



## MEMORANDUM

**TO:** All Interested Contractors

**DATE:** April 25, 2017

**RE:** Request for Quotes—Roof Replacement at Palm Lake Village Apartments  
(7 Buildings)

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The Pinellas County Housing Authority (PCHA) is accepting quotes from licensed and qualified contractors to perform roof replacement requirements as further described in the attached scope of work dated April 6, 2017, Revised April 24, 2017 at Palm Lake Village Apartments, with its management office located at 1515 County Road One, Dunedin, Florida 34698.

### **SCOPE OF WORK**

Roof replacement requirements as further described in the Scope of Work dated April 6, 2017, Revised April 24, 2017 located in Attachment #1.

### **PRE BID CONFERENCE**

**A Pre-Bid Conference will be held on Wednesday, May 3, 2017 at 2:00 p.m. in the Community Center at Palm Lake Village Apartments located at 1515 County Road One, Dunedin, Florida 34698. While not mandatory, it is strongly recommended that all interested bidders attend.**

### **THE CONTRACTOR SHALL VISIT THE SITE AND FAMILIARIZE HIMSELF WITH EXISTING CONDITIONS.**

Work must be completed within thirty (30) business days of receipt of Notice to Proceed or receipt of permits (if applicable), whichever is later. Contractor is to include permitting fees in its bid proposal, if applicable.

### **The following items are applicable:**

1. HUD 5370-EZ-General Contract Conditions for Small Construction/ Development Contracts, excluding paragraphs 13. Training and Employment Opportunities for Residents in the Project Area (Section 3, HUD Act of 1968; 24 CFR 135) and 14. Labor Standards - Davis-Bacon and Related Acts (Attachment #2)

2. 2 CFR 200.326 and Appendix II to Part 200-Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, excluding paragraph D to Appendix II (Attachment #3)
3. Current Certificate of Liability Insurance (please provide with your quote)

**Please submit all questions regarding the scope of work to [dleishman@pinellashousing.com](mailto:dleishman@pinellashousing.com) no later than Monday, May 8, 2017 at 5:00 p.m. All questions will be answered in writing and distributed to all prospective bidders.**

### **DUE DATE OF QUOTATIONS**

**Bids are due by 5:00 p.m. on Wednesday, May 10, 2017 and may be emailed, faxed, or delivered to the address listed below.**

Pinellas County Housing Authority  
Attn: Danielle Leishman, Contract Administrator  
11479 Ulmerton Road  
Largo, FL 33778  
Phone: (727) 443-7684 ext. 3025  
Fax: (727) 489-0799  
Email: [dleishman@pinellashousing.com](mailto:dleishman@pinellashousing.com)

# ATTACHMENT #1



# **ROOF REPLACEMENT**

## **SCOPE OF WORK**

### **Palm Lake Village Apartments** **Dunedin, FL 34698**

1611 Leisure Lane  
1646 Leisure Lane  
1658 Leisure Lane  
1687 Leisure Lane  
1632 Peaceful Lane  
1643 Peaceful Lane  
1608 Serenity Lane

## **PART 1 GENERAL**

**All work must meet all building codes and OSHA requirements.**

### **1.01 SECTION INCLUDES**

- A. Asphalt roofing shingles.
- B. Leak barrier and deck protection.
- C. Metal flashing associated with shingle roofing.

### **1.02 REFERENCES**

- A. **ASTM A 653/A 653M** - Standard Specification for Steel Sheet, Zinc Coated (Galvanized) or Zinc-Iron Alloy-Coated (Galvannealed) by the Hot-Dip Process.
- B. **ASTM B 209** - Standard Specification for Aluminum and Aluminum-Alloy Sheet and Plate.
- C. **ASTM B 370** - Standard Specification for Copper Sheet and Strip for Building Construction.
- D. **ASTM D 2218** – Impact Resistance of Prepared Roof Covering Materials.
- E. **ASTM D 3018** - Standard Specification for Class A Asphalt Shingles Surfaced with Mineral Granules.
- F. **ASTM D 3161** - Standard Test Method for Wind-Resistance of Asphalt Shingles (Fan-Induced Method).
- G. **ASTM D 3462** – Standard Specification for Asphalt Shingles Made From Glass Felt and Surfaced with Mineral Granules.
- H. **ASTM D 4586** - Standard Specification for Asphalt Roof Cement, Asbestos-Free.
- I. **ASTM D 7158** - Standard Test Method for Wind-Resistance of Sealed Asphalt Shingles (Uplift Force/Uplift Resistance Method).
- J. **UL 790** - Tests for Fire Resistance of Roof Covering Materials.
- K. **UL 997** - Wind Resistance of Prepared Roof Covering Materials.
- L. Asphalt Roofing Manufacturers Association (ARMA)
- M. National Roofing Contractors Association (NRCA)
- N. Sheet Metal and Air Conditioning contractors National Association, Inc. (SMACNA)
- O. American Society of Civil Engineers (ASCE)
  - 1. ASCE 7 – Minimum Design Load for Buildings and Other Structures
- P. U.S. Green Building Council (USGBC)

### **1.03 SUBMITTALS (To be submitted with bid proposal)**

- A. Submit copies of product data sheets, detail drawings and samples for each type of roofing product with bid.
- B. Contractor shall have a GAF Master Elite Contractor Certification or equivalent of other manufacturer's certification for the roof installation.

## **1.04 QUALITY ASSURANCE**

**A. Manufacturer Qualifications:** Provide all primary roofing products, including shingles, underlayment, leak barrier, and ventilation, by GAF®, CertainTeed, or approved equal.

**B. Installer Qualifications:** Installer must be approved for installation of all roofing products to be installed under this section. Contractor to submit installation qualifications from manufacturer with bid proposal.

## **1.05 REGULATORY REQUIREMENTS**

**A.** Provide a roofing system achieving an Underwriters Laboratories (UL) Class A fire classification.

**B.** Install all roofing products in accordance with all federal, state and local building codes.

**C.** All work shall be performed in a manner consistent with current OSHA guidelines.

## **1.06 DELIVERY, STORAGE, AND HANDLING**

**A.** Store all products in manufacturer's unopened, labeled packaging until they are ready for installation.

**B.** Store products in a covered, ventilated area, at temperature not more than 110 degrees F (43 degrees C); do not store near steam pipes, radiators, or in direct sunlight.

**C.** Store bundles on a flat surface. Maximum stacking height shall not exceed manufacturer's recommendations. Store all rolls on end.

**D.** Store and dispose of solvent-based materials in accordance with all federal, state and local regulations.

## **1.07 WEATHER CONDITIONS**

**A.** Proceed with work only when existing and forecasted weather conditions will permit work to be performed in accordance with manufacturer's recommendations.

## **1.08 WARRANTY**

**A.** Two (2) year labor.

**B.** GAF Golden Pledge Warranty: Twenty (20) years, or approved equal warranty

## **PART 2 PRODUCTS**

### **2.01 MANUFACTURERS**

**A. Acceptable Manufacturers:** GAF® Materials Corporation, CertainTeed, or approved equal.

**B. Requests for substitution of products must be submitted with bid proposal**

## 2.02 SHINGLES

A. Self sealing, granule surfaced, asphalt shingle with a strong fiberglass reinforced Micro Weave® core and StainGuard® protection, which prevents pronounced discoloration from blue-green algae through formulation/unique blends of granules. Architectural laminate styling provides a wood shake appearance with a 5” or 5 5/8” exposure. Features GAF®’s patented High Definition® color blends and enhanced shadow effect. UL 790 Class A rated with UL 997 Wind Resistance Label; ASTM D 7158, Class H; ASTM D 3161, Type 1; ASTM D 3018, Type 1; ASTM D 3462; CSA A123.5-98; Dade County Approved, Florida Building Code Approved, Texas Dept of Insurance Approved, ICC Report Approval. **Timberline® HD Lifetime High Definition Shingles**, by GAF®, or approved equal. **Color: Driftwood.**

## 2.03 RIDGE SHINGLES

A. Distinctive self sealing hip and ridge cap shingle complementing the color of selected roof shingle. Each bundle covers approx. 25 lineal feet (7620 mm) with a 6 2/3” (169 mm) exposure. **Seal-A-Ridge® Ridge Cap Shingles** by GAF® or approved equal.

## 2.04 STARTER STRIP

A. Self sealing starter shingle designed for all roof shingles. Each bundle covers approx. 60/120 lineal feet (18288/36576 mm). **ProStart™ Starter Strip** by GAF® or approved equal.

## 2.05 LEAK BARRIER

A Self-adhering, self sealing, bituminous leak barrier surfaced with a smooth polyethylene film. Each Roll contains approx. 200 sq ft, 85 lbs (38.6 kg), 36” X 66.7”. 60 mils thick. **WeatherWatch® Leak Barrier**, by GAF®, or approved equal.

## 2.06 SHINGLE UNDERLAYMENT

A. Premium, water repellant, breather type non-asphaltic underlayment. UV stabilized polypropylene construction. Meets or exceed ASTM D226 and D4869. Approved by Dade County, Florida Building Code, and ICC. **Tiger Paw** by GAF®, or approved equal.

## 2.07 ROOFING CEMENT

A. Asphalt Plastic Roofing Cement meeting the requirements of ASTM D 4586, Type I or II.

## 2.08 ATTIC VENTILATION

A. Rigid plastic ridge ventilator designed to allow the passage of hot air out of attics. For use in conjunction with eave/ soffit intake ventilation products. Provides 18.0” sq. inches (11613 sqmm/m) in NFVA per lineal foot. Each package contains 40 lineal feet (12192 mm) of vent.

**Cobra® Rigid Vent 3™** ridge vent (includes 3” galvanized ring shank nails), by GAF®.  
**Note: Contractor shall submit ventilation calculation for the roof**

## **2.09 ROOFING CEMENT**

A. Asphalt Plastic Roofing Cement meeting the requirements of ASTM D 4586, Type I or II.

## **2.10 NAILS**

A. Standard round wire, zinc-coated steel or aluminum; 10 to 12 gauge, smooth, barbed or deformed shank, with heads 3/8” (9.5 mm) to 7/16” (11 mm) in diameter. Length must be sufficient to penetrate into solid wood at least 3/4” (19 mm) or through plywood or oriented strand board by at least 1/8”.

## **2.11 NAILING PATTERN**

### **Nailing Patterns from Standard Building Code**

Typical Roof Sheathing Nailing Pattern – High Wind Zones (SSTD 10-93)

**Thickness of Sheathing: 3/4”**

**Attachment Size: 8d common nails**

**Edge Spacing\*: 6”**

**Field Spacing: 6”**

\* At gable ends, sheathing nails should be installed at 4” on center.

## **2.12 METAL FLASHING**

A. 24 gauge hot-dip galvanized steel sheet, complying with ASTM A 653/A 653M, G90/Z275. Color to match existing.

## **2.13 EXISTING GUTTERS**

A. Remove/reinstall existing gutters and downspouts if current location hinders the installation of the new roofing system. Contractor shall replace any gutters and downspouts if damaged during construction.

## **PART 3 EXECUTION**

### **3.01 EXAMINATION**

A. Do not begin installation until the roof deck has been properly prepared.

B. If roof deck preparation is the responsibility of another installer; notify the architect or building owner of unsatisfactory preparation before proceeding.

C. Contractor shall field verify all existing conditions. Building size, location and tenant notification requirements before proceeding with the work

D. Bid proposal to include all required building permits.

**E. Any changes to the contract must be approved in advance and in writing. No verbal**



changes will be accepted.

### 3.02 PREPARATION

- A. Remove existing roofing shingles down to the roof deck. Bid **must** include the removal of all layers of shingles and underlayment.
- B. Verify that the deck is dry, sound, clean and smooth. It shall be free of any depressions, waves, and projections.
- C. Clean deck surfaces thoroughly prior to installation of eaves protection membrane and underlayment.
- D. See preparation and installation notes below:

- 1. Price to include **2 pieces of 3/4" plywood per building 4' x 8'**. Credit shall be given to PCHA for any unused plywood.
- 2. Also note that **plywood is attached to metal trusses**. (Typical)
- 3. Replace all wood fascia and metal flashing as needed. Match Existing. Bid price to include **10 linear feet for each material per building**. Credit shall be given to PCHA for any unused material.
- 4. Roof replacement at **seven (7) Buildings (see cover page for addresses)**: Replace roof shingles and install double underlayment to comply with new codes (if applicable per slope requirements).

### 3.03 INSTALLATION OF UNDERLAYMENTS

#### A. General:

- 1. Install using methods recommended by manufacturer in accordance with local building codes. When local codes and application instructions are in conflict, the more stringent requirements shall take precedence.

#### B. Eaves:

- 1. Install eaves edge metal flashing tight with fascia boards; lap joints 2" (50 mm) and seal with plastic cement or high quality urethane sealant; nail at the top of the flange.
- 2. In the north and on all roofs between 2:12 and 4:12 (low slopes) install eaves protection membrane up the slope from eaves edge a full 36" or to at least 24" (610 mm) beyond the interior "warm wall". Lap ends 6" (150 mm) and bond.

#### C. Valleys:

- 1. Install eaves protection membrane at least 36 wide and centered on the valley. Lap **ends 6" (150 mm) and seal**.
- 2. Where valleys are indicated to be "open valleys", install metal flashing over eaves protection membrane before roof deck underlayment is installed; DO NOT nail through the flashing. Secure the flashing by nailing at 18" (457 mm) on center just beyond edge of flashing so that nail heads hold down the edge.

#### **D. Roof Deck:**

1. Install two layers of roof deck underlayment over the entire area not protected by eaves or valley membrane. Install sheets horizontally so water sheds and nail in place.
  - a. On roofs sloped at more than 4:12, lap horizontal edges at least 2" (50 mm) and at least 2" (50 mm) over eaves protection membrane.
  - b. On roofs sloped between 2:12 and 4:12, lap horizontal edges at least 19" (480 mm) and at least 19" (485 mm) over eaves protection membrane.
2. Lap ends at least 4" (100 mm). Stagger end laps of each layer at least 36" (915 mm).
3. Lap underlayment over valley protection at least 6" (150 mm).

#### **E. Tiger Paw (or approved equal) Application**

1. Tiger Paw shall be installed over a clean, dry deck.
2. Install Weather Watch® or Storm Guard® Leak Barrier (or approved equal) at eaves, valleys, rakes, skylights, dormers and other vulnerable leak areas.
3. Lay Tiger Paw over deck and overlap 3" at side laps and 6" at end laps.
4. For exposure to rain or snow, overlap 12" at end laps.
5. For side and end laps: fasten Tiger Paw 12" o.c. (6" o.c. for high wind areas).
6. For middle of the roll: fasten Tiger Paw 24" o.c. (12" o.c. for high wind areas).
7. For exposure to rain or snow, completely cover all side laps, end laps and fasteners with tape.
8. For long term exposure see complete Tiger Paw installation instructions for side lap detail.
9. If roof may be exposed to high winds, apply tape over all fasteners at the center of the roll to prevent rain or snow from entering at the fasteners.
10. **For the installation of roofs with slope of 2:12 to 4:12 or less, Pinellas County codes require a double underlayment and must meet ASTM standards and follow all code compliant installation rules.**

#### **F. Penetrations:**

1. Vent pipes: Install a 24" (610 mm) square piece of eaves protection membrane lapping over roof deck underlayment; seal tightly to pipe.
2. Rake Edges: Install metal edge flashing over eaves protection membrane and roof deck underlayment; set tight to rake boards; lap joints at least 2" (50 mm) and seal with plastic cement; secure with nails.

### **3.04 INSTALLATION OF SHINGLES**

#### **A General:**

1. Install in accordance with manufacturer's recommendations and local building codes. When local codes and application instructions are in conflict, the more stringent requirements shall take precedence.

#### **B. Placement and Nailing:**

1. Secure with six (6) nails per shingle per GAF®'s instructions or local codes.
2. Placement of nails varies based on the type of shingle specified. Consult the application instructions for the specified shingle for details.

3. Nails must be driven flush with the shingle surface. Do not overdrive or underdrive the nails.
4. Shingle offset varies based on the type of shingle specified. Consult the application instructions for the specified shingle for details.
5. Install valleys using the "closed cut valley" method:
  - Run the first course of shingles from the higher roof slope across the valley at least 12" (305 mm).
  - Run succeeding courses of shingles from the lower roof slope across the valley at least 12" (305 mm).

### **C. Penetrations**

1. All penetrations are to be flashed according to manufacturer, ARMA and NRCA application instructions and construction details.

## **3.05 VENTILATION**

### **A. General**

1. Ventilation must meet or exceed current FHA, HUD and local code requirements.

### **B. Ridge / Soffit ventilation**

1. Install ridge vent along the entire length of ridges:
2. Cut continuous vent slots through the sheathing, stopping 6" (150 mm) from each end of the ridge.
3. On roofs without ridge board, make a slot 1" (25 mm) wide, on either side of the peak (2" overall).
4. On roofs with ridge board, make two slots 1-3/4" (89 mm) wide, one on each side of the peak (3 1/2" overall).
5. Install ridge vent material along the full length of the ridge, including uncut areas.
6. Butt ends of ridge vent material and join using roofing cement.
7. Install eaves vents in sufficient quantity to equal or exceed the ridge vent area.

## **3.06 PROTECTION**

- A. Clean up and haul away all roofing debris daily
- B. Use magnetic sweep to clean grounds around the buildings every day
- C. Contractor shall be responsible for repairing or replacing in any areas surrounding damaged by performing the scope of work.

### **GENERAL NOTES:**

- A. The contractor shall visit the facility and become thoroughly familiar with the existing conditions and scope of work prior to bidding. It is the responsibility of the contractor and each of his subcontractors to review the entire scope of work to assure coordination of all work affecting each trade. Failure to review all contract documents for applicable items of work shall not relieve the responsible party from performing all work required.

- B. Contractor shall obtain building permit, if required. All permit fees and associated costs shall be included in proposal.
- C. All products specs may be substituted with an “Approved Equal”. For consideration, all proposed “Approved Equal” product submittals must be included with bid proposal.
- D. Work to be completed within **thirty (30) working days** (Monday through Friday 8am to 5:00pm-no weekends) from the Notice to Proceed or after receipt of the building permit.
- E. Liquidated damages shall be assessed at \$150.00 per day.
- F. Site usage – use of the site for any construction staging or other operations shall be coordinated with PCHA. Take care not to block or adversely affect any public or adjacent owner areas, or other areas not within the construction limits.
- G. During work the other units in the buildings will be occupied. The tenants are to be notified when work being performed at the building will affect them.
- H. Exit access – maintain free, safe, and approved means of egress in and out of project location and any occupied building(s) in accordance with requirements of applicable regulatory agencies.
- I. All work shall be performed in a first class, workmanlike manner matching and aligning all surfaces, where applicable, to afford a finished and clean appearance. The contractor shall clean all surfaces and remove all dirt and refuse caused by debris from installation techniques of each trade. Adjacent existing surfaces shall be left as they appeared prior to the commencement of work under this contract.
- J. The general contractor shall repair and restore to original all new work and existing improvements that may have been damaged as a result of work included in this contract.
- K. **Cleaning During Construction:** Remove waste materials, rubbish, and debris daily from the site and legally dispose of it at public or private dumping areas, off the job site.
- L. Contractor shall be responsible for maintaining conditions at the job site so as to meet the requirements of the Occupational Safety and Health Act (OSHA), during the entire construction period. This provision shall cover the contractor’s employees and all other persons working upon or visiting the site. The contractor shall advise and inform his employees, subcontractors, and suppliers of all OSHA requirements.

# ATTACHMENT #2

# General Contract Conditions for Small Construction/Development Contracts

U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing  
OMB Approval No. 2577-0157 (exp. 1/31/2017)

**Applicability.** The following contract clauses are applicable and must be inserted into small construction/development contracts, greater than \$2,000 but not more than \$100,000.

## 1. Definitions

Terms used in this form are the same as defined in form HUD-5370

## 2. 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. The only liens on the PHA's property shall be the Declaration of Trust or other liens approved by HUD.

## 3. Disputes

- (a) Except for disputes arising under the **Labor Standards** clauses, 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.
- (b) 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.
- (c) The Contracting Officer shall, within 30 days after receipt of the request, decide the claim or notify the Contractor of the date by which the decision will be made.
- (d) 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 days after receipt of the Contracting Officer's decision.
- (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 or relating to the contract, and comply with any decision of the Contracting Officer.

## 4. 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 the 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; and
  - (2) The Contractor, within 10 days from the beginning of such delay 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 obligation of the parties will be the same as if the termination had been for convenience of the PHA.

## 5. 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.

## 6. 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 \$ 1,000,000 [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 \$ 1,000,000 [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.

## 7. 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.

## 8. 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 an 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.

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

The HA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three 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.

#### 10. Rights in Data and Patent Rights (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.

#### 11. 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.

#### 12. 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.

#### 13. 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



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- 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.

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

##### (a) Minimum Wages.

(1) All laborers and mechanics employed under this contract in the construction or development 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 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 the 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

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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 prime 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) 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 (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.

- (e) 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.

- (f) 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.
- (g) 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.
- (h) Contract Termination; Debarment. A breach of the labor standards clauses in this contract may be grounds for termination of the contract and for debarment as a Contractor and a subcontractor as provided in 29 CFR 5.12.
- (i) 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.
- (j) 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.
- (k) 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

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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.

(l) 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.

(m) Non-Federal Prevailing Wage Rates. Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State 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:

- (i) 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;
- (ii) 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
- (iii) an applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

# ATTACHMENT #3

## **§200.326 Contract provisions.**

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

### **Part 200, Appendix II**

#### **Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(K) See § 200.322 Procurement of recovered materials.

**§ 200.322 Procurement of recovered materials.**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only 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, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.