventura County within 25 miles of the city limits of Los Angeles)

	Rates	Fringes
SPRINKLER FITTER.....	\$ 46.51	28.63

SHEE0105-001 01/01/2020

AREA 1: LOS ANGELES COUNTY (South of a straight line drawn between gorman and Big Pines, excluding the area South of Imperial Highway East of the Los Angeles River, excluding the cities of Long Beach, Claremont, and Pomona, excluding Catalina Island)

AREA 2: LOS ANGELES (Remainder), ORANGE, RIVERSIDE & SAN

BERNARDINO COUNTIES

Work on general sheet metal and heating and air conditioning on single family dwellings, multiple family dwellings, track homes and apartment buildings individually conditioned by separate and independent units or systems

	Rates	Fringes
SHEET METAL WORKER		
AREA 1.....	\$ 27.47	10.42
AREA 2.....	\$ 29.54	19.09

SHEE0206-003 07/01/2020		

IMPERIAL

	Rates	Fringes
Sheet Metal (TECHNICIAN).....	\$ 30.51	9.49
SHEET METAL WORKER.....	\$ 40.62	29.55

SHEET METAL TECHNICIAN - SCOPE:

- a. Existing residential buildings, both single and multi-family, where each unit is heated and/or cooled by a separate system b. New single family residential buildings including tracts. c. New multi-family residential buildings, not exceeding five stories of living space in height, provided each unit is heated or cooled by a separate system. Hotels and motels are excluded. d. LIGHT COMMERCIAL WORK: Any sheet metal, heating and air conditioning work performed on a project where the total construction cost, excluding land, is under \$1,000,000 e. TENANT IMPROVEMENT WORK: Any work necessary to finish interior spaces to conform to the occupants of commercial buildings, after completion of the building shell

SHEE0273-001 08/01/2019

SAN LUIS OBISPO, SANTA BARBARA AND VENTURA

	Rates	Fringes
SHEET METAL WORKER.....	\$ 45.48	30.05

HOLIDAYS: New Year's Day, Martin Luther King Day, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day & Friday after, Christmas Day

TEAM0011-001 07/01/2020

	Rates	Fringes
Truck drivers:		
GROUP 1.....	\$ 32.59	30.59
GROUP 2.....	\$ 32.74	30.59
GROUP 3.....	\$ 32.87	30.59
GROUP 4.....	\$ 33.06	30.59
GROUP 5.....	\$ 33.09	30.59
GROUP 6.....	\$ 33.12	30.59
GROUP 7.....	\$ 33.37	30.59

GROUP 8.....	\$ 33.62	30.59
GROUP 9.....	\$ 33.82	30.59
GROUP 10.....	\$ 33.12	30.59
GROUP 11.....	\$ 34.62	30.59
GROUP 12.....	\$ 35.05	30.59

WORK ON ALL MILITARY BASES - \$3.00 PER HOUR ADDITIONAL:

[29 palms Marine Base, Camp Roberts, China Lake, Edwards AFB, El Centro Naval Facility, Fort Irwin, George AFB, Marine Corps Logistics Base at Nebo & Yermo, Mountain Warfare Training Center, Bridgeport, Point Arguello, Point Conception, Vandenberg AFB]

TRUCK DRIVERS CLASSIFICATIONS

GROUP 1: Truck driver

GROUP 2: Driver of vehicle or combination of vehicles - 2 axles; Traffic control pilot car excluding moving heavy equipment permit load; Truck mounted broom

GROUP 3: Driver of vehicle or combination of vehicles - 3 axles; Boot person; Cement mason distribution truck; Fuel truck driver; Water truck - 2 axle; Dump truck, less than 16 yds. water level; Erosion control driver

GROUP 4: Driver of transit mix truck, under 3 yds.; Dumpcrete truck, less than 6-1/2 yds. water level

GROUP 5: Water truck, 3 or more axles; Truck greaser and tire person (\$0.50 additional for tire person); Pipeline and utility working truck driver, including winch truck and plastic fusion, limited to pipeline and utility work; Slurry truck driver

GROUP 6: Transit mix truck, 3 yds. or more; Dumpcrete truck, 6-1/2 yds. water level and over; Vehicle or combination of vehicles - 4 or more axles; Oil spreader truck; Dump truck, 16 yds. to 25 yds. water level

GROUP 7: A Frame, Swedish crane or similar; Forklift driver; Ross carrier driver

GROUP 8: Dump truck, 25 yds. to 49 yds. water level; Truck repair person; Water pull - single engine; Welder

GROUP 9: Truck repair person/welder; Low bed driver, 9 axles or over

GROUP 10: Dump truck - 50 yds. or more water level; Water pull - single engine with attachment

GROUP 11: Water pull - twin engine; Water pull - twin engine with attachments; Winch truck driver - \$1.25 additional when operating winch or similar special attachments

GROUP 12: Boom Truck 17K and above

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

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

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)).

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

Union Rate Identifiers

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

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

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and

non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

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

Union Average Rate Identifiers

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

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

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.

=====

END OF GENERAL DECISION"

REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION

December 8, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Increase Appropriations for Agency-Wide Office Supplies with Staples Advantage

RECOMMENDATION(S)

Approve an increase in appropriations for agency-wide office supplies with Staples Advantage by \$187,726 for a total not to exceed \$622,726 through September 30, 2021.
(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

HACSB has secured the resources needed for accomplishing its mission.

HACSB is a leading developer and provider of affordable housing in the County of San Bernardino.

HACSB clients live in safe and desirable homes and communities where they can develop and prosper.

FINANCIAL IMPACT

This item is not expected to exceed \$622,726 through September 30, 2021 and is funded by the Housing Authority of the County of San Bernardino's (HACSB) property operations budget. The amount of \$187,726 is included in the budget for Fiscal Year Ending 2021.

BACKGROUND INFORMATION

Currently, HACSB purchases office supplies through a Master Intergovernmental Cooperative Agreement with the County of San Bernardino (County) from Staples Advantage. Approval of this increase in appropriations will provide funding to purchase office supplies through the end of FY 2021.

On October 4, 2016 (Item No. 43), HACSB's Board of Governors approved HACSB to piggyback onto a County procured agreement with Staples Advantage in an amount not to exceed \$405,000 for the purchase of office supplies for a three-year period from October 20, 2016 through October 31, 2019, with the option to extend for an additional two-year period.

On September 9, 2019, the County's Purchasing Department amended the agreement with Staples Advantage extending the term of the agreement for one additional year beginning October 1, 2019 through September 30, 2020.

On September 28, 2020, the County's Purchasing Department amended the agreement with Staples Advantage extending the term of the agreement for one additional year beginning October 1, 2020 through September 30, 2021.

On August 20, 2020, a change order was authorized in the amount not to exceed \$10,000 for office supplies with Staples Advantage. On September 23, 2020, an additional change order was authorized in an amount not to exceed \$20,000 for office supplies with Staples Advantage for a

total aggregate amount not to exceed \$435,000. Both change orders are within the 10% authority of the Executive Director to approve.

PROCUREMENT

HACSB's Procurement Policy states, "Competitive Exceptions – Cooperative Intergovernmental Agreements: Consistent with the requirements of 2 CFR 200.318 and in order to promote efficiency and competition in the procurement of goods and services, HACSB may enter into agreements with other governmental agencies and regional or national intergovernmental purchasing networks or associations. The purpose of a cooperative intergovernmental agreement is to take advantage of a competitive selection process already conducted by another agency and thus save HACSB the time and expense of conducting its own selection process. In evaluating the use of a cooperative intergovernmental agreement, the Contracting Officer shall review for reasonableness of the standards in the competitive selection process conducted by the other agency.

The County through an extensive competitive procurement process, awarded a contract to Staples Advantage for office supplies through September 30, 2020 and extended the contract for an additional year through September 30, 2021. HACSB Procurement staff exercised the option to piggyback on the contract with Staples Advantage through the Master Intergovernmental Cooperative Agreement with the County.

An Intergovernmental Cooperative Agreement with the County was approved on January 14, 2020 (Item No. 9) by the Board of Commissioners for a three-year period, beginning January 28, 2020 through January 27, 2023, with two, one-year extensions.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on November 19, 2020.

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD
OF ACTION**

December 8, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Regular Meeting Minutes for Meeting Held on November 10, 2020

RECOMMENDATION(S)

Approve the meeting minutes for the Board of Commissioners of the Housing Authority of the County of San Bernardino Regular Meeting held on November 10, 2020.
(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

HACSB communication is open, honest and consistent.

FINANCIAL IMPACT

Approval of this item will not result in a financial impact to the Housing Authority of the County of San Bernardino (HACSB) as there are no financial impacts associated with this item.

BACKGROUND INFORMATION

The HACSB Board of Commissioners (Board) Regular Meeting took place on November 10, 2020 and attached are the comprehensive minutes for review and approval by the Board.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on November 23, 2020.

**MINUTES OF A REGULAR MEETING OF THE BOARD OF COMMISSIONERS OF
THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO
September November 10, 2020**

The Board of Commissioners of the Housing Authority of the County of San Bernardino met in a regular meeting via teleconference and videoconference (Zoom at call-in number (669) 900-6833, Meeting ID 871 8983 1045, Password 171529) at 3:02 p.m. on November 10, 2020.

The meeting was called to order, and upon roll call, the following were present:

Commissioner Johnson
Commissioner MacDuff
Commissioner Pinedo
Commissioner Miller
Commissioner Muñoz

Also in attendance were: Maria Razo, Executive Director; Gus Joslin, Deputy Executive Director; Ana Gamiz, Director of Policy & Public Relations; Rishad Mitha, Director of Operations; Jennifer Dawson, Director of Human Resources; Remy Gaither, Family Empowerment Services Manager; Nicole Beydler, Sr. Management Analyst; Renee Kangas, Management Analyst; Angie Lardapide, Procurement and Contracts Supervisor; Jesse Diaz, Finance Manager; Ron Ruhl, Real Estate Development Manager; Kristin Maithonis, Assistant Director of Housing Services; Perlle Liu, Asset Management Analyst, and Claudia Hurtado, Executive Assistant.

Also present: Julie Surber, Legal Counsel to the Housing Authority.

The Chairman called for additions or deletions to the November 10, 2020 agenda. There were none.

The Chairman provided an opportunity for members of the public to address the Board of Commissioners. Secretary of the Board, declared that no public comment had been submitted.

Commissioner Tarango joined the Board of Commissioners meeting, at 3:04 p.m.

The Executive Director's Report was requested.

Maria Razo, Executive Director gave the Executive Director's Report.

Commissioner MacDuff, regarding the Potomac Partners report, expressed appreciation of the information provided in the report regarding the U.S. Interagency Council on Homelessness and HUD's new report on expanding the toolbox for addressing homelessness.

The Board Building Presentation for November 10, 2020 regarding an overview of the Housing Authority of the County of San Bernardino's pilot homeless programs, was requested.

The Board Building Presentation regarding of the Housing Authority of the County of San Bernardino's pilot homeless program was presented by Executive Director, Maria Razo.

Approval for discussion calendar item number 6, to Adopt Resolution No. 100 approving revisions to the Administrative Plan governing the Housing Authority of the County of San Bernardino's rental assistance programs, was requested.

Executive Director explained the item.

Commissioner Miller moved to approve the discussion calendar item number 6, to Adopt Resolution No. 100 approving revisions to the Administrative Plan governing the Housing Authority of the County of San Bernardino's rental assistance programs, which motion was duly seconded by Commissioner MacDuff, and upon roll call, the Ayes and Nays were as follows:

Ayes

Commissioner Johnson
Commissioner MacDuff
Commissioner Pinedo
Commissioner Tarango
Commissioner Miller

Nays

Commissioner Muñoz was not available for the roll call vote.

Commissioner MacDuff asked what the phrase "Sponsor based project based program" meant, as shown on page 23, item 6.5.1 of the Administrative Plan revision. Executive Director explained it is a HUD term, where there is required supportive services component.

Commissioner MacDuff asked, what the policy meant by a Remote Video Inspection (RVI) live audio by a proxy inspector inspection, as it is stated on page 39. Director of Operations, Rishad Mitha, answered by stating the proxy inspector, is either the actual resident, a property management company or the landlord, that will have the video device and perform the inspection.

Commissioner MacDuff asked what the protocol is, whereas a HACSB staff member makes a determination on a case by case basis. Will there be favoring factor? Is there a protocol? Legal Counsel partially deferred to HACSB to answer, however explained case by case decisions are to be made by the same set of facts. The Executive Director, Maria Razo, explained this policy is in reference for emergency operations, particularly with families dealing with COVID-19 where circumstances vary. Director of Operations, Rishad Mitha, answered by stating. The case by case basis is reviewed and determined by a committee.

Approval for the discussion calendar item number 7, to 1) Approve Amendment No. 2 to Contract No. PC973 with Kimball, Tirey & St. John LLP, for Eviction and Non-Eviction services increasing the current contract amount by \$66,000 for a total contract amount not to exceed \$266,000 through December 31, 2021, 2) Authorize and direct the Executive Director to execute and deliver the contract amendment to Kimball, Tirey & St. John LLP, and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, was requested.

Executive Director explained the item.

Commissioner MacDuff moved to approve the discussion calendar item number 7, to 1) Approve Amendment No. 2 to Contract No. PC973 with Kimball, Tirey & St. John LLP, for Eviction and Non-Eviction services increasing the current contract amount by \$66,000 for a total contract amount not to exceed \$266,000 through December 31, 2021, 2) Authorize and direct the Executive Director to execute and deliver the contract amendment to Kimball, Tirey & St. John LLP, and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, which motion was duly seconded by Commissioner Tarango, and upon roll call, the Ayes and Nays were as follows:

Ayes

Commissioner Johnson
Commissioner MacDuff
Commissioner Pinedo
Commissioner Tarango
Commissioner Miller

Nays

Commissioner Muñoz was not available for the roll call vote.

Commissioner MacDuff asked if the contract amount is the maximum the vendor could receive? Executive Director, Maria Razo, explained the amount paid to the vendor is based on services requested not exceeding the maximum amount.

Approval for the discussion calendar item number 8, to 1) Approve Amended No. 2 to Contract No. PC1041, Effective December 1, 2020, with Reliant Asset Management Solutions for Housing Quality Standards inspection services, increasing the current contract amount by \$404,000, for a total contract amount not to exceed \$1,212,000 and extending the contract by one year through November 30, 2021, 2) Authorize and direct the Executive Director to execute and deliver the contract amendment to Reliant Asset Management Solutions and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, was requested.

Executive Director explained the item.

Commissioner MacDuff moved to approve the discussion calendar item number 8, to 1) Approve Amended No. 2 to Contract No. PC1041, Effective December 1, 2020, with Reliant Asset Management Solutions for Housing Quality Standards inspection services, increasing the current contract amount by \$404,000, for a total contract amount not to exceed \$1,212,000 and extending the contract by one year through November 30, 2021, 2) Authorize and direct the Executive Director to execute and deliver the contract amendment to Reliant Asset Management Solutions and, upon consultation with Legal Counsel, to approve any non-substantive revisions necessary to complete the transaction, which motion was duly seconded by Commissioner Tarango, and upon roll call, the Ayes and Nays were as follows:

Ayes

Nays

Commissioner Johnson
Commissioner MacDuff
Commissioner Pinedo
Commissioner Tarango
Commissioner Miller

Commissioner Muñoz was not available for the roll call vote.

Commissioner MacDuff asked how a rent reasonableness survey done remotely. Director of Operations, Rishad Mitha answered by explaining there several avenues such as Gosection8.com which is a website that does rent comparables, specifically Section 8 units. The purpose of Reliant providing services is to make sure HACSB does not conduct its own inspection as it does own several properties which then would create a conflict of interest.

Approval of consent calendar items number 10 - 14, to 1) Approve the meeting minutes for the Board of Commissioners of the Housing Authority of the County of San Bernardino Regular Meeting held on September 8, 2020, 2) Approve the meeting minutes for the Board of Commissioners of the Housing Authority of the County of San Bernardino Regular Meeting held on October 13, 2020, 3) Approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month ending in August 2020, 4) Approve the vacated tenant account for the Affordable Housing Program to be written off as collection loss for the month ending in August 2020 5) Approve and file Agency-wide Financial Statements through July 2020, was requested.

Commissioner MacDuff moved to approve consent calendar item number 10 - 14, to 1) Approve the meeting minutes for the Board of Commissioners of the Housing Authority of the County of San Bernardino Regular Meeting held on September 8, 2020, 2) Approve the meeting minutes for the Board of Commissioners of the Housing Authority of the County of San Bernardino Regular Meeting held on October 13, 2020, 3) Approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month ending in August 2020, 4) Approve the vacated tenant account for the Affordable Housing Program to be written off as collection loss for the month ending in August 2020 5) Approve and file Agency-wide Financial Statements through July 2020, which motion was duly seconded by Commissioner Tarango, and upon roll call, the Ayes and Nays were as follows:

Ayes

Commissioner Johnson
Commissioner MacDuff
Commissioner Pinedo
Commissioner Tarango
Commissioner Miller
Commissioner Muñoz

Nays

Commissioner MacDuff would like to amend the meeting minutes of October 13, 2020, top of page 5 of the minutes, page 77 of the agenda. Making the correction that she implied the City of San Bernardino versus the County of San Bernardino as it pertains to publicizing the availability

of funds. Commissioner MacDuff also provided a correction of the word “continued” versus “continue” regarding HACSB’s partnership with the County of San Bernardino.

Chairman provided an opportunity for individual Board member comments. There were no comments.

There being no other business, Commissioner MacDuff moved for the regular meeting of Tuesday, November 10, 2020 to be adjourned, which motion was duly seconded by Commissioner Miller, and upon roll call, the Ayes and Nays were as follows:

Ayes

Commissioner Johnson
Commissioner MacDuff
Commissioner Pinedo
Commissioner Tarango
Commissioner Miller
Commissioner Muñoz

Nays

The meeting adjourned at 4:09 p.m.

Tim Johnson, Chair

Beau Cooper, Vice Chair

Cassie MacDuff

Sylvia Miller

Jessie Muñoz

Dr. Ciriaco “Cid” Pinedo

Bobby Tarango

Attest:

Secretary

**REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE
HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD
OF ACTION**

December 8, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Vacated Tenant Accounts for the Authority Owned Portfolio to be Written Off as Collection Loss for the Month Ending September 2020

RECOMMENDATION(S)

Approve vacated tenant accounts for the Authority Owned Portfolio to be written off as collection losses for the month ending in September 2020.

(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

HACSB communication is open, honest and consistent.

HACSB has secured the resources needed for accomplishing its mission.

FINANCIAL IMPACT

The accounts receivable losses for the month ending September 30, 2020 is \$3,804.59. The Housing Authority of the County of San Bernardino (HACSB) projects and anticipates collection losses in their annual budget. The monthly losses as detailed below are in line with the budgeted losses and historical trends.

BACKGROUND INFORMATION

On a monthly basis, HACSB records vacated tenant accounts for the Authority Owned Portfolio for the purpose of being written off to collection losses. The agency's Authority Owned Portfolio units are owned by HACSB and were either acquired or developed through a variety of partnerships with local governments and/or HACSB's non-profit affiliate Housing Partners I, Inc., and also include public housing developments converted through the United States Department of Housing and Urban Development's (HUD) Rental Assistance Demonstration (RAD) program. Despite the agency's reasonable efforts to collect the debts listed in the attached reports, it has been determined that such debts are uncollectible. However, collection efforts will continue with the agency's contracted collection agency. As part of HACSB's standard property management business practices, Board of Commissioners approval is requested to write off these accounts as accounts receivable losses to the Authority Owned Portfolio. Please note that due to the rental eviction moratorium, all of the losses during this time period are for voluntary move outs and skips. The total write off for the month of September 2020 is \$3,805.59 as delineated in the table below. Attached is a worksheet that itemizes the individual accounts.

SUMMARY BY PROPERTY MANAGEMENT		
PROPERTY	NO. VACATED	TOTAL
207 – Barstow	2	\$47.00
403 – Summit Walk		-
407 – Sunset Pointe		-
408 – Sunrise Vista	4	\$2,616.40

SUMMARY BY PROPERTY MANAGEMENT		
PROPERTY	NO. VACATED	TOTAL
439 – Hampton	1	(\$185.12)
Concessions Write Off		-
TOTAL RENT WRITE OFF	7	\$2,478.28
Miscellaneous Charges		\$296.11
Maintenance Charges		\$5,065.20
Legal Charges		-
Security Deposits Applied		(\$4,035.00)
NET TOTAL WRITE OFF		\$3,804.59

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on November 23, 2020.

Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End: 09/30/20

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
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207 - Barstow													
1	C.	A.		V	\$ 224.00	\$ 67.00	\$ -	\$ 8.97	\$ 1,450.00		\$1,525.97	\$1,135.00	390.97
2	B.	A.		V	\$ 287.00	\$ (20.00)			\$ 1,676.00		\$1,656.00	\$800.00	856.00
TOTALS:					47.00	-	-	8.97	3,126.00	-	3,181.97	1,935.00	1,246.97

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
2	Resident 30 day notice									
2	Resident 30 day notice									

403 - Summit Walk													
1	R.	J.					-		(341.00)		(341.00)		(341.00)
TOTALS:					-	-	-	(341.00)	-	(341.00)	-	(341.00)	-

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
1	Payment on bad debt									

407 - Sunset Pointe													
2	B.	C.					-		(433.78)		(433.78)		(433.78)
3	M.	J.					-		(514.01)		(514.01)		(514.01)
4	W.	S.					-		(2,300.00)		(2,300.00)		(2,300.00)
TOTALS:					-	-	-	(3,247.79)	-	(3,247.79)	-	(3,247.79)	-

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
2	Collection on bad debt									
3	Collection on bad debt									
4	Payment on bad debt									

*Reasons: E=Eviction S=Skip V=Voluntary T=Terminated Tenancy **Unpaid Misc. D=Deceased Stipulated agreements for rent, maintenance charges, late charges, etc.

Housing Authority County of San Bernardino

COLLECTION WRITE-OFFS - Authority Owned Portfolio

Month End: 09/30/20

Item #	Last Name	First Name	ID No.	REASON	MONTHLY RENT	UNPAID RENT (*)	CONC. REVERSAL	UNPAID MISC (*)	MAINT. FEES	LEGAL FEES	TOTAL OWED	LESS DEPOSIT	NET DUE
408 - Sunrise Vista													
5	T.	T.					-		(672.60)		(672.60)		(672.60)
6	R.	R.					-		(1,689.03)		(1,689.03)		(1,689.03)
7	S.	M.					-		(592.01)		(592.01)		(592.01)
8	W.	D.							877.88		877.88		877.88
9	H.	K.		S	825.00	2,460.40			1,877.75		4,338.15	500.00	3,838.15
10	S.	N.		S	825.00	(64.00)			2,843.00		2,779.00	400.00	2,379.00
11	G.	A.		S	825.00	220.00	-		719.00		939.00	400.00	539.00
12	A.	C.		V	-		-		973.00	-	973.00	-	973.00
TOTALS:						2,616.40	-	-	4,336.99	-	6,953.39	1,300.00	5,653.39

Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date	Vacate Date
5	Collection on bad debt									
6	Collection on bad debt									
7	Collection on bad debt									
8	Collection fee on bad debt									
9	Skip									09/11/20
10	Skip									09/22/20
11	Skip									09/08/20
12	2 Week Notice	09/03/20							onsite employee	09/21/20

439 - Hampton													
13	C.	S.		V	1,350.00	(185.12)	-	287.14	1,191.00		1,293.02	800.00	493.02
							-				-		-
TOTALS:						(185.12)	-	287.14	1,191.00	-	1,293.02	800.00	493.02
Item #	Type of Notice	Date Notice Served	Posted or Hand Delivered	Date File Sent to Attorney	Date Attorney Filed in Court	Response Filed by Tenant (Y or N)		Court Date	Lock Out Date		Vacate Date		
13	60 Day Notice	05/24/20									08/31/20		

ALL PROPERTY TOTALS:						2,478.28	-	296.11	5,065.20	-	7,839.59	4,035.00	3,804.59
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Submitted by: Lucy Leslie Date: 10/13/2020 Reviewed by: Date:

*Reasons: E=Eviction S=Skip V=Voluntary T=Terminated Tenancy **Unpaid Misc.: D=Deceased Stipulated agreements for rent, maintenance charges, late charges, etc.

REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION

December 8, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Agency-wide Financial Statements through August 2020

RECOMMENDATION(S)

Approve and file Agency-wide Financial Statements through August 2020.
(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

HACSB has secured the resources needed for accomplishing its mission.

FINANCIAL IMPACT

The Housing Authority of the County of San Bernardino's (HACSB) year-to-date agency-wide net income through August 2020 for Federal Fiscal Year (FFY) 2019-20 is \$10,838,620. The net income is currently greater than the anticipated \$(248,501) net loss, with a variance of \$11.1 million, primarily due to:

- Housing Assistance Payment expenses were significantly higher due to an increased cost per unit. A draw from HACSB's United States Department of Housing and Urban Development (HUD) held reserve was received in the amount of \$4.1 million for increased expenses in the last calendar year and does not offset the current year's increased cost per unit.
- Other income reflected is not included in the annual budget which includes developer's and bond monitoring fees. This amounts to \$1 million.
- Maintenance expenses are lower, primarily related to contract costs due to the timing of invoices received as well as the reduced need for some contracts due to the current COVID-19 environment. There has also been a cost savings in contracts for vacancy turnovers since most of this work is being done by the Authority staff members. This amounts to \$1.5 million.
- Physical Needs Assessment and Capital Fund project expenses that were lower than expected, which also lowered the amount of Capital Fund grant income that was recognized. This is primarily due to the timing of these expenses which will need to occur in the upcoming fiscal year (reflected in the extraordinary maintenance expenses line item) and amounts to \$10.7 million.

- Depreciation expense reflected monthly is not included in the annual budget which amounts to \$5.4 million.

We are looking at breaking even for the HCV program, largely due to the CARES Act supplemental funds used to balance the budget (\$1.8 million), which were included in the latest approved budget revision. On the Authority Owned Portfolio, we are expecting a net income due to deferred capital work, as reflected above. We are currently assessing what work will continue given the expected loss of rental income in that portfolio. However, we will not have a full picture until after the eviction moratoriums expire in early 2021.

Financial Summary	FY 2020 YTD
Revenues	\$151,838,041
Expenses	\$135,629,506
Operating Gain	\$16,208,535
Operating Transfers/Non-Operating Items	\$(5,369,916)
Net Income/(Loss)	\$10,838,620

BACKGROUND INFORMATION

HACSB administers multiple housing programs and is the largest provider of affordable housing in the County of San Bernardino. The FFY 2019-20 budget and financial operations continue to support the vision and mission of HACSB and are in line with its Strategic Plan and Moving to Work Annual Plans. Overall, HACSB has demonstrated fiscal stability even though the primary funding provider, HUD, has significantly decreased funding each year while expecting full program utilization. FFY 2019-20 continues to be another challenging year due to the following:

- Anticipated federal funding cuts to the Housing Choice Voucher (HCV) program, Administrative Fees, Public Housing Subsidy and Capital Funds.
- Use of supplemental CARES Act funds in order to balance the FFY budget for the HCV program due to rental assistance costs exceeding funding. Reflected in the approved FY 2019-20 Consolidated Budget Revision #1.
- Additional projections are also underway to forecast COVID-19 related expenditures and income losses, including related increases to the housing assistance payments for the voucher programs and rental income loss into the new fiscal year. These projections will be included in the FY 2021 budget revision.
- Maintenance of aging properties is extremely costly, but it is needed to preserve much needed affordable housing in the County.

Based on HUD's guidance to routinely present key information to HACSB's Board of Commissioners, HACSB is presenting the financial statements on a monthly basis.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on November 24, 2020.

HACSB Budget Comparison

Period = Oct 2019-Aug 2020

	YTD Actual	YTD Budget	Variance	% Var	Annual
INCOME					
TENANT INCOME					
Total Rental Income	24,320,049	23,718,609	601,440	2.54	25,890,742
Total Other Tenant Income	536,735	530,523	6,213	1.17	578,752
NET TENANT INCOME	24,856,784	24,249,132	607,652	2.51	26,469,494
GRANT INCOME					
TOTAL GRANT INCOME	120,795,351	119,006,969	1,788,382	1.50	129,799,833
OTHER INCOME					
TOTAL OTHER INCOME	6,185,906	5,142,942	1,042,964	20.28	5,639,874
TOTAL INCOME	151,838,041	148,399,042	3,438,999	2.32	161,909,202
EXPENSES					
GRANT EXPENSES					
TOTAL GRANT EXPENSES	5,925,809	5,593,704	-332,106	-5.94	6,102,222
ADMINISTRATIVE					
Total Administrative Salaries	13,242,396	12,359,936	-882,460	-7.14	13,511,215
Total Legal Expense	232,402	316,916	84,515	26.67	345,727
Total Other Admin Expenses	4,827,760	5,091,268	263,509	5.18	5,646,658
Total Miscellaneous Admin Expenses	1,933,242	2,789,741	856,499	30.70	2,938,056
TOTAL ADMINISTRATIVE EXPENSES	20,235,799	20,557,861	322,062	1.57	22,441,656
TENANT SERVICES					
TOTAL TENANT SERVICES EXPENSES	219,602	357,582	137,980	38.59	389,453
UTILITIES					
TOTAL UTILITY EXPENSES	3,106,344	3,337,109	230,765	6.92	3,640,484
MAINTENANCE AND OPERATIONS					
Total General Maint Expense	2,533,644	2,630,224	96,580	3.67	2,869,153
Total Materials	749,829	798,670	48,841	6.12	871,275
Total Contract Costs	2,737,457	4,111,828	1,374,371	33.42	4,485,145
TOTAL MAINTENANCE EXPENSES	6,020,930	7,540,722	1,519,792	20.15	8,225,573
GENERAL EXPENSES					
TOTAL GENERAL EXPENSES	1,024,365	1,138,178	113,812	10.00	1,241,332
EXTRAORDINARY MAINTENANCE EXPENSES					
TOTAL EXTRAORDINARY MAINTENANCE EXPENSES	2,434,115	13,130,151	10,696,036	81.46	14,767,546
HOUSING ASSISTANCE PAYMENTS					
TOTAL HOUSING ASSISTANCE PAYMENTS	95,232,628	95,214,228	-18,400	-0.02	103,993,788
FINANCING EXPENSE					
TOTAL FINANCING EXPENSES	1,429,913	1,492,227	62,313	4.18	1,627,884
TOTAL OPERATING EXPENSES	135,629,506	148,361,761	12,732,255	8.58	162,429,938
OPERATING NET INCOME	16,208,535	37,282	16,171,254	43,376.03	-520,736
NET OPERATING TRANSFER IN/OUT	0	285,783	285,783	100.00	285,783
NON-OPERATING ITEMS					
TOTAL NON-OPERATING ITEMS	5,369,916	0	-5,369,916	N/A	0
NET INCOME	10,838,620	-248,501	11,087,121	4,461.59	-806,519

REPORT/RECOMMENDATION TO THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION

December 8, 2020

FROM

MARIA RAZO, Executive Director, Housing Authority of the County of San Bernardino

SUBJECT

Resolution Authorizing the Executive Director and Designees to Waive Internal Policies and Modifying Operations Due to the COVID-19 Global Pandemic

RECOMMENDATION(S)

1. Adopt Resolution No. 103 extending authorization of the Executive Director and designees to waive internal policies and modify operations as necessary in response to the COVID-19 global pandemic, as proclaimed in a State of Emergency by the Governor of the State of California until December 31, 2021.
2. Direct the Executive Director to create and deliver to the Board of Commissioners a summary report of all instances where this waiver is utilized, including specifying policies waived, the reason for the waiver and the estimated financial impact. the report shall be included in each Board of Commissioners regular meeting agenda for the duration of the State of California emergency declaration.

(Presenter: Maria Razo, Executive Director, 332-6305)

GOALS & OBJECTIVES

HACSB has secured the resources needed for accomplishing its mission.

HACSB clients live in safe and desirable homes and communities where they can develop and prosper.

FINANCIAL IMPACT

It is unknown at this time what the financial impact will be of any additional emergency measures taken by the Housing Authority of the County of San Bernardino (HACSB) as a result of the COVID-19 global pandemic. There certainly will be a financial impact and the intent of this action is to minimize such by allowing the Executive Director and designees to rapidly respond to emergency needs as they occur. This will assist in avoiding potential additional cost and liability, but more importantly to ensure the continued health and safety of our staff and our customers that might accumulate while awaiting Board of Commissioners (Board) approval.

BACKGROUND INFORMATION

On April 14, 2020 (Item No. 8) the Board adopted Resolution No. 84 authorizing through December 31, 2020, the Executive Director and designees to waive internal policies and modify operations as necessary in response to the COVID-19 global pandemic, as proclaimed in a State of Emergency by the Governor of the State of California. As a result of the ongoing COVID-19 global pandemic and enhanced stay at home order by the Governor issued on December 3, 2020, this resolution will allow the Executive Director and her designees to continue to waive any internal policies and modify operations that are deemed to be detrimental to the emergency operations of HACSB during the COVID-19 global pandemic until December 31, 2021, unless extended or rescinded by the Board.

Resolution Authorizing the Executive Director and Designees to Waive Internal Policies and Modifying Operations Due to the COVID-19 Global Pandemic
December 8, 2020

As of this writing it is unknown precisely which additional policies and procedures may be waived, but a partial list may include:

- Certain Personnel policies such as those related to the Families First Coronavirus Response Act and also related to any governmental directives such as the Governor's "stay at home order".
- Certain program policies and procedures such as those within the Housing Choice Voucher Administrative Plan, to minimize the financial impact to families within our program(s) whose employment income may be reduced as a result of the pandemic.
- Certain Procurement policies and procedures to minimize impact to the ongoing operation, such as extending existing contracts beyond the maximum term or procuring goods or services from a sole source when competitive responses to solicitations have been substantially reduced due to the pandemic.

The COVID-19 global pandemic continues to pose a serious threat to the health, lives, and well-being of people everywhere, including people in San Bernardino County. As of December 4, 2020, San Bernardino County has had 99,104 confirmed cases including 1,154 deaths. This pandemic continues to threaten the life and health of those living and working at HACSB properties and offices. It is disrupting HACSB operations as HACSB tries to respond in a way that serves several important interests including: protecting the health and welfare of its staff and residents; preserving HACSB's ability to house and serve its clients; and complying with directives of governmental authorities.

Information about the crisis, actions and directives of the governmental authorities are changing daily. The Executive Director continues to require discretion to make decisions as quickly as possible in order to implement any emergency measures and/or contingency plans deemed necessary to preserve the health, safety and welfare of staff, families and communities that we serve.

The Executive Director and staff will continue to work with the United States Department of Housing and Urban Development, both at the local field office and Headquarters, on programmatic statutory and regulatory waivers.

The Executive Director will continue to provide the Board a report summary at each regular Board meeting agenda for the duration of the State of California emergency declaration.

PROCUREMENT

Not Applicable

REVIEW BY OTHERS

This item has been reviewed by Legal Counsel (Julie J. Surber, Principal Assistant County Counsel, 387-5455) on December 4, 2020.

HOUSING AUTHORITY RESOLUTION NO. 2020-103

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO CONTINUING TO AUTHORIZE THE EXECUTIVE DIRECTOR AND DESIGNEES TO WAIVE INTERNAL POLICIES AS NECESSARY IN RESPONSE TO THE COVID-19 GLOBAL PANDEMIC

RECITALS

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a State of Emergency in response to the COVID-19 global pandemic; and

WHEREAS, on March 10, 2020, the Board of Supervisors of the County of San Bernardino declared the existence of a local emergency in response to the COVID-19 global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared a National Emergency in response to the COVID-19 global pandemic; and

WHEREAS, on March 19, 2020, the Governor of the State of California issued a stay at home order to protect the health and well-being of all Californians and to establish consistency across the state in order to slow the spread of COVID-19; and

WHEREAS, on March 22, 2020, the President of the United States declared a Major Disaster in California in response to the COVID-19 global pandemic; and

WHEREAS, on April 14, 2020 (Item No. 8), the Board of Commissioners adopted Resolution No. 84 authorizing, through December 31, 2020, the Executive Director and designees to waive internal policies and modify operations as necessary in response to the COVID-19 global pandemic;

WHEREAS, on December 3, 2020, the Governor of the State of California issued a revised and extended stay at home order to further protect the health and well-being of all Californians and to slow the spread of COVID-19 across the state; and

WHEREAS, due to the continuing COVID-19 global pandemic the Executive Director and designees continue to require the ability to modify internal policies and operations;

WHEREAS, the Housing Authority of the County of San Bernardino (HACSB) is a public agency performing essential governmental functions and therefore exempt from the State of California stay at home order and must remain in operation; and

WHEREAS, HACSB has adopted numerous policies affecting a wide range of agency operations; and

WHEREAS, in many instances standard policies do not allow for the swift action required in emergency situations; and

WHEREAS, the safety of HACSB employees and residents is of the utmost importance.

OPERATIVE PROVISIONS

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN BERNARDINO DOES RESOLVE AS FOLLOWS:

Section 1. The Board of Commissioners (Board) finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

Section 2. The Board authorizes the Executive Director and designees to waive any HACSB's policy and modify HACSB's operations, which are deemed to be detrimental to the emergency operations of the HACSB specific to the COVID-19 global pandemic, through December 31, 2021.

Section 3. The Executive Director is directed to document all instances where this waiver or modification is utilized in a report to be presented to the Board at each regular Board meeting for the duration of the State of California emergency declaration.

Section 4. This Resolution shall remain in effect until December 31, 2021, unless extended or rescinded by the Board.

PASSED AND ADOPTED by the Board of Commissioners of the Housing Authority of the County of San Bernardino, by the following vote:

AYES:

NOES:

ABSENT:

STATE OF CALIFORNIA)
)
COUNTY OF SAN BERNARDINO) ss.

I, _____, Secretary of the Board of Commissioners of the Housing Authority of the County of San Bernardino, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Commissioners, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of Tuesday, _____, 20__.

Secretary