

# Sunshine Peak Bid Packet



## Includes:

**\*Amended RFP**

**\* Addendum to RFP**

**\*“Federal Requirements”**

**\*Sample Contract**

**Sample exhibits-VII-0.1, VII-0 cont., VII-0.2, VII-0.3, VII-0.4, VIII-1.2, VIII-P**

**Sunshine Peak Apartments  
Phase One  
748 Cedar Creek Ave  
Montrose CO 81401**

**Bid Submittal Deadline:**

Date: Monday, March 17, 2025  
Time: 2:00 P.M.  
Place: Montrose County Housing Authority, 222 Hap CT, Olathe, CO 81425  
Applications: Director@montroseha.com

**PUBLIC NOTICE  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CMGC) SERVICES  
REMODEL AND REFURBISHMENT OF AN APARTMENT COMPLEX  
748 CEDAR CREEK AVE, MONTROSE COLORADO**

**NOTICE IS HEREBY GIVEN** that Montrose County Housing Authority is soliciting competitive sealed bid proposals from teams that can provide Construction Manager/General Contractor (CMGC) services for the Remodel and Refurbishment of the existing apartment complex located at 748 Cedar Creek Ave, Montrose CO 81401. The successful bidder will deliver an innovative, highly efficient design and construction project that utilizes construction techniques and materials that promote fiscal responsibility while sustaining a structure both functional and aesthetically pleasing.

The purpose of this Request for Proposals (RFP) is to provide information to prospective vendors (hereinafter referred to as a "Vendor" or "Respondent") for the submission of sealed bids to be considered by Montrose County Housing Authority for Sunshine Peak Apartments. All proposals shall be marked "**Sunshine Peak Remodel**" on the face of the envelope and hand-delivered or emailed to the Montrose County Housing Authority, 222 Hap Court, Olathe, CO 81425 no later than **Monday, March 17, 2025, at 2:00 P.M.** Bids may also be emailed to: [director@montroseha.com](mailto:director@montroseha.com). Proposals received after this time **SHALL NOT BE ACCEPTED.**

Montrose County Housing Authority reserves the right to reject any bids; to change, add, or amend the specifications; to waive any informality; to accept the proposal which, in its judgment, best serves the interest of Montrose County Housing Authority.

**REQUEST FOR PROPOSALS CONSTRUCTION MANAGER /GENERAL CONTRACTOR SERVICES**

**REQUEST FOR PROPOSAL  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR SERVICES  
REMODEL AND REFURBISHMENT EXISTING STRUCTURE  
748 Cedar Creek Ave, Montrose, Colorado**

- 1.1 **General Information:** Montrose County Housing Authority is soliciting competitive sealed proposals from firms that can provide Construction Manager/General Contractor (CMGG) services for the Remodel and Refurbishment of an existing apartment complex located at 748 Cedar Creek Ave, Montrose, Colorado. The successful bidder will deliver an innovative, highly efficient project that utilizes construction techniques and materials that promote fiscal responsibility while sustaining an apartment complex that is both functional and aesthetically pleasing.
- 1.2 **DEFINITION:** Bidding Documents include the Instructions to Bidders, Lump Sum Bid Form(s), Statement of Qualifications, and Notice of Immigration compliance.
- 1.3 **BIDDING DOCUMENTS:**
- 1.3.1 Questions regarding Bidding Documents or Bid Specifications related to this project should be submitted to Susan Barrientos- [Director@montroseha.com](mailto:Director@montroseha.com)
- 1.4 **BIDDING PROCEDURE/PREPARATION & SUBMISSION OF BIDS:**
- 1.4.1 Bids will be submitted on unaltered Bid Forms furnished by the Montrose County Housing Authority. Additional information may be attached to Montrose County Housing Authority forms.
- 1.4.2 Fill in all blank spaces for bid prices in ink or typewritten words and submit two (2) hard copies or one (1) electronic copy.
- 1.4.3 Montrose County Housing Authority is interested in receiving proposals from qualified construction firms for CMGC services for the remodel of the structure located at 748 Cedar Creek Ave, Montrose, Colorado. To be considered, each firm must submit a complete response to this Request for Proposals ("RFP"), using the format provided herein. No other distribution of proposals is to be made by the Bidder to third parties. An official authorized to bind the Bidder to its provisions must sign the bid proposal in ink.
- The proposal must include a statement as to the period during which the proposal remains valid. **This period must be at least six months from the due date for the submission of proposals in response to this RFP.**
- 1.4.4 **Acceptance of Proposal Content:** The contents of this RFP and the proposal will become contractual obligations if a contract ensues. Failure of the selected contractor to accept these obligations may result in the cancellation of the award.
- 1.4.5 Montrose County Housing Authority desires to ensure that the services provided through this RFP are of the highest quality. With this objective in mind, Bidders are required to demonstrate that they possess and implement appropriate quality management systems that result in customer satisfaction and continuous improvement.
- 1.4.6 Each Proposal must demonstrate a complete understanding of the processes used within the respective organization to ensure quality control. Graphical demonstrations that outline quality control, and other management processes, within the organization and how they relate with sub-

consultants and Montrose County Housing Authority are acceptable.

- 1.4.7 Bids, together with required enclosures, will be submitted in opaque, sealed envelope bearing on the outside the Bidder's name and address, along with the notation "CONSTRUCTION MANAGER/GENERAL CONTRACTOR-REMODEL & REFURBISH STRUCTURE" on the face of the envelope or emailed to [director@montroseha.com](mailto:director@montroseha.com) with CM/GC Remodel in the subject line.
- 1.4.8 **SUBMISSION DEADLINE:** Bids must be received at the Montrose County Housing Authority Offices, 222 Hap Ct, Olathe, Colorado or at [director@montroseha.com](mailto:director@montroseha.com) or before **March 17, 2025 at 2:00 P.M.** Bids received after the time and date for receipt of Bids will be returned unopened.

1.5 CONSIDERATION OF BIDS:

1.5.1 EVALUATION OF BIDS: Bid Proposals will be compared and judged by:

1. Cost
2. Delivery time
3. Compliance with bid specifications
4. Experience with similar CM/GC projects for renovation.
5. Ability to perform the required services efficiently and effectively.
6. Any other factor which the Board feels affects the interest of Montrose County Housing Authority.

1.5.2 REJECTION OF BIDS, INFORMALITIES, AND IRREGULARITIES:

Montrose County Housing Authority reserves the right to reject any bids, to change, add, or amend the specifications; to waive any informality or irregularity; to accept the proposal which, in its judgment, best serves the interest of Montrose County Housing Authority.

1.5.3 AMENDMENTS:

All amendments to and interpretations of this solicitation shall be in writing from Montrose County Housing Authority. Any amendment or interpretation that is not in writing shall not legally bind Montrose County Housing Authority

1.5.4 ACCEPTANCE OF BID:

1.5.4.1 It is the intent of Montrose County Housing Authority to award a contract to the best overall Bidder provided the Bid has been submitted in accordance with the requirements of the Bidding Documents, is judged reasonable, and **does not exceed the funds available.**

1.5.4.2 Montrose County Housing Authority may conduct such investigations as it deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications, and financial ability of the Bidders' proposed Subcontractors and other persons and organizations involved.

1.5.4.3 **Compliance with Laws and Regulations:** It shall be a condition of submitted proposals that all potential contractors will fully and completely comply with **applicable** Federal, State, County, and Municipal laws, orders, ordinances, regulations, or resolutions.

1.5.4.4 **Competitive Range Determination/Interviews:** Montrose County Housing Authority may elect to conduct interviews with responsible Bidders who submit proposals determined to be reasonably eligible for the award. However, Montrose County Housing Authority reserves the right to evaluate proposals and award a contract

without discussions with Bidders (except clarifications). Therefore, each Bidder's initial proposal should contain its best terms from a cost or price and technical standpoint.

1.5.4.5 **Right to Negotiate:** After Montrose County Housing Authority completes the evaluation process, including any interviews held with Bidders during the evaluation process, Montrose County Housing Authority may elect to initiate contract negotiations with one or more of the selected Bidders. The option of whether or not to initiate contract negotiations rests solely with Montrose County Housing Authority.

1.5.4.6 **Failure to Negotiate:** If a selected Bidder fails to provide the information required to begin negotiations promptly; or fails to negotiate in good faith, or indicates it cannot perform the contract within the budgeted funds available for the project; or, if a selected Bidder and Montrose County Housing Authority after a good faith effort, simply cannot come to terms, then Montrose County Housing Authority may terminate negotiations with that particular Bidder and commence negotiations with any other Bidder.

1.6.5.9 **Award of Contract:** Montrose County Housing Authority shall award a contract to the responsible and responsive Bidder whose proposal is determined to provide the best overall value to Montrose County Housing Authority as to the most favorable regarding apparent ability to perform the required services efficiently and effectively.

1.5.4.7 **Notice to Proceed:** A "Notice to Proceed" shall be issued within fifteen (15) business days of the execution of the contract by all parties. Any notice of termination must be tendered in writing to Montrose County Housing Authority. Additionally, the parties may mutually agree that the time to issue the Notice to Proceed may be extended. If the contractor: fails to execute the contract in a timely manner, fails to provide required bonds as outlined in Section 1.7.1 in a timely manner, fails to provide all necessary certificates of insurance in a timely manner, or otherwise fails to meet any condition precedent to the issuance of a Notice to Proceed, then Montrose County Housing Authority may terminate the contract without liability to Montrose County Housing Authority.

**1.6.5.10 Important Dates for This RFP:**

- Advertising for bid: **Saturday, February 22, 2025**
- Pre-bid Conference/Walkthrough: **Thursday, March 6, 2025, at 1:00 PM**
- Proposal Due Date: **Monday, March 17, 2025, at 2:00 P.M.**
- **Addendum on website and advertised March 1, 2025**
- Interviews: **Optional**
- Award announced: **TBD no later than April 2, 2025**
- Anticipated start date: **Monday, May 19, 2025**
- Anticipated workdays: **180**

**1.6 INSURANCE:**

**1.6.1** Bidder and all sub-contractors, at their own expense, shall provide and maintain insurance with a company licensed to do business in Colorado as follows:

**1. Workman's Compensation:** as required by all federal, state, maritime, or other laws, including employer's liability with a limit of at least \$1,000,000.

**2. Comprehensive general liability:** including contractor's liability, automobile liability, contingent liability, completed operations, and product liability all on the occurrence basis with

personal injury coverage:

- A. Personal injury each person \$1,000,000.
- B. Each occurrence \$1,000,000.
- C. Property damage \$1,000,000.
- D. General aggregate \$2,000,000.
- E. Products – Comp/Op Aggregate \$2,000,000
- F. Automobile Liability \$1,000,000

**3. Professional Liability Insurance:** Evidence of Professional Liability Insurance coverage for \$1,000,000 dollars, with a minimum coverage of \$1,000,000 dollars per occurrence and \$1,000,000 dollars aggregate. The Board of Directors of Montrose County Housing Authority, Colorado, and the state of Colorado shall be named as “Additional Insured” under the Commercial General Liability and Comprehensive Automobile Liability insurance policies. All certificates of insurance shall be issued and effective before the date a Notice to Proceed is issued by Montrose County Housing Authority.

4. The contractor and all subcontractors in connection with the above-mentioned insurance shall furnish to Montrose County Housing Authority duly executed forms showing proof of insurance naming Montrose County Housing Authority as additionally insured and that insurance is in full force before the commencement of the contract.

**1.7 BONDS:**

1.7.1 Bid bonds are required on all public construction contracts where the price is estimated to exceed \$50,000, C.R.S. § 24-105-201. Additionally, payment and performance bonds are required on all public contracts that are greater than \$150,000, C.R.S. § 24-105-202. Therefore, the successful Bidder shall provide a Performance Bond and a Payment of Labor and Materials Bond to Montrose County Housing Authority. Each bond shall be executed by a surety company authorized to do business in this state of Colorado or otherwise secured in a manner satisfactory to Montrose County Housing Authority, in an amount equal to one hundred percent of the price specified in the contract; and on the form attached as part of the contract documents. Such bonds, in the form required by Montrose County Housing Authority, shall be tendered before the execution of the Notice to Proceed, discussed herein.

**1.8 MISCELLANEOUS REQUIREMENTS:**

- 1.8.1 Montrose County Housing Authority will not be liable for any of the costs incurred in the preparation and presentation of the proposal.
- 1.8.2 The submission of a proposal by any entity does not in any way commit Montrose County Housing Authority to enter into an agreement with that entity.
- 1.8.3 Any materials submitted by the Bidder considered confidential must be marked as such. Due to applicable laws and regulations concerning public documents, Montrose County Housing Authority makes no representation that such materials will be kept confidential.
- 1.8.4 **ALL materials are confidential and proprietary until bid opening.**

1.9 **DISQUALIFICATION:** Montrose County Housing Authority reserves the right to disqualify Bids, before or after opening, upon evidence of collusion with the intent to defraud or other illegal practices upon the part of the Bidder.

2.0 **PROPOSAL FORMAT AND CONTENT:** Montrose County Housing Authority discourages overly lengthy and costly proposals. However, for Montrose County Housing Authority to evaluate proposals fairly and thoroughly, Bidders should follow the format set forth herein and provide

all the requested information.

2.1 **Introduction:** Proposals must include a cover letter stating the complete legal name and type of legal entity (e.g., corporation) of the Bidder submitting the Proposal, the mailing address, the telephone number, email address, and the name of the person which Montrose County Housing Authority should contact regarding that Proposal. The cover letter must bear the signature of the person having actual authority to make the Proposal on behalf of that entity. Each Proposal must affirmatively state that the Bidder will comply with all the provisions of this RFP and any attachments thereto. Proposals must be signed by a company

officer empowered to bind the company. A Bidder's failure to include these items in their proposals may cause their bid to be determined to be non-responsive, and the proposal may be rejected.

2.2 **Respondent Responsibility:** Each Respondent shall become fully acquainted with conditions relating to the scope and restrictions attending the execution of the work under the conditions of this solicitation. It is expected that this will sometimes require on-site observation. The failure or omission of a Respondent to become acquainted with existing conditions shall not provide relief of any obligation concerning this solicitation or to the contract.

2.3 **Experience and Qualifications:** Proposals must contain an organizational chart specific to the personnel assigned to accomplish the work called for in this RFP, including the lines of authority and the designation(s) of the individual(s) responsible and accountable for the completion of each component and deliverable of the RFP. Proposals must provide a narrative description of the organization of the project team. Plans must provide a personnel roster that identifies key personnel who will work on the contract and provide the following information about each listed person:

[1] Title

[2] Resume of Curriculum Vitae

[3] Location, where the work assigned to that person, will be performed

[4] Itemization of the number of hours, and the total project cost of each person named above.

2.4 **Cost Proposal:** Each Proposal must provide an overall "**not to exceed**" price for proposed services.

2.5 **References:** Each Proposal must include a list of at least three (3) projects that were completed by the Bidder within the last five (5) years. The projects must be projects where the Bidder has provided or is providing design and build services that are similar to the project outlined in this RFP. References should include the project name, the project location/address, the project size, a description of the project, the date the project was or is scheduled to be completed, the final construction cost of the project, and a contact person and telephone number for the owner of the project.

2.6 **Sustainable Design:** Each Proposal shall demonstrate that the Bidders' specific knowledge and experience in applying sustainability concepts and principles to facilities and infrastructure through an integrated design approach.

2.7 **Evaluation Criteria:** All proposals shall be reviewed to determine if they are responsive to the requirements of this RFP.

2.8 **Presentations:** Bidders may be required to make a presentation (or presentations) to the Evaluation Committee, defined in section 4.1 below.

2.9 **Other:** Each Proposal shall contain a proposed schedule for the completion of the project timely and evidence that a Performance Bond, a Payment Bond, and all necessary Certificates of Insurance can be provided.

3.0 **EVALUATION PROCESS:**

3.1 The RFP will be evaluated, among other things, on the following: Adequacy of the proposal, experience, and qualifications, overall design, in addition to energy-efficient design concepts and cost proposals.

4.0 **SELECTION PROCESS:**

4.1 **Evaluation Committee:** An Evaluation Committee comprised the Architect for the project, Montrose County Housing Authority staff and representatives from project stakeholders may assist in the evaluation of proposals. Bidders may be required to give oral presentations of their proposals in an interview session with the Evaluation Committee. Additional technical and cost information may be requested from any Bidder by the Evaluation Committee before, during, or after the interview for clarification purposes. This additional technical and cost information shall not change the original Proposal.

5.0 **PROJECT DETAILS / STATEMENT OF WORK:**

Montrose County Housing Authority is soliciting competitive sealed bid proposals from construction firms that can provide Construction Manager/General Contractor services in support of the Remodel and Refurbish of Phase One Sunshine Peak Apartments located at 748 Cedar Creek Ave, Montrose, Colorado. The successful bidder will deliver an innovative, highly efficient design that utilizes construction techniques and materials that promote fiscal responsibility while sustaining a Building that is both functional and aesthetically pleasing. This construction project shall be designed and built using sustainable design principles, within practical funding constraints.

- Optimizes energy efficiency.
- Promotes occupant productivity and health.

5.1 **GENERAL INFORMATION:**

The successful Bidder shall provide all labor, materials, tools, equipment, and professional services necessary for Construction Manager/General Contractor services in support of the Remodel and Refurbish of Phase One Sunshine Peak Apartments located at 748 Cedar Creek Ave, Montrose, Colorado. The bidder shall submit a lump sum bid, as outlined herein and in all attached exhibits and or those provided at the walkthrough on March 6, 2025. The successful Bidder shall adhere to all pertinent requirements of the RFP, Addenda, and Exhibits. The successful Bidder shall consult with all appropriate officials of federal, state, county, and municipal authorities having jurisdiction over this project and shall submit plans by the rules prescribed by those reviewing authorities.

5.2 **PROJECT SPECIFICATIONS:**

This project consists of the Construction Manager/General Contractor services in support of the Remodel and Refurbish of Sunshine Peak Apartments Phase One located at 748 Cedar Creek Ave, Montrose, Colorado. The project is described herein, and/or those exhibits provided at the walkthrough on March 6, 2025 @ 1:00 P.M. at 748 Cedar Creek Ave Montrose, Colorado.

5.3 The Sunshine Peak Apartment Phase One essential repairs is anticipated to include:

**1. FLATWORK**

Level concrete walkway (4-inch thick). 800 square feet. There is a large area of settled concrete sidewalk adjacent to the concrete curb and gutter between the north parking area and Buildings D & E. It is anticipated that this section of sidewalk will be leveled with hydraulic cement or "mud jacking."

**2. SUBSTRUCTURE, STRUCTURAL FRAME AND EXTERIOR WALLS**

**Repair Slab (Building A) – Engineering- 3**

The northwest end of Building A beneath unit A105 was reported to have a heaved slab that has caused



significant gaps and out of plumb fenestrations at this unit. It is anticipated that this building will be inspected by a structural engineer.

**Repair Slab (Building A) 8**

The northwest end of Building A beneath unit A105 was reported to have a heaved slab that has caused significant gaps and out of plumb fenestrations at this unit.

**Repair siding & install flashing. 8**

The cementitious siding was noted to contain damage including cracking and swelling caused by improper flashing at windows. It is anticipated that the damaged siding will be repaired or replaced, and all windows will be properly flashed/sealed to prevent future damage.

**Replace soffit 8**

The gypsum soffit material was noted to contain significant water damage and was a poorly installed system. It is anticipated that the gypsum soffit material will be replaced with a more suitable cedar wood or aluminum cladding.

**Rework door glazing 79**

The front and rear entry doors contained deteriorated trim, and glazing beads were noted to be deteriorated. It is anticipated that the front entrance doors will have glazing resealed.

**Replace single hung vinyl windows 50**

The single hung windows have springs and balances that do not operate and are anticipated to require replacement.

**Repair exterior staircases 6**

The steel stairs were noted to contain significant corrosion & upper-level corrugated metal decking was noted to contain significant corrosion and is anticipated to require repair. It is anticipated that the remaining exterior stairs will require repairs to treads, corrosion repair and painting.

**3. ROOFING**

**Replace 3-tab shingle roof system 8,000**

The single-pitched steep pitched roofs over the stairs of the ten (10) townhouses that are covered with 3-tab asphalt shingles that are red in color were noted to be in poor condition with significant areas of loose shingles and generally deteriorated shingles.

**Rebuild and re-roof ancillary roofs 640**

The low-slope ancillary roof with each roof covered by a fully adhered EPDM membrane over entrances to the ten (10) townhouse units along with the exterior storage closets of those units were noted to not be properly sloped for drainage, contained significant ponding, have recently been repaired by a emulsion coating, and were noted to have caused interior water damage in the storage closets.

**Replace gutters and/or downspouts up to 6 inches. 440**

The original half-round channel gutters and downspouts were known by management to improperly drain roofs and have caused significant exterior soffit and finish damage at the apartment buildings and have not been replaced at buildings A and the clubhouse that are planned to be replaced this summer.

#### **4. LIFE SAFETY/FIRE SUPPRESSION**

##### **Fire Suppression System – Pressure gauges 8**

Dynamic Fire Protection Systems did recommend installing U. L. Listed pressure gauge on the riser “below” the riser check valve backflow device at each riser location per NFPA 13, 2010 – Section 7.1.1 “Pressure Gauges” and Sections 7.1.1.1 and 7.1.1.2.

#### **5. LIMITED AMERICANS WITH DISABILITIES ACT (ADA) ASSESSMENT**

##### **Install ADA compliant access aisle 1**

The space at the leasing office is not provided an accessible aisle and an accessible aisle at the “van accessible” handicap accessible parking space is anticipated.

##### **Relocate drinking fountain 1**

The entrance door to the public restroom has a perpendicular wall and drinking fountains on each side of the door. Drinking fountain to be removed.

#### **6. LIMITED FEDERAL FAIR HOUSING ACT (FHA) ASSESSMENT**

##### **Remove handrail barrier (D102) 1**

The entrance to covered unit D102 is blocked by exterior stairs hand railings, and it is anticipated that the railings will be modified to eliminate the barrier.

##### **Mail kiosk- level approach 200**

The exterior mailboxes at the mail kiosk near the clubhouse concrete approach contains unacceptable sloped sidewalks making the mailboxes inaccessible, and it is anticipated that the sidewalk and approach at the mail kiosk will be leveled.

##### **Install levered door hardware 3 Units C102, D102, G102**

The doors to the accessible units do not contain proper hardware.

##### **Relocate environmental controls 3 Units C102, D102, G102**

The environmental controls within the covered units including thermostats, breaker panels, outlets, and switches in the covered units were not located at proper heights (>15"; <48") and will require alterations to the three (3) covered units.

##### **Remove kitchen sink base to provide knee space /cover pipes 3 Units C102, D102, G102**

The accessible unit kitchens contain a sink base cabinet and will require alterations to the sink base cabinet.

##### **Alter cabinets & counter for workspace 3 Units C102, D102, G102**

The accessible unit kitchens do not provide a lowered counter workspace and will require addition of a lowered workspace.

##### **Alter bathroom lavatory 3 Units C102, D102, G102**

The covered unit bathrooms contain vanities and accessories at the lavatory do not appear to be proper height and are too close to an adjoining wall, and bathrooms will require removal and relocation of a proper lavatory

and accessories.

6.0 **STANDARD CONTRACT TERMS AND CONDITIONS:** All the provisions of this RFP, including the terms and conditions of this **Section 6.0** shall be part of the contract between Montrose County Housing Authority and the selected contractor (the "Contractor").

6.1 **THE CONTRACT SUM:** Montrose County Housing Authority shall pay Contractor in United States dollars within 60 days of receipt of the monthly or final billing for expenses related to services performed under the contract. All costs in connection with the work, including, but not limited to, the furnishing of materials, equipment, tools, supplies, and providing all necessary labor and supervision to complete the work entirely, shall be included in the lump contract sum. No item that is required for the proper and successful completion of the work will be paid for outside or in addition to the lump contract sum. Progress payments will be made under this contract as negotiated in the construction contract.

6.2 **JURISDICTION AND VENUE:** The laws of Colorado govern this contract. The parties agree that any litigation concerning this contract, unless the parties agree to arbitration or mediation, must be brought in the Seventh Judicial District Court, Montrose, Colorado, and the parties' consent to personal jurisdiction, subject matter jurisdiction, and venue in that court. Each party shall pay its costs and attorney fees.

6.3 **FORCE MAJEURE:** If either party fails to fulfill its obligations hereunder (other than a requirement for the payment of money), when such failure is due to an act of God, or other circumstances beyond its reasonable control, including but not limited to fire, flood, civil commotion, riot, war (declared and undeclared), revolution, or embargoes, then said failure shall be excused for the duration of such event and for such a time thereafter as is reasonable to enable the parties to resume performance under this Agreement, provided, however, that in no event shall such time extend for a period of more than ninety (90) days.

6.4 **HOLD HARMLESS/INDEMNIFICATION:** The Contractor shall defend, indemnify and hold Montrose County Housing Authority, its officers, officials, employees, and volunteers harmless from any claims, injuries, damages, losses, or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of Montrose County Housing Authority. In the event of liability for damages arising out of bodily injury to persons or damages to the property been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement. caused by or resulting from the concurrent negligence of the Contractor and Montrose County Housing Authority, its officers, officials, employees, and volunteers, the Contractor's liability shall be only to the extent of the Contractor's negligence.

6.5 **MODIFICATIONS:** The contract may not be enlarged, modified, or altered except by a written amendment signed by Montrose County Housing Authority and Contractor. No handwritten change, addition, or erasure of any printed portion of the Contract shall be valid or binding upon either party.

6.6 **TERMINATION:** This Contract may be terminated in whole or in part, in writing, by either party in the event of substantial failure by the other party to fulfill its obligations under this Contract through no fault of the terminating party, provided that no termination may be effected unless the other party is given: (1) not less than ten calendar days' written notice of intent to terminate, and (2) an opportunity for consultation with the terminating party before termination. The contract may be terminated as a whole or in part, in writing by Montrose County Housing Authority or its convenience provided that the Contractor is given: (1) not less than ten calendar days' actual

written notice of intent to terminate, and (2) an opportunity for consultation with Montrose County Housing Authority before termination. Upon termination, the parties shall have such rights and remedies as each would have against the other at law or in equity under the statutes, rules, and case law of the State of Colorado.

6.7 **EQUAL EMPLOYMENT OPPORTUNITY**: All hiring and other employment practices shall be non-discriminatory, based on merit and qualifications without regard to race, color, religion, creed, political ideas, sex, age, marital status, physical or mental handicap, or national origin. Montrose County Housing Authority does not discriminate based on disability in admission to, access to, or operations of its programs, services, or activities.

**LUMP-SUM BID PROPOSAL FORM  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR  
REMODEL AND REFURBISH SUNSHINE PEAK PHASE 1  
748 Cedar Creek Ave, Montrose, Colorado 81401**

Proposal of \_\_\_\_\_ Date: \_\_\_\_\_  
*(Name of Company)*

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

Phone: \_\_\_\_\_ Contact Person: \_\_\_\_\_

Fax: \_\_\_\_\_ E-Mail: \_\_\_\_\_

(Hereinafter called "BIDDER"), organized and existing under the laws of the State of Colorado doing business as: \_\_\_\_\_  
*(Sole Proprietor, Partnership, Corporation, etc.)*

To: Montrose County Housing Authority

By submission of this BID, each party to it certifies as to his organization that this BID has been arrived independently, without consultation, communication, or agreement as to any matter relating to this BID with any other BIDDER or with any competitor.

In compliance with your Advertisement for Bids, BIDDER hereby proposes the following bid for furnishing Construction Manager/General Contractor Services for the Remodel and Refurbish of Sunshine Peak Phase I located at 748 Cedar Creek Ave, Montrose, CO. Bid proposals **shall** be signed by the person or persons legally authorized to bind the Institution to a contract.

**PRICE:** Bidder acknowledges that he has familiarized himself with the Bid Documents, and schedules affecting the cost. With knowledge of the above documents and conditions, the Bidder agrees to perform the work described in the BID DOCUMENTS, ATTACHMENTS and any ADDENDA for the following price(s), including materials, labor, and delivery:

**LUMP-SUM BID: TO COMPLETE THE PROJECT, AS DESCRIBED IN THIS RFP:**

\_\_\_\_\_

\$

- HOW SOON CAN THE BIDDER BEGIN THE PROJECT AFTER NOTICE OF AWARD?

- [REDACTED]

- PROJECTED LENGTH OF TIME TO COMPLETE THE PROJECT?

- [REDACTED]

**BIDDER:**

**CONSTRUCTION MANAGER/GENERAL CONTRACTOR**

**Sunshine Peaks Phase One Essential Repairs**

**748 Cedar Creek Ave, Montrose, Colorado**

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

Signature of Bidder: \_\_\_\_\_

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

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

E-mail: \_\_\_\_\_

**NOTIFICATION OF IMMIGRATION COMPLIANCE REQUIREMENTS  
CERTIFICATION BY CONTRACTOR RE: ILLEGAL ALIENS  
[2021-RFP-19]**

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

\_\_\_\_\_, ("Contractor" herein) acknowledges that the Contractor has been notified of the immigration compliance requirements of C.R.S. § 8-17.5-101, *et. Seq.* (House Bill 06-1343), and hereby **CERTIFIES** that Contractor understands the following:

**ILLEGAL ALIEN:** If the Contractor/Consultant has any employees or subcontractors, the Contractor/Consultant shall comply with § 8-17.5-101 C.R.S., *et seq.*, regarding Illegal Aliens Public Contracts for Services, and this Contract. By execution of this Contract, Contractor/Consultant certifies that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and that Contractor/Consultant will participate in either the E-Verify Program or Department Program to confirm the eligibility of all employees who are newly hired for employment to perform work under this Contract.

Contractor/Consultant here also certifies that:

1. The Contractor/Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Contract; or
2. Enter into a contract with a subcontractor that fails to certify to the Contractor/Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.
3. The Contractor/Consultant has confirmed the employment eligibility of all employees who are newly hired for employment to perform Work under this Contract through participation in either the E-Verify Program or Department Program. If the Contractor is not accepted into the E-Verify Program or Department Program before entering into a public contract for services, that the Contractor shall apply to participate in the E-Verify Program or Department Program every three months until the Contractor is accepted or the public contract for services has been completed, whichever is earlier. This provision shall not be required or effective in a public contract for services if the E-Verify Program or Department Program is discontinued.
4. The Contractor acknowledges that the Contractor/Consultant is prohibited from using the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed.
5. If the Contractor/Consultant obtains actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall be required to:
  - (A) Notify the subcontractor and Montrose County Housing Authority within three days that the Contractor/Consultant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
  - (B) Terminate the subcontract with the subcontractor if within three days of receiving the notice required according to subparagraph (A) of this Section 5 the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor/Consultant shall not terminate the Contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
6. The Contractor/Consultant is required to comply with any reasonable request by the State Department of Labor and Employment ("Department" herein) made in the course of an investigation that the Department is undertaking according to the authority established in C.R.S. § 8-17.5-102(5).
7. If a Contractor/Consultant violates a provision of the public contract for services required here in Montrose County Housing Authority may terminate the contract for a breach of the contract. If the contract is so terminated, the Contractor/Consultant shall be liable for actual and consequential damages to Montrose County Housing Authority.
8. Montrose County Housing Authority must notify the office of the Secretary of State if a Contractor/Consultant violates a provision of this Addendum and Montrose County Housing Authority terminates the contract for such a breach. Based on this notification, the Secretary of State shall maintain a list that includes the name of the Contractor/Consultant, the state agency or political subdivision that terminated the public contract for services, and



the date of the termination. A Contractor/Consultant shall be removed from the list if two years have passed since the date the contract was terminated, or if a court of competent jurisdiction determines that there has not been a violation of the provision of the public contract for services required according to Section I. An agency or political subdivision shall notify the office of the secretary of state if a court has made such a determination. The list shall be available for public inspection at the office of the Secretary of State and shall be published on the internet website maintained by the office of the Secretary of State.

9. The Department may investigate whether a Contractor/Consultant is complying with the provisions of a public contract for services required under Section I. The Department may conduct on-site inspections where a public contract for services is being performed, request and review documentation that proves the citizenship of any person performing work on a public contract for services, or take any other reasonable steps that are necessary to determine whether a contractor is complying with the provisions of a public contract for services required under Section I. The Department shall receive complaints of suspected violations of the provision of a public contract for services (this Addendum) and shall have the discretion to determine which complaints, if any, are to be investigated. The results of any investigation shall not constitute final agency action. The Contractor/Consultant is hereby notified that the Department is authorized to promulgate rules, following article 4 of title 24, C.R.S., to implement the provisions of C.R.S. § 8-17.5-101, *et. Seq.*

**CONTRACTOR**

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

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

Phone: \_\_\_\_\_

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

*Signature*

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

**LEFT BLANK INTENTIONALLY:**

**Attachments**

- Lump-Sum Bid Proposal Form
- Notification of “Immigration Compliance Requirements”
- Addendum No. 1

## Addendum to Sunshine Peak RFP

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### Addendum No. 1

To all potential Proposers:

This addendum is issued to modify the previously issued RFP documents or is given for informational purposes and is hereby made a part of the RFP documents.

This addendum is a response to written questions concerning general questions related to the initial issuance of the RFP.

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### Response Due Date Change and Pre-bid Conference/Walkthrough:

#### 1.6.5.10 IMPORTANT DATES FOR THE RFP:

- Advertising for bid: Saturday, February 22, 2025
- Addendum advertised Saturday, March 1, 2025
- Pre-bid Conference/Walkthrough: Thursday, March 6<sup>th</sup> at 1:00 P.M
- Proposal Date: Monday, March 17, 2025, at 2:00 P.M
- Interviews: Optional
- Award announcement: TBD no later than April 2, 2025
- Anticipated start date: Monday, May 19, 2025
- Anticipated workdays:

#### 5.2 PROJECT SPECIFICATIONS:

This project consists of the Construction Manager/General Contractor services in support of the Remodel and Refurbish of Sunshine Peak Apartments Phase One located at 748 Cedar Creek Ave, Montrose, Colorado. The project is described herein, and/or those exhibits provided at the walkthrough on **March 6, 2025 @ 1:00 P.M.** at 748 Cedar Creek Ave Montrose, Colorado

**ATTACHMENT: FEDERAL REQUIREMENTS**

**FOR PROJECTS FUNDED IN WHOLE OR PART BY**

**COMMUNITY DEVELOPMENT BLOCK GRANTS**

**FOR AWARDED CONTRACTOR ONLY**

CERTIFICATE OF BIDDER  
REGARDING EQUAL EMPLOYMENT OPPORTUNITY

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INSTRUCTIONS:

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

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

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CERTIFICATE OF BIDDER

Name and address of bidder (including zip code):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1. Bidder has participated in a previous contract or subcontract subject to Equal Opportunity Clause.  
 Yes     No
  
2. Compliance reports were required to be filed in connection with such a contract or subcontract.  
 Yes     No     Not applicable
  
3. Bidder has filed all compliance reports due under applicable instructions, including SF-100.  
 Yes     No     Not applicable
  
4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?  
 Yes     No

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

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

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

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

---



**REQUIRED FORMS FOR PROJECTS FUNDED IN WHOLE OR IN PART  
BY COMMUNITY DEVELOPMENT BLOCK GRANT MONIES**

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The work to be performed in this project is being funded, in whole or part, using Federal Community Development Block Grant (CDBG) monies. Federal procurement regulations require that the following items must be completed and submitted with your bid for consideration for contract award:

- A. Forms for Section 3 of the Housing and Urban Development Act of 1968:
  - Preliminary Statement of Work Force Needs
  - Affirmative Action Plan for Use of Project Area Businesses
  - Statement of Actual Work Force Needs
- B. Solicitation of Minority and Women Owned Business
- C. Contractor Ownership Information
- D. Subcontractor Ownership Information

Your completed forms shall be evaluated in assisting the City in determining responsiveness to federal regulatory compliance and may be used to determine whether or not the Contractor is responsible for the purposes of awarding the bid.

**CITY OF MONTROSE  
COMMUNITY DEVELOPMENT BLOCK GRANT**

**PRELIMINARY STATEMENT OF WORK FORCE NEEDS  
AND GOALS FOR USING LOWER INCOME RESIDENTS**

Project: \_\_\_\_\_

NOTE: Contractors shall, to the greatest extent possible, give lower income residents (individuals residing in the City having an annual family income not exceeding \$30,320) opportunities for employment and training on CDBG projects.

Please fill out the following employee information.

	CURRENT EMPLOYEES	CURRENT MINORITY EMPLOYEES	CURRENT FEMALE EMPLOYEES	ESTIMATED EMPLOYEES NEEDED FOR PROJECT	GOALS FOR RECRUITING LOWER-INCOME RESIDENTS
SKILLED					
SEMI-SKILLED					
UNSKILLED					
TRAINEE					

Methods to be used to achieve these goals: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(ATTACH ADDITIONAL PAGES IF NECESSARY)

SUBMITTED BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

DATE: \_\_\_\_\_



**CITY OF MONTROSE  
COMMUNITY DEVELOPMENT BLOCK GRANT**

**AFFIRMATIVE ACTION PLAN FOR USE OF PROJECT AREA BUSINESSES**

PROJECT: \_\_\_\_\_

COMPANY: \_\_\_\_\_

NUMBER OF ALL SUBCONTRACTORS PROPOSED: \_\_\_\_\_

DOLLAR VALUE OF ALL SUBCONTRACTS PROPOSED: \$ \_\_\_\_\_

To the greatest extent feasible contracts will be awarded through negotiations or bid to qualified project area businesses (businesses located within the Montrose city limits).

Goal of these contracts for project area businesses:

Proposed type of subcontract

Approximate cost

<u>Proposed type of subcontract</u>	<u>Approximate cost</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Outline the affirmative action plan to achieve these goals:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**CITY OF MONTROSE**  
**COMMUNITY DEVELOPMENT BLOCK GRANT**  
**AND GOALS FOR USING LOWER INCOME RESIDENTS**

Project: \_\_\_\_\_

NOTE: Contractors shall, to the greatest extent possible, give lower income residents (individuals residing in the City having an annual family income not exceeding \$30,320) opportunities for employment and training on CDBG projects.

Please fill out the following employee information.

	CURRENT EMPLOYEES	CURRENT MINORITY EMPLOYEES	CURRENT FEMALE EMPLOYEES	ESTIMATED EMPLOYEES NEEDED FOR PROJECT	GOALS FOR RECRUITING LOWER-INCOME RESIDENTS
SKILLED					
SEMI-SKILLED					
UNSKILLED					
TRAINEE					

Methods to be used to achieve these goals: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(ATTACH ADDITIONAL PAGES IF NECESSARY)

SUBMITTED BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

**CITY OF MONTROSE**  
**COMMUNITY DEVELOPMENT BLOCK GRANT**  
**SOLICITATION OF MINORITY AND WOMEN OWNED BUSINESSES**

Indicate below actions taken to solicit minority and women-owned businesses where subcontractors are used in completing the project.

Solicited the following Minority/Female Businesses:

\_\_\_\_\_  
Contractor Name Phone \_\_\_\_\_

\_\_\_\_\_  
Individual Contacted Date \_\_\_\_\_

\_\_\_\_\_  
Contractor Name Phone \_\_\_\_\_

\_\_\_\_\_  
Individual Contacted Date \_\_\_\_\_

\_\_\_\_\_  
Contractor Name Phone \_\_\_\_\_

\_\_\_\_\_  
Individual Contacted Date \_\_\_\_\_

\_\_\_\_\_  
Contractor Name Phone \_\_\_\_\_

\_\_\_\_\_  
Individual Contacted Date \_\_\_\_\_

\_\_\_\_\_  
Contractor Name Phone \_\_\_\_\_

\_\_\_\_\_  
Individual Contacted Date \_\_\_\_\_

SUBMITTED BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

**CITY OF MONTROSE  
COMMUNITY DEVELOPMENT BLOCK GRANT**

**CONTRACTOR OWNERSHIP INFORMATION**

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

1. Legal Business Name: \_\_\_\_\_

2. Legal Business Address, including Zip Code

\_\_\_\_\_  
\_\_\_\_\_

3. 9 + digit Federal ID # of Business (or SS No. of Principle Owner)

\_\_\_\_\_

4. Business UEI Number (required with bid): \_\_\_\_\_

5. Attach proof of SAM Registration (required with bid). To register visit [www.sam.gov/portal](http://www.sam.gov/portal)

6. Business owner, partners and/or officers

<u>Name</u>	<u>Title</u>	<u>Address</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Indicate the Ethnicity or Race of the Principle Ownership of the Contractor:

\_\_\_ White \_\_\_ Black \_\_\_ Hispanic \_\_\_ Asian \_\_\_ Native American

7. Is the Contractor a Woman-Owned Business Enterprise? \_\_\_ Yes \_\_\_ No

The undersigned certify that the above information is true to the best of their knowledge.

\_\_\_\_\_  
Name of Owner or Authorized Representative

\_\_\_\_\_  
Date

**CITY OF MONTROSE  
COMMUNITY DEVELOPMENT BLOCK GRANT**

**SUBCONTRACTOR OWNERSHIP INFORMATION**

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

1. Legal Business Name: \_\_\_\_\_

2. Legal Business Address, including Zip Code

\_\_\_\_\_  
\_\_\_\_\_

3. 9 + digit Federal ID # of Business (or SS No. of Principle Owner)

\_\_\_\_\_

4. Business UEI Number (required with bid): \_\_\_\_\_

5. Attach proof of SAM registration (required with Bid). To register visit [www.sam.gov/portal](http://www.sam.gov/portal)

6. Business owner, partners and/or officers

<u>Name</u>	<u>Title</u>	<u>Address</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Indicate the Ethnicity or Race of the Principle Ownership of the Contractor:

\_\_\_\_ White \_\_\_\_ Black \_\_\_\_ Hispanic \_\_\_\_ Asian \_\_\_\_ Native American

7. Is the Contractor a Woman-Owned Business Enterprise? \_\_\_\_ Yes \_\_\_\_ No

The undersigned certify that the above information is true to the best of their knowledge.

\_\_\_\_\_  
Name of Owner or Authorized Representative

\_\_\_\_\_  
Date

## ITEM F, PART I - FEDERAL REQUIREMENTS

The Contractor shall at all times during the execution of the project strictly adhere to, and comply with, all applicable federal, state and local laws, and their implementing regulations, as they currently exist and may hereafter be amended, which are incorporated herein by this reference as terms and conditions of the project and/or contract. The Contractor shall also comply with and require compliance with these statutes and regulations in sub-agreements permitted with sub-contractors. A listing of some of the federal laws that may be applicable to the Work include:

- A. 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).
- B. The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).
- C. The Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5).
- D. 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).
- E. Standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- F. 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 (Pub. L. 94-163).
- G. Office of Management and Budget Circulars A-87, A-21 or A-122, and A-102 or A-110, whichever is applicable, in accordance with U.S.C. and/or CFR.
- H. The Hatch Act (5 U.S.C. 1501-1508) and Public Law 95-454 Section 4728. These statutes state that federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally assisted programs.
- I. 42 USC 6101 et.seq. 42 USC 2000d, 29 USC 794, and implementing regulation, 45 CFR Part 80 et.seq. These acts require that no person shall, on the grounds of race, color, national origin, age, or handicap, be excluded from participation in or be subjected to discrimination in any program or activity funded, in whole or part, by federal funds.
- J. The Americans with Disabilities Act (Public Law 101-336; 42 USC 12101, 12102, 12111-12117, 12131-12134, 12141-12150, 12161-12165, 12181-12189, 12201-12213 47 USC 225 and 47 USC 611
- K. Drug-Free Workplace Act (Public Law 100-690 Title V, subtitle D, 41 USC 701 et. seq.).

- L. The Age Discrimination Act of 1975 and its implementing regulation, 24 CFR Part 146.
- M. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 as amended, and implementing regulation 45 CFR Part 84.
- N. Architectural Barriers Act, 42 U.S.C. 4151-4157; 24 CFR Parts 40 and 41.
- O. 24 CFR Part 85, concerning "Records retention, access to records, breach of contract and termination and bonding and insurance, Debarred contractors, and minority owned businesses".
- P. Title VI of the Civil Rights Act of 1964 and implementing regulations.
- Q. 24 CFR Part 570; specifically including but not limited to 570.502, 503, 506 and 570.600 et. seq., sub-part K as applicable.
- R. 24 CFR Part 87 concerning "Lobbying."

The Contractor shall include the foregoing provisions in any and all subcontract(s) and shall furthermore furnish certification/evidence of compliance to the City of its and any subcontractor's compliance when requested by the City. Sanctions for non-compliance include but are not limited to withholding of payment and/or cancellation, termination, or suspension of the contract in whole or in part.

## ITEM F, PART II -FEDERAL STATUTORY AND REGULATORY PROVISIONS

PURPOSE: The work to be performed under this Agreement is one an activity funded all or in part with federal Community Development Block Grant (CDBG) funds and is subject to applicable federal laws and regulations. This part contains the federal laws and regulations with which the CONTRACTOR/ SUBCONTRACTOR(S) is/are required to comply in the performance of the work. The contractual provisions of Special Provisions Item F Part II are made a part of the contract, and are hereby incorporated into this Agreement by this reference. In the event of any conflict in the provisions of this Part II and any other provisions not found in Part II, without specific statement of supersedure, the provisions of this Part II shall apply.

### 1. ACTIVITY RECORDS.

- a. Records to be Kept and Retention Period. Activity records shall be created and maintained by the CONTRACTOR, with respect to all matters covered by this Contract. Said records shall include, but are not limited to, accounting, purchasing, property, personnel, employment and fiscal matters relating to the project. Said records shall also include, but not be limited to, applicant, beneficiary, and employee information on race, age, sex, disability and familial status, if any. Such records concerning applicant and beneficiaries shall, in addition, include verifiable information on family address, family income (housing activities shall retain household income data which shall include income from all family members and other nonrelated members living in the household), and household size. All project records shall be retained by the CONTRACTOR for a period of three years after its receipt of the final payment of after all pending matters are closed, whichever date is later.
- b. Source Documentation. ALL CONTRACTOR costs, expenditures and obligations hereunder must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subcontract award documents or other documents showing in detail the nature of such costs and obligations.
- c. Record Accessibility. Any pertinent books, documents, papers, or other records pertaining in whole or in part to this contract on the project shall be clearly identified and be made readily accessible to the CITY, HUD, and Comptroller General of the U.S., or any of their duly authorized representatives, upon request therefore, for the purpose of making audits, reviews, evaluations, excerpts and transcriptions. At such times and in such

Form as may be required, the CONTRACTOR shall furnish to the CITY, HUD, or the Comptroller General of the U.S. any of the records, reports, data, information or other documents enumerated in this paragraph. The CONTRACTOR shall furnish such information at no cost.

### 2. ACCOUNTING AND FINANCIAL MANAGEMENT.

- a. Bonding Requirements. For all agreements involving construction work exceeding \$100,000, in addition to CITY requirements, the following items shall be required as a minimum to be submitted by the CONTRACTOR/SUBGRANTEE to the CITY as a condition of the



execution of this Agreement, a bid guarantee equivalent to five percent of the bid price, a performance bond for 100 percent of the agreement price, and a payment bond for 100 percent of the agreement price.

- b. Indirect Costs Prohibition. All costs to be reimbursed by the CITY to the CONTRACTOR shall be direct costs. Such direct costs shall be identified in an Activity Budget spelling out in detail the specific sources and uses of any funds to be expended under this Agreement. No indirect costs (activities that are incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved shall be eligible for reimbursement, unless the CONTRACTOR/SUBGRANTEE already has a cost allocation plan meeting the Office of Management and Budget Circular, A-87 requirements, incorporated herein by reference and written documentation that the plan has been approved by HUD which shall also be incorporated herein by reference.
- c. Administrative Requirements and Cost Principles. CONTRACTOR, which is not governmental entities, shall comply with the requirements and standards of OMB Circular No. A-122, "Cost Principles for Non Profit Organizations", OMB Circular No. A-21 "Cost Principles for Educational Institutions," or 48 CFR Part 31 for for-profit organizations, and with the Attachment to OMB Circular No. A-110, as applicable.

## FEDERAL LABOR STANDARDS PROVISIONS

U.S. Department of Housing Office of Labor Relations  
Federal Labor Standards Provisions and Urban Development  
Form HUD-4010 (07/2003)  
Previous edition is obsolete Ref. Handbook 1344.1

**Applicability**

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

A. 1. (i) **Minimum Wages.** All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore 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 12150140.)

(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 12150140.)

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

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

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

2. **Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime

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

3. (i) **Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section I(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 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 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 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 of 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 only 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 he or she 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 therefore 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 only 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, 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 subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

**CONSTRUCTION CONTRACT DOCUMENTS**

**For**

**Sunshine Peak Apartments I**

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THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

by and between **Montrose County Housing Authority** acting herein through its Executive Director, a Colorado body corporate and politic, County of Montrose and State of Colorado, herein called "Owner", and

\_\_\_\_\_ a corporation/ a partnership/an individual (Strike Out Inapplicable Terms) doing business as

\_\_\_\_\_, of \_\_\_\_\_

County of \_\_\_\_\_ and State of \_\_\_\_\_,

hereinafter called "Contractor."

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the construction described as follows:

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hereinafter called the project, for the sum of Dollars (\$ \_\_\_\_\_) and all extra work in connection therewith, under the terms as stated in the General and Supplemental Conditions of the Contract, the Terms and Conditions of the Contract, and the Labor Standards Provisions of the Contract; and at his (its or their) own proper cost and expense to furnish all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, the General Conditions, and Supplemental General Conditions of the Contract, the plans which include all maps, plats, blue prints, and other drawings and printed or written explanatory matter thereof, the specifications and contract documents therefore as prepared by \_\_\_\_\_ herein entitled the Architect/Engineer, and as enumerated in Paragraph 1 of the Supplemental General Conditions, all of which are made a part hereof and collectively evidence and constitute the Contract.

The Contractor hereby agrees to commence work under this Contract on or before a date to be specified in a written "Notice to Proceed" of the Owner and to fully complete the project within \_\_\_\_ consecutive calendar days thereafter. The Contractor further agrees to pay, as liquidated damages, the sum of \$ \_\_\_\_\_ for each consecutive calendar day thereafter as hereinafter provided in Paragraph 19 of the General Conditions.

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the Contract, subject to additions and deductions, as provided in the General Conditions of the Contract, and to make payments on account thereof as provided in Paragraph 25, "Payments to Contractor," of the General Conditions.

IN WITNESS WHEREOF, the parties to these presents have executed this Contract in six (6) counterparts, each of which shall be deemed an original in the year and day first above mentioned.

(SEAL)

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Montrose County Housing Authority  
Owner

\_\_\_\_\_  
Secretary

By \_\_\_\_\_

\_\_\_\_\_  
Witness Title

(SEAL)

\_\_\_\_\_  
Contractor

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Witness Title

\_\_\_\_\_

\_\_\_\_\_  
Address



## GENERAL CONDITIONS OF THE CONTRACT

### 1. Contract and Contract Documents

The project to be constructed pursuant to this Contract will be financed with assistance from the Colorado CDBG Program and is subject to all applicable Federal and State laws and regulations.

The Plans, Specifications and Addenda, hereinafter enumerated in Paragraph 1 of the Supplemental General Conditions shall form part of this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were herein fully set forth.

1. Contract and Contract Documents
2. Definitions
3. Additional Instructions and Drawings
4. Shop or Setting Drawings
5. Materials, Service, Facilities
6. Contractor's Title to Materials
7. Inspection/Testing of Materials
8. "Or Equal" Clause
9. Patents
10. Surveys, Permits and Regulations
11. Contractor's Obligations
12. Weather Conditions
13. Protection of Work and Property -  
Property---Emergency
14. Inspection
15. Reports, Records and Data
16. Superintendence by Contractor
17. Changes in Work
18. Extras
19. Time for Completion and Liquidated  
Damages
20. Correction of Work
21. Subsurface Conditions-Different
22. Claims for Extra Cost
23. Owner Termination of Contract
24. Construction Schedule/Periodic
25. Payments to Contractor
26. Final Payment as Release
27. Payments by Contractor
28. Insurance
29. Contract Security
30. Additional or Substitute Bond
31. Assignments
32. Mutual Responsibility of Contractors
33. Separate Contractors
34. Subcontracting
35. Architect/Engineer's Authority
36. Stated Allowances
37. Removal of Debris
38. Detail Estimates
39. Right of Way
40. General Guaranty
41. Conflicting Conditions
42. Notice and Service Thereof
43. Provisions Deemed Inserted
44. Life/Health Protection
45. Subcontracts
46. Interest/Congressmen
47. Other Prohibited Interests
48. Use Prior to Acceptance
49. Photographs
50. Suspension of Work
51. Minimum Wages
52. Underpayment of Wages
53. Fringe Benefits
54. Overtime Compensation
55. Apprentices
56. Section 3
57. Employment Prohibited
58. Anti-Kickback Act
59. Classifications Not Listed
60. Benefits Not Expressed
61. Posting of Wage Rates
62. Complaints or Testimony
63. Claims and Disputes
64. Questions Re: Regulations
65. Payrolls and Records
66. Specific Coverage
67. Ineligible Subcontractors
68. Provisions to be Included
69. Breach of Labor Standards
70. Employment Practices
71. Contract Termination; Debarment
72. Public Contract for Services – Employment  
Eligibility Verification
73. Subcontracting with Small and Minority  
Firms, Women's Business Enterprise, and  
Labor Surplus Area Firms
74. HUD 4010 Form, Labor Standards  
Provisions

## **2. Definitions**

The following terms as used in this Contract are respectively defined as follows:

(a) **CONTRACTOR:** A person, firm or corporation with whom the contract is made by the Owner, i.e., the Local Government.

(b) **SUBCONTRACTOR:** A person, firm or corporation supplying labor and materials or only labor for work at the site of the project, for and under separate contract or agreement with the Contractor.

(c) **WORK ON (AT) THE PROJECT:** Work to be performed at the location of the project, including the transportation of materials and supplies to or from the location of the project by employees of the Contractor and any Subcontractor.

## **3. Additional Instructions and Detail Drawings**

The Contractor will be furnished additional instructions and detail drawings as necessary to carry out the work included in the contract. The additional drawings and instructions thus supplied to the Contractor will coordinate with the Contract Documents and will be so prepared that they can be reasonably interpreted as part thereof. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions. The Contractor and the Architect/Engineer will prepare jointly: (a) a schedule, fixing the dates at which special detail drawings will be required, such drawings, if any, to be furnished by the Architect/Engineer in accordance with said schedule, and (b) a schedule fixing the respective dates for the submission of shop drawings, the beginning of manufacture, testing and installation of materials, supplies and equipment, and the completion of the various parts of the work; each such schedule to be subject to change from time to time in accordance with the progress of the work.

## **4. Shop Setting Drawings**

The Contractor shall submit promptly to the Architect/Engineer two copies of each shop or setting drawing prepared in accordance with the schedule predetermined aforesaid. After examination of such drawings by the Architect/Engineer and the return thereof, the Contractor shall make such corrections to the drawings as have been indicated and shall furnish the Architect/Engineer with two corrected copies. If requested by the Architect/Engineer, the Contractor must furnish additional copies.

Regardless of corrections made in or approval given to such drawings by the Architect/Engineer, the Contractor will nevertheless be responsible for the accuracy of such drawings and for their conformity to the Plans and Specifications, unless he notifies the Architect/Engineer in writing of any deviations at the time he furnishes such drawings.

## **5. Materials, Services, and Facilities**

(a) It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature whatsoever necessary to execute, complete, and deliver the work within the specified time.

(b) Any work necessary to be performed after regular hours, on Sundays or Legal Holidays, shall be performed without additional expenses to the Owner.

## **6. Contractor's Title to Materials**

No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies used by him in the work, free from all liens, claims, or encumbrances.

## **7. Inspection and Testing of Materials**

(a) All materials and equipment used in the construction of the project shall be subject to

adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by the Owner. The Owner will pay for all laboratory inspection service direct, and not as part of the contract.

(b) Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.

## 8. "Or Equal" Clause

Whenever a material, article or piece of equipment is identified on the plans or in the specifications by reference to manufacturers' or vendors' names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and, any material, article, or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed, is, in the opinion of the Architect/Engineer, of equal substance and function. It shall not be purchased or installed by the contractor without the Architect/Engineer's written approval.

## 9. Patents

(a) The Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract, including its use by the Owner, unless otherwise specifically stipulated in the Contract Documents.

(b) License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized licensee, direct by the Owner and not by or through the Contractor.

(c) If the Contractor uses any design, device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the Owner of such patented or copyrighted design, device or material. It is mutually agreed and understood, that, without exception, the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or his Sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in connections with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense or damage which it may be obligated to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

## 10. Surveys, Permits, and Regulations

Unless otherwise expressly provided for in the Specifications, the Owner will furnish to the Contractor all surveys necessary for the execution of the work. The Contractor shall procure and pay all permits, licenses and approvals necessary for the execution of his contract.

The Contractor shall comply with all laws, ordinances, rules, and regulations relating to performance of the work, the protection of adjacent property, and the maintenance of passageways, guard fences or other protective facilities.

## 11. Contractor's Obligations

### *Overview of Procurement Requirements*

When the owner chooses to engage a contractor for program administration, task completion, or construction activities, it is imperative that these contractors are procured through a competitive selection process. Owner is encouraged to establish procurement policies that delineate the procedures for acquiring supplies, materials, services, and equipment, whether by themselves or through subrecipients. These policies must ensure that all purchases are conducted equitably and that they foster an environment of full and open competition. The owner is expected to comply with the established procedures in these policies and to maintain thorough documentation of all procurement activities undertaken. Please refer to Exhibit VIII-C.1, the DOLA Federal Labor Standards Checklist, to be

completed and turned into the Division of Housing (DOH) Asset Management before the DOH end agreement date. **Owner will adhere to City of Montrose procurement guidelines enumerated in Exhibit A.**

The Contractor shall and will, in good workmanlike manner, do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this contract, within the time herein specified, in accordance with the provisions of this contract and said specifications and in accordance with the plans and drawings covered by this contract any and all supplemental plans and drawings, and in accordance with the directions of the Architect/Engineer as given from time to time during the progress of the work. He shall furnish, erect, maintain, and remove such construction plant and such temporary works as may be required.

The Contractor shall observe, comply with, and be subject to all terms, conditions, requirements, and limitations of the contract and specifications, and shall do, carry on, and complete the entire work to the satisfaction of the Architect/Engineer and the Owner.

#### **12. Weather Conditions**

In the event of temporary suspension of work, or during inclement weather, or whenever the Architect/Engineer shall direct, the Contractor will, and will cause his subcontractors to protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the Architect/Engineer, any work or material shall have been damaged or injured by reason of failure on the part of the Contractor or any of his Subcontractors so to protect his work, such materials shall be removed and replaced at the expense of the Contractor.

#### **13. Protection of Work Property – Emergency**

The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this contract. He shall at all times safely guard and protect his own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury unless such be caused directly by errors contained in the Contract or by the Owner, or his duly authorized representatives.

In case of an emergency which threatens loss or injury of property, and/or safety or life, the Contractor will be allowed to act, without previous instructions from the Architect/Engineer, in a diligent manner. He shall notify the Architect/Engineer immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to the Architect/Engineer for approval.

Where the Contractor has not taken action but has notified Architect/Engineer of an emergency threatening injury to persons or damage to the work of any adjoining property, he shall act as instructed or authorized by the Architect/Engineer.

The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in Paragraph 17 of the General Conditions.

#### **14. Inspection**

The authorized representatives and agents of the Colorado Department of Local Affairs shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

#### **15. Reports, Records, and Data**

The Contractor shall submit to the Owner such schedule of quantities and costs, progress schedule, payrolls, reports, estimates, records, and other data as the Owner may request concerning work performed or to be performed under this contract.

#### **16. Superintendence by Contractor**

At the site of the work the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable

to the Architect/Engineer and shall be one who can be continued in that capacity for the particular job involved unless he ceases to be on the Contractor's payroll.

#### **17. Changes in Work**

No changes in the work covered by the approved Contractor Documents shall be made without having prior written approval of the Owner. Charges or credits for the work covered by the approved change shall be determined by one or more of the following methods:

- (a) Unit bid prices previously approved
- (b) An agreed lump sum
- (c) The actual cost of:
  - (1) Labor, including foreman;
  - (2) Materials entering permanently into the work;
  - (3) The ownership or rental cost of construction plant and equipment during the time of use on the extra work;
  - (4) Power and consumable supplies for the operation of power equipment;
  - (5) Insurance;
  - (6) Social Security and old age and unemployment contributions.To the cost under (c) there shall be added a fixed fee to be agreed upon but not to exceed fifteen (15%) of the actual cost of the work. The fee shall be compensation to cover the cost of supervision, overhead, bond, profit and any other general expenses.

#### **18. Extras**

Without invalidating the contract, the Owner may order extra work or make changes by altering, adding to or deducting from the work, the contract sum being adjusted accordingly, and the consent of the Surety being first obtained where necessary or desirable. All the work of the kind bid upon shall be paid for at the price stipulated in the proposal, and no claims for any extra work or materials shall be allowed unless the work is ordered in writing by the Owner or its Architect/Engineer, acting officially for the Owner, and the price is stated in such order.

#### **19. Time for Completion and Liquidated Damages**

It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion as specified in the Contract of the work to be done hereunder are ESSENTIAL CONDITIONS of this Contract; and it is further mutually understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the "Notice to Proceed." The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

If the said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part consideration for the awarding of this Contract, to pay the Owner the amount specified in the Contract, not as a penalty but as liquidated damages for such breach of Contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the Contract for completing the work.

The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain and said amount shall be retained from time to time by the Owner from current periodical estimates.

It is further agreed that time is of the essence of each and every portion of this Contract and of the specifications wherein and definite and certain length of time is fixed for the performance of any act whatsoever, and where under the Contract an additional time is allowed for the completion of any work,

the new time limit fixed by such extension shall be of the essence of this Contract, PROVIDED, that the Contractor shall not be charged with liquidated damages or any excess cost when the Owner determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the Owner; PROVIDED, FURTHER, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:

- (a) To any preference, priority or allocation order duly issued by the Local Public Agency;
- (b) To unforeseen cause beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, or the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather; and
- (c) To any delays of Subcontractors or suppliers occasioned by any of the causes specified in subsections (a) and (b) of this article:

PROVIDED, FURTHER, that the Contractor shall, within ten (10) days from the beginning of such delay, unless the Owner shall grant a further period of time prior to the date of final settlement of the contract, notify the Owner, in writing, of the cause of the delay, shall ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

#### **20. Correction of Work**

All work, all materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the inspection of the Architect/Engineer who shall be the final judge of the quality and suitability of the work, materials, processes of manufacture, and methods of construction for the purposes for which they are used. Should they fail to meet his approval they shall be forthwith reconstructed, made good, replaced and/or corrected as the case may be, by the Contractor at his own expense. Rejected material shall immediately be removed from the site. If, in the opinion of the Architect/Engineer, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as in the judgment of the Architect/Engineer shall be equitable.

#### **21. Subsurface Conditions Found Different**

Should the Contractor encounter subsurface and/or latent conditions at the site materially differing from those shown on the Plans or indicated in the Specifications, he shall immediately give notice to the Architect/Engineer of such conditions before they are disturbed. The Architect/Engineer will thereupon promptly investigate the conditions, and if he finds that they materially differ from those shown on the Plans or indicated in the Specifications, he will at once make such changes in the Plans and/or Specifications as he may find necessary, any increase or decrease of cost resulting from such changes to be adjusted in the manner provided in Paragraph 17 of the General Conditions.

#### **22. Claims for Extra Cost**

No claim for extra work or costs shall be allowed unless the same was done in pursuance of a written order of the Architect/Engineer approved by the Owner, as aforesaid, and the claim presented with the first estimate after the changed or extra work is done. When work is performed under the terms of subparagraph 17(c) of the General Conditions, the Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost and when requested by the Owner, give access to accounts relating thereto.

#### **23. Right of the Owner to Terminate Contract**

In the event that any of the provisions of this Contract are violated by the Contractor, or by any of his subcontractors, the Owner may serve written notice upon the Contractor and the Surety of its intention to terminate the Contract, such notices to contain the reason for such intention to terminate the Contract,

and unless within (10) days after the serving of such notice upon the Contractor, such violation or delay shall cease and satisfactory arrangement of correction be made, the Contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, the Owner shall immediately serve notice thereof upon the Surety and the Contractor and the Surety shall have the right to take over and perform the Contract; provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety Contractor and his Surety shall be liable to the Owner for any excess cost occasioned the Owner thereby, and in such event the Owner may take possession of and utilize in completing the work, such material, appliances, and plant as may be on the site of the work and necessary therefore.

#### **24. Construction Schedule and Periodic Estimates**

Immediately after execution and delivery of the Contract, and before the first partial payment is made, the Contractor shall deliver to the Owner an estimated construction progress schedule in form satisfactory to the Owner, showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the Contract Documents and the anticipated amount of each monthly payment that will become due the Contractor in accordance with the progress schedule. The Contractor shall also furnish on forms to be supplied by the Owner: (a) a detailed estimate giving a complete breakdown of the contract price and (b) periodic itemized estimates of work done for the purpose of making partial payments thereon. The costs employed in making up any of these schedules will be used only for determining the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from the Contract price.

#### **25. Payments to Contractor**

(a) Not later than the 15th day of each calendar month the Owner shall make a progress payment to the Contractor on the basis of a duly certified and approved estimate of the work performed during the preceding calendar month under this Contract, but to insure the proper performance of this Contract the Owner may retain five percent (5%) of the amount of each estimate until final completion and acceptance of all work covered by this Contract; PROVIDED, that the Contractor shall submit his estimate not later than the first day of the month; PROVIDED, FURTHER, that the Owner at any time after fifty percent (50%) of work has been completed, if he finds that satisfactory progress is being made, may make any of the remaining progress payments in full; PROVIDED, FURTHER, that on completion and acceptance of each separate building, public work, or other division of the Contract, on which the price is stated separately in the Contract, payment may be made in full, including retained percentages thereon, less authorized deductions.

(b) In preparing estimates the material delivered on the site preparatory to work done may be taken into consideration.

(c) All material and work covered by partial payments made shall thereupon become the sole property of the Owner, but this provision shall not be construed as relieving the Contractor from have been made or the restoration of any damaged work, or as a waiver of the right of the Owner to require the fulfillment of all of the terms of the contract.

(d) **OWNER'S RIGHT TO WITHHOLD CERTAIN AMOUNTS AND MAKE APPLICATION THEREOF:** The Contractor agrees that he will indemnify and save the Owner harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, material men, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this Contract. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived. If the Contractor fails so to do, then the Owner may, after having served written notice on the said Contractor, either pay unpaid bills, of which the Owner has written, direct or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged hereupon payment to the Contractor shall be resumed, in accordance with the terms of this Contract, but in no event shall the provisions of this sentence be constructed to impose any obligations upon the Owner to either the Contractor or his Surety. In paying any unpaid bills of the

Contractor, the Owner shall be deemed the agent of the Contractor, and any payment so made by the Owner shall be considered as a payment made under the Contract by the Owner to the Contractor and the Owner shall not be liable to the Contractor for any such payments made in good faith.

**26. Acceptance of Final Payment Constitutes Release**

The acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others relating to or arising out of this work. No payment, however, final or otherwise, shall operate to release the Contractor or his sureties from any obligations under this Contract or the Performance and Payment Bond.

**27. Payments by Contractors**

The Contractor shall pay (a) for all transportation and utility services not later than the 20th day of the calendar month following that in which such materials, tools, and equipment are delivered at the site of the project, and the balance of the cost thereof, not later than the 30th day following the completion of that part of the work in or on which such materials, tools, and equipment are incorporated or used, and (c) to each of his subcontractors, not later than the 5th day following each payment to the Contractor, the respective amounts allowed the Contractor on account of the work performed by his subcontractors to the extent to each subcontractor's interest therein.

**28. Insurance**

The Contractor shall not commence work under this contract until he has obtained all the insurance required under this paragraph and such insurance has been approved by the Owner, nor shall the Contractor allow any subcontractor to commence work on his subcontract until the insurance required of the subcontractor has been so obtained and approved.

(a) **COMPENSATION INSURANCE:** The Contractor shall procure and shall maintain during the life of his Contract Workmen's Compensation Insurance as required by applicable State law for all of his employees to be engaged in work at the site of the project under this contract and, in case of any such work sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Workmen's Compensation Insurance. In case any class of employees engaged in hazardous work on the project under this Contract is not protected under the Workmen's Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

(b) **CONTRACTOR'S PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE AND VEHICLE LIABILITY INSURANCE:** The Contractor shall procure and shall maintain during the life of this Contract Contractor's Public Liability Insurance, Contractor's Property Damage Insurance and Vehicle Liability Insurance in the amounts specified in the Supplemental General Conditions.

(c) **SUBCONTRACTOR'S PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE AND VEHICLE LIABILITY INSURANCE:** The Contractor shall either (1) require each of his subcontractors to procure and to maintain during the life of his subcontract, Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amounts specified in the Supplemental General Conditions specified in subparagraph (b) hereof, (2) insure the activities of his policy specified in subparagraph (b) hereof.

(d) **SCOPE OF INSURANCE AND SPECIAL HAZARDS:** The insurance required under subparagraphs (b) and (c) hereof shall provide adequate protection for the Contractor and his subcontractors, respectively, against damage claims which may arise from operations under this Contract, whether such operations be by the insured or by anyone directly or indirectly employed by him and, also against any of the special hazards which may be encountered in the performance of this contract as enumerated in the Supplemental General Conditions.



(e) **BUILDER'S RISK INSURANCE (FIRE & EXTENDED COVERAGE):** Until the project is completed and accepted by the Owner, the Owner, or Contractor (at the Owner's option as indicated in the Supplemental General Conditions, Form (HUD-4238-N) is required to maintain Builder's Risk Insurance (fire and extended coverage) on a 100 percent completed value basis on the insurable portion of the project for the benefit of the Owner, the Contractor, subcontractors as their interests may appear. The Contractor shall not include any costs for Builder's Risk Insurance (fire and extended coverage) premiums during construction unless the Contractor is required to provide such insurance; however, this provision shall not release the Contractor from his obligation to complete, according to plans and specifications, the project covered by the Contract, and the Contractor and his Surety shall be obligated to full performance of the Contractor's undertaking.

(f) **PROOF OF CARRIAGE OF INSURANCE:** The Contractor shall furnish the Owner with certificates showing the type, amount, class of operations covered, effective dates and date of expiration of policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after (10) days written notice has been received by the Owner."

### **29. Contract Security**

The Contractor shall furnish a performance bond in an amount at least equal to one hundred percent (100%) of the contract prices as security for the faithful performance of this Contract and also a payment bond in an amount not less than one hundred percent (100%) of the contract price or in a penal sum not less than that prescribed by State, territorial or local law, as security for the payment of all persons performing labor on the project under this Contract and furnishing materials in connection with this Contract. The performance bond and the payment bond may be in one or in a separate instrument in accordance with local law.

### **30. Additional or Substitute Bond**

If at any time the Owner for justifiable cause shall be or become dissatisfied with any surety or sureties, then upon the Performance or Payment Bonds, the Contractor shall within five (5) days after notice from the Owner so to do, substitute an acceptable bond (or bonds) in such form and sum and signed by other surety or sureties as may be satisfactory to the Owner. The premiums on such bonds shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished such an acceptable bond to the Owner.

### **31. Assignments**

The Contractor shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without consent of the Owner. In case the Contractor assigns all or any part of any monies due or to become due under this contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or become due to the Contractor shall be subject to prior claims of all persons, firms, and corporations of services rendered or materials supplied for the performance of the work called for in this Contract.

### **32. Mutual Responsibility of Contractors**

If, through acts of neglect on the part of the Contractor, any other Contractor or any subcontractor shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractors or subcontractors by agreement or arbitration if such other Contractor or subcontractor will so settle. If such other Contractor or subcontractor shall assert any claim against the Owner on account of any damage alleged to have been sustained, the Owner shall notify the Contractor, who shall indemnify and save harmless the Owner against any such claim.

### **33. Separate Contract**

The Contractor shall coordinate his operations with those of other Contractors. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the work. The

Contractor, including his subcontractors, shall keep informed of the progress and the detail work of other Contractors and shall notify the Architect/Engineer immediately of lack of progress or defective workmanship on the part of other Contractors. Failure of a Contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by him of the status of the work as being satisfactory for proper coordination with his on work.

#### **34. Subcontracting**

(a) The Contractor may utilize the services of specialty subcontractors on those parts of the work which, under normal contracting practices, are performed by specialty sub- contractors.

(b) The Contractor shall not award any work to any subcontractor without prior written approval of the Owner, which approval will not be given until the Contractor submits to the Owner a written statement concerning the proposed award to the subcontractor, which statement shall contain

(c) The Contractor shall be as fully responsible to the Owner for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons employed by him.

(d) The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to the Contract by the terms of the General Conditions and other contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the Contract Documents.

(e) Nothing contained in this Contract shall create any contractual relation between any subcontractor and the Owner.

#### **35. Architect/Engineer's Authority**

The Architect/Engineer shall give all orders and directions contemplated under this contract and specifications, relative to the execution of the work. The Architect/Engineer shall determine the amount, quality, acceptability, and fitness of the several kinds of work and materials which are to be paid for under this Contract and shall decide all questions which may arise in relation to said work and the construction thereof. The Architect/Engineer's estimates and decisions shall be final and conclusive, except as herein otherwise expressly provided. In case any question shall arise between the parties hereto relative to said Contract or specifications, the determination or decisions of the Architect/Engineer shall be a condition precedent to the right of the Contractor to receive any money or payment for work under this Contract affected in any manner to any extent by such question.

The Architect/Engineer shall decide the meaning and intent of any portion of the specifications and of any plans or drawings where the same may be found obscure or be in dispute. Any differences or conflicts in regard to their work which may arise between the Contractor under this Contract and other Contractors performing work for the Owner shall be adjusted and determined by the Architect/Engineer.

#### **36. Stated Allowances**

The Contractor shall include in his proposal the cash allowances stated in the Supplemental General Conditions. The Contractor shall purchase the "Allowed Materials" as directed by the Owner on the basis of competitive bids. If the actual price for purchasing the "Allowed Materials" is more or less than the "Cash Allowance," the contract price shall be adjusted accordingly. The adjustment in contract price shall be made on the basis of the purchase price without additional charges for overhead, profit, insurance or any other incidental expenses. The cost of installation of the "Allowed Materials" shall be included in the applicable sections of the Contract Specifications covering this work.

#### **37. Use of Premises and Removal of Debris**

The Contractor expressly undertakes at his own expense:

- (a) to take every precaution against injuries to persons or damage to property;

- (b) to store his apparatus, materials, supplies and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of his work or the work of any other contractors;
- (c) to place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work;
- (d) to clean up frequently all refuse, rubbish, scrap materials, and debris caused by his operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance;
- (e) before final payment to remove all surplus material, false-work, temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from his operations, and to put the site in a neat, orderly condition;
- (f) to effect all cutting, fitting or patching of his work required to make the same to conform to the plans and specifications and, except with the consent of the Architect/Engineer, not cut or otherwise alter the work of any other Contractor.

**38. Quantities of Estimate**

Wherever the estimated quantities or work to be done and materials to be furnished under this contract are shown in any of the documents including the proposal, they are given for use in comparing bids and the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by the Owner to complete the work contemplated by this Contract, and such increase or diminution shall in no way vitiate this Contract, nor shall any such increase or diminution give cause for claims or liability for damages.

**39. Lands and Right-of-Way**

Prior to the start of construction, the Owner shall obtain lands and rights-of-way necessary for the carrying out and completion of work to be performed under this contract.

**40. General Guaranty**

Neither the final certificate of payment nor any provision in the Contract Documents, nor partial or entire occupancy of the premises by the Owner, shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of final acceptance of work unless a longer period is specified. The Owner will give notice of defects with reasonable promptness.

**41. Conflicting Conditions**

Any provisions of the Contract Documents which may be in conflict or inconsistent with any of the paragraphs in these General Conditions shall be void to the extent of such conflict or inconsistency.

**42. Notice and Service Thereof**

Any notice to any Contractor from the Owner relative to any part of this Contract shall be in writing and considered delivered and the service thereof completed, when said notice is posted, by certified or registered mail, to said Contractor at his last given address, or delivered in person to the said Contractor or his authorized representative on the work.

**43. Provisions Required by Law Deemed Inserted**

Each and every provision of law and clause required by law to be inserted in this Contract shall be

deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

#### **44. Protection of Lives and Health**

"The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume No. 75, Saturday, April 17, 1971. Title 29 - LABOR, shall be observed and the Contractor shall take or cause to be taken, such additional safety and health measures as the Contracting Authority may determine to be reasonably necessary."

#### **45. Subcontracts**

"The Contractor will insert in any subcontract the Federal Labor Standards Provisions contained herein and such other clauses as the Department of Housing and Urban Development or Colorado Department of Local Affairs may, by instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made."

#### **46. Interest of Members of or Delegate to Congress**

No members of or Delegate to Congress shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

#### **47. Other Prohibited Interests**

No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept or approve, or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

#### **48. Use and Occupancy Prior to Acceptance by Owner**

The Contractor agrees to the use and occupancy of a portion or unit of the project before formal acceptance by the Owner, provided the Owner:

- (a) Secures written consent of the Contractor except in the event, in the opinion of the Architect/Engineer, the Contractor is chargeable with unwarranted delay in final cleanup of such list items or other contract requirements.
- (b) Secures endorsement from the insurance-carrier and consent of the surety permitting occupancy of the building or use of the project during the remaining period of construction, or,
- (c) When the notice consists of more than one building, and one of the buildings is occupied, secures permanent firm and extended coverage insurance, including a permit to complete construction. Consent of the Surety must also be obtained.

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, 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.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, or national origin.

#### **49. Photographs of the Project**

The Contractor shall furnish photographs of the project before, during, and after construction in the quantities and as described in the Supplemental General Conditions.

#### **50. Suspension of Work**

Should the Owner be prevented or enjoined from proceeding with work either before or after the start of construction by reason of any litigation or other reason beyond the control of the Owner, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay; but time for completion of the work will be extended to such delay with such time as the Owner may determine will compensate for time lost by such delay with such determination to be set forth in writing.

#### **51. Minimum Wage Rate for Laborers and Mechanics**

All laborers and mechanics employed upon the work covered by this Contract shall be paid unconditionally and not less often than once each week, and without subsequent deduction or rebate on any account (except such payroll deductions as are made mandatory by law and such other payroll deductions as are permitted by the applicable regulations issued by the Secretary of Labor, United States Department of Labor, pursuant to the Anti-Kickback Act hereinafter identified), the full amount due at time of payment computed at wage rates not less than those contained in the wage determination decision of said Secretary of Labor (a copy of which is attached and herein incorporated to reference), regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor and such laborers and mechanics. All laborers and mechanics employed upon such work shall be paid in cash, except that payment may be by check if the employer provides or secures satisfactory facilities approved by the Local Public Agency for the cashing of the same without cost of expense to the employee. For the purpose of this clause, contributions made or costs reasonably anticipated 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 Section 5.5(a)(1)(iv) of Title 29, Code of Federal Regulations. Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

#### **52. Underpayment of Wages or Salaries**

In case of underpayment of wages by the Contractor or by any subcontractor to laborers or mechanics employed by the Contractor or subcontractor upon the work covered by this Contract, the Local Public Agency or in addition to such other rights as may be afforded it under this Contract shall withhold from the Contractor, out of any payments due the Contractor, so much thereof as the Local Public Agency may consider necessary to pay such laborers or mechanics the full amount of wages required by this Contract. The amount so withheld may be disbursed by the Local Public Agency for and on account of the Contractor or the subcontractor (as may be appropriate), to the respective laborers or mechanics to whom the same is due or on their behalf to plans, funds, or programs for any type of fringe benefit

prescribed in the applicable wage determination.

**53. Anticipated Costs of Fringe Benefits**

If the Contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing fringe benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this Contract; provided, however, 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. A copy of any findings made by the Secretary of Labor in respect to fringe benefits being provided by the Contractor must be submitted to the Local Public Agency with the first payroll filed by the Contractor subsequent to receipt of the findings.

**54. Overtime Compensation Required by Contract Work Hours and Safety Standards Act (76 Stat. 357-360: Title 40 U.S.C., Sections 327-332)**

(a) **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 laborer or mechanic in any workweek in which he is employed on such or to work in excess of 40 hours in such workweek unless such laborer or mechanic received compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of 40 hours in such work week, as the case may be.

(b) **VIOLATION: LIABILITY FOR UNPAID WAGES LIQUIDATED DAMAGES.** In the event of any violation of the clause set forth in paragraph (a), the Contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violations of the clause set forth in paragraph (a), in the sum of \$10 for each calendar day on which such employee 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 paragraph (a).

(c) **WITHHOLDING FOR LIQUIDATED DAMAGES.** The Local Public Agency shall withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for liquidated damages as provided in the clause set forth in paragraph (b).

(d) **SUBCONTRACT.** The Contractor shall insert in any subcontract the clauses set forth in paragraphs (a), (b), and (c) of this Section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

**55. Employment or Apprentices/Trainees**

(a) **APPRENTICES** will be permitted to work at less than the predetermined rate for the work they performed when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his 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 Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subdivision (b) of this subparagraph or is not registered or otherwise employed as stated above, shall be paid the wage rate determined by the Secretary of Labor for the

classification of work he actually performed. The contractor or subcontractor will be required to furnish to the contracting officer or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the registration of his program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman hourly rates), for the area of construction prior to using any apprentices on the contract work. The wage rate paid apprentices shall be not less than the appropriate percentage of the journeyman's rate contained in the applicable wage determination.

(b) **TRAINEES.** Except as provided in 29 CFR 5.15, 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, Manpower Administration, Bureau of Apprenticeship and Training. The ratio of trainees to journeymen shall not be greater than permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his level of progress. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish the contracting officer or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training 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.

(c) **EQUAL EMPLOYMENT OPPORTUNITY.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

#### 56. Section 3

The Contractor shall make best efforts to achieve the requirements outlined in the Minority and Women's Business Enterprise (MWBE) Plan and Checklist, attached and incorporated into this Agreement as Exhibit B and C, respectively.

The Contracted Party will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended (42 U.S.C. 1701a) and with the requirements of 24 CFR Part 135 requiring that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project area be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in the area of the project. The Section 3 Clause attached here to as (name of your document here) is expressly incorporated into this agreement and must be included in all contract and subcontracts

(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. 70u (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 persons) 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).

#### **57. Employment of Certain Persons Prohibited**

No person under the age of sixteen years and no person who, at the time, is serving sentence in a penal or correctional institution shall be employed on the work covered in this Contract.

#### **58. Regulations Pursuant to So-Called "Anti-Kickback Act"**

The Contractor shall comply with the applicable regulations (a copy of which is attached and herein incorporated by reference) of the Secretary of Labor, United States Department of Labor, made pursuant to the so-called "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 862; Title U.S.C., Section 874; and Title 40 U.S.C. Section 276c), and any amendments or modifications thereof, shall cause appropriate provisions to be inserted in subcontracts to insure compliance therewith by all subcontractors subject thereto, and shall be responsible for the submission of affidavits required by the subcontractors thereunder, except as said Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances, and exemptions from the requirements thereof.

#### **59. Employment of Laborers or Mechanics Not Listed in Aforesaid Wage Determination Decision**

Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Contract will be classified or reclassified conformably to the wage determination by the Local Public Agency and a report of the action taken shall be submitted by the Local Public Agency through the State Department of Local Affairs to the Secretary of Labor, United States Department of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics to be used, the question accompanied by the recommendation of the Local Public Agency shall be referred through the State Department of Local Affairs to the Secretary of Labor for final determination.

#### **60. Fringe Benefits Not Expressed as Hourly Wage Rates**

The Local Public Agency shall require, 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 wage rate and the Contractor is obligated to pay cash equivalent of such a fringe benefit, an hourly cash equivalent thereof to be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the Local Public Agency, shall be referred to the Secretary of Labor for determination.

#### **61. Posting Wage Determination Decisions and Authorized Wage Deductions**

The applicable wage poster of the Secretary of Labor, United States Department of Labor, and the applicable wage determination decisions of said Secretary of Labor with respect to the various classifications of laborers and mechanics employed and to be employed upon the work covered by this Contract, and a statement showing all deductions, if any, in accordance with the provisions of this Contract, to be made from wages actually earned by persons so employed or to be employed under such classifications, shall be posted at appropriate conspicuous points at the site of the work.

#### **62. 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.

#### **63. Claims and Disputes Pertaining to Wage Rates**

Claims and disputes pertaining to wage rates or to classifications of laborers and mechanics employed upon the work covered by this Contract shall be promptly reported by the Contractor in writing to the Local Public Agency or Public Body for referral to the Secretary of Labor, United States Department of Labor, whose decision shall be final with respect thereto.

#### **64. Questions Concerning Certain Federal Statutes and Regulations**

All questions arising under this Contract which relate to the application or interpretation of (a) the aforesaid Anti-Kickback Act, (b) the Contract Work Hours and Safety Standards Act, (c) the aforesaid Davis-Bacon Act, (d) the regulations issued by the Secretary of Labor, United States Department of Labor, pursuant to said Acts, or (e) the labor standards provisions of any other pertinent Federal statute, shall be referred through the Local Public Agency and to the Secretary of Labor, United States Department of Labor, for said Secretary's appropriate ruling or interpretation which shall be authoritative and may be relied upon for the purposes of this Contract.

#### **65. Payrolls and Basic Payroll Records of Contractor and Subcontractors**

The Contractor and each subcontractor shall prepare his payrolls on forms satisfactory to and in accordance with instructions to be furnished by the Local Public Agency or Public Body. The Contractor shall submit WEEKLY to the Local Public Agency or Public Body certified copies of all payrolls of the Contractor and of the subcontractors, it being understood that the Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. **Each such payroll shall contain the "Weekly Statement of Compliance"** set forth in Section 3.3 of Title 29, Code of Federal Regulations. The payrolls and basic payroll records of the Contractor and each subcontractor covering all laborers and mechanics employed upon the work covered by this Contract shall be maintained during the course of the work and preserved for a period of 5 years thereafter. Such payrolls and basic payroll records shall contain the name and address of each such employee, their correct classification, rate of pay (including rates of contributions or costs anticipated, of the types described in Section 1(b)(2) of the Davis-Bacon Act,) daily and weekly number of hours worked, deductions made, and actual wages paid. In addition, whenever the Secretary of Labor has found under Section 5.5(a)(1)(iv) of Title 29, Code of Federal Regulations, 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 or subcontractor shall maintain records which shows 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. The Contractor and each subcontractor shall make his employment records with respect to persons employed by him upon the work covered by this Contract available for inspection by authorized representatives of the Secretary of Housing and Urban Development, The Colorado Department of Local Affairs, the Local Public Agency, and the United States Department of Labor. Such representatives shall be permitted to interview employees of the Contractor or of any subcontractor during working hours on the job.

**66. Specific Coverage of Certain Types of Work by Employees**

The transporting of materials and supplies to or from the site of the Project or Program to which this Contract pertains by the employees of the Contractor or of any subcontractor, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the Project or Program to which this Contract pertains by persons employed by the Contractor or by any subcontractor, shall, for the purposes of this Contract, and without limiting the generality of the foregoing provisions of this Contract, be deemed to be work to which these Federal Labor Standards Provisions are applicable.

**67. Ineligible Subcontractors**

The Contractor must certify that none of the subcontractors are ineligible or debarred through HUD or the General Services Administration.

**68. Provisions to be Included in Certain Subcontracts**

The Contractor shall include or cause to be included in each subcontract covering any of the work covered by this Contract, provisions which are consistent with these Federal Labor Standards Provisions and also a clause requiring the subcontractors to include such provisions in any lower tier subcontracts which they may enter into, together with a clause requiring such insertion in any further subcontracts that may in turn be made.

**69. Breach of Foregoing Federal Labor Standards Provisions**

In addition to the causes for termination of this Contract as herein elsewhere set forth, the Local Public Agency reserves the right to terminate this Contract if the Contractor or any subcontractor whose subcontract covers any of the work covered by this Contract shall breach any of these Federal Labor Standards Provisions. A breach of these Federal Labor Standards Provisions may also be grounds for debarment as provided by the applicable regulations issued by the Secretary of Labor, United States Department of Labor.

**70. Employment Practices**

The Contractor (1) shall, to the greatest extent practicable, follow hiring and employment practices for work on the project which will provide new job opportunities for the unemployed and underemployed, and (2) shall insert or cause to be inserted the same provision in each construction subcontract.

**71. Contract Termination; Debarment**

A breach of Section 45 and the Federal Labor Standards Provisions, may be grounds for termination of the contract, and for debarment as provided in 29 CFR 5.6.

**72. Public Contract for Services – Employment Eligibility Verification**

In accordance with C.R.S. 8-17.5-101 and 102, the Contractor certifies through execution of this Contract that it will not knowingly employ or contract with an illegal alien who will perform work under this Contract.

(a) The Contractor will participate in the E-Verify Program, the employment verification program established by the Colorado Department of Labor and Employment, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this contract.

(b) The Contractor shall notify the owner and the Colorado Department of Labor and Employment of its participation in the employment verification program.

(c) The Contractor shall not enter into a contract with a subcontractor that fails to certify TO THE CONTRACTOR they THE SUBCONTRACTOR shall not knowingly employ or contract with an illegal alien to perform work under THIS Contract or use either the E-Verify Program or Colorado Department of Labor and Employment verification program procedures to undertake pre-employment screening of job applicants while the contract is being performed.

(d) If the Contractor obtains actual knowledge that a subcontractor knowingly employs or contracts with an illegal alien, the Contractor is required to:

- (1) Notify the subcontractor and the Department of Local Affairs within three days of obtaining actual knowledge of the employment or contract with an illegal alien.
- (2) Terminate the subcontract if within three days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien unless, during such three days, the subcontractor provides information that it did not knowingly employ or contract with an illegal alien.
- (3) Comply with any reasonable request by the Colorado Department of Labor and Employment in the course of an investigation pursuant to authority established pursuant to CRS§8-17.5-102(5)(a).

(e) The Department of Local Affairs or the Owner may terminate this Contract for any violation of this provision and the Contractor shall be liable for actual and consequential damages to the Department of Local Affairs and the Owner.

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

MBE/WBE participation plan is a document that outlines how a business will participate in a contract with a Minority Business Enterprise (MBE) or Women Business Enterprise (WBE). The plan typically includes:

- The name, address, and phone number of the MBE/WBE
- A description of the work the MBE/WBE will perform
- The estimated dollar value of the work
- The anticipated start and completion dates
- An affirmation from the MBE/WBE that they will perform the work

Here are some other things to consider when working with MBEs and WBEs:

- **Eligibility**  
To be eligible for participation, the MBE/WBE must perform a commercially useful function. This means they are responsible for managing, supervising, or performing the work.
- **Subcontractor commitment**  
The subcontractor amount and percentage is usually only based on the initial term of the contract.
- **Good faith negotiation**  
Bidders should negotiate in good faith with interested MBEs/WBEs. This includes considering the MBE/WBE's price and capabilities, as well as the contract goals.

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.

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## 74. Federal Labor Standards Provisions

### Federal Labor Standards Provisions U.S. Department of Housing and Urban Development

#### Applicability

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

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

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

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

#### (Office of Labor Relations

Previous editions are obsolete Page 1 of 5  
form HUD-4010 (06/2009)  
ref. Handbook 1344.1

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;

Previous editions are obsolete

(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 Previous editions are obsolete 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.

Office of Labor Relations  
Previous editions are obsolete Page 1 of 5  
form HUD-4010 (06/2009)  
ref. Handbook 1344.1



**SUPPLEMENTAL CONDITIONS OF THE CONTRACT**

**1. ENUMERATION OF PLANS, SPECIFICATIONS AND ADDENDA**

Following are the Plans, Specifications and Addenda which form a part of this contract, as set forth in the General Conditions, "Contract and Contract Documents":

**PLANS/DRAWINGS**

General Construction: \_\_\_\_\_

Heating and Ventilating: \_\_\_\_\_

Plumbing: \_\_\_\_\_

Electrical: \_\_\_\_\_

Other \_\_\_\_\_

Other \_\_\_\_\_

**SPECIFICATIONS**

General Construction: Page \_\_\_\_\_ to \_\_\_\_\_, incl.

Heating and Ventilating: " \_\_\_\_\_ to \_\_\_\_\_, incl.

Plumbing: " \_\_\_\_\_ to \_\_\_\_\_, incl.

Electrical: " \_\_\_\_\_ to \_\_\_\_\_, incl.

Other ( \_\_\_\_\_ ) " \_\_\_\_\_ to \_\_\_\_\_, incl.

Other ( \_\_\_\_\_ ) " \_\_\_\_\_ to \_\_\_\_\_, incl.

**ADDENDA**

No. \_\_\_\_\_ Date \_\_\_\_\_ No. \_\_\_\_\_ Date \_\_\_\_\_

No. \_\_\_\_\_ Date \_\_\_\_\_ No. \_\_\_\_\_ Date \_\_\_\_\_

**2. STATED ALLOWANCES**

Pursuant to the General Conditions, the contractor shall include the following cash allowances in his proposal:

a) For \_\_\_\_\_ (Page \_\_\_ of Specifications) \$ \_\_\_\_\_

b) For \_\_\_\_\_ (Page \_\_\_ of Specifications) \$ \_\_\_\_\_

c) For \_\_\_\_\_ (Page \_\_\_ of Specifications) \$ \_\_\_\_\_

d) For \_\_\_\_\_ (Page \_\_\_ of Specifications) \$ \_\_\_\_\_

**3. SPECIAL HAZARDS**

The Contractor's and his Subcontractor's Public Liability and Property Damage Insurance shall provide adequate protection against the following special hazards:

**4. CONTRACTOR'S AND SUBCONTRACTOR'S PUBLIC LIABILITY, VEHICLE LIABILITY AND PROPERTY DAMAGE INSURANCE**

As required in the General conditions, the Contractor's Public Liability Insurance and Vehicle Liability Insurance shall be in an amount not less than \$\_\_\_\_\_ for injuries, including accidental death, to any one person, and subject to the same limit for each person, in an amount not less than \$ \_\_\_\_\_ on account of one accident, and Contractor's Property Damage Insurance in an amount not less than \$ \_\_\_\_\_.

The Contractor shall either require each of his subcontractors to procure and to maintain during the life of his subcontract, Subcontractor's Public Liability and Property Damage of the type and in the same amounts as specified in the preceding paragraph, or insure the activities of his subcontractors in his own policy.

**5. PHOTOGRAPHS OF PROJECT**

As provided in the General Conditions, the Contractor will furnish photographs in the number, type, and stage as enumerated below:

**6. SCHEDULE OF OCCUPATIONAL CLASSIFICATIONS AND MINIMUM HOURLY WAGE RATES AS REQUIRED IN THE GENERAL CONDITIONS**

Given on Pages \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_.

**7. Builder's Risk Insurance**

As provided in Bonds and Certificates, Paragraph 38(e), the Contractor will maintain Builder's Risk Insurance (fire and extended coverage) on a 100 percent completed value basis on the insurable portions of the project for the benefit of the Owner, the Contractor, and all subcontractors, as their interests may appear.

**8. SPECIAL EQUAL OPPORTUNITY PROVISIONS**

(The Equal Opportunity Language is contained within the sample contract, Exhibit I, Part II: Terms and Conditions, Section 4-8.)

**9. CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS**

(Applicable to Federally assisted construction contracts and related subcontracts exceeding \$100,000).

**COMPLIANCE WITH AIR AND WATER ACTS:** During the performance of this Contract, the Contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et. seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et. seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR 15, as amended. In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

(1) A stipulation by the contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.

(2) Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and

guidelines issued thereunder.

(3) A stipulation that as a condition for the award of the Contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the Contract, is under consideration to be listed on the EPA List of Violating Facilities.

(4) Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in Paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the Contract will take such action as the Government may direct as a means of enforcing such provisions.

**10. SPECIAL CONDITIONS PERTAINING TO HAZARDS, SAFETY STANDARDS AND ACCIDENT PREVENTION.**

**A. LEAD-BASED PAINT HAZARDS** (Applicable to Contracts for construction or rehabilitation of residential structures): The construction or rehabilitation of residential structures is subject to the HUD lead-Based Paint regulations, 24 CFR 35. The Contractor and Subcontractors shall comply with the provisions for elimination of lead-based paint hazards under Subpart B of said regulations. The owner will be responsible for the inspections and certifications required under Section 35.14(F) thereof.

**B. USE OF EXPLOSIVES** (Modify as Required): When the use of explosives is necessary for the prosecution of the work, the Contractor shall observe all local, State and Federal laws in purchasing and handling explosives. The Contractor shall take all necessary precaution to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable timber, steel, or rope mats. The Contractor shall notify all owners of public utility property of intention to use explosives at least eight (8) hours before blasting is done, closed to such property. Any supervision or direction of use of explosives by the Engineer, does not in any way reduce the responsibility of the Contractor or his Surety for damages that may be caused by such use.

**C. DANGER SIGNALS AND SAFETY DEVICES** (Modify as Required): The Contractor shall make all necessary precaution to guard against damages to property and injury to persons. He shall put up and maintain in good conditions, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case the Contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the Contractor. Such action by the Owner does not relieve the Contractor of any liability incurred under these specifications or contract.

**11. WAGE RATE DETERMINATION / APPROPRIATE WAGE RATES SHALL BE INSERTED HERE**

**INSERT  
WAGE DETERMINATION  
HERE**

## TERMS AND CONDITIONS OF THE CONTRACT

1. **TERMINATION OF CONTRACT FOR CAUSE.** If, through any cause, the Firm shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if the Firm shall violate any of the covenants, agreements, or stipulations of this Contract, the Local Public Agency shall thereupon have the right to terminate this Contract by giving written notice to the Firm of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all records and data, at the option of the Local Public Agency become its property. Notwithstanding the above, the Firm shall not be relieved of liability to the Local Public Agency for damages sustained by the Local Public Agency by virtue of any breach of the Contract by the Firm, and the Local Public Agency may withhold any payments to the Firm for the purpose of set-off until such time as the exact amount of damages due the Local Public Agency from the Firm is determined.

2. **REPORTS AND INFORMATION.** The Firm, at such times and in such forms as the Local Public Agency may require, shall furnish the Local Public Agency such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

3. **RECORDS AND AUDITS.** The Firm shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the Local Public Agency to assure proper accounting for all project funds. These records will be made available for audit purposes to the Local Public Agency or any authorized representative, and will be retained for three years after the expiration of this Contract unless permission to destroy them is granted by the Local Public Agency.

4. **EQUAL EMPLOYMENT OPPORTUNITY.** During the performance of this Contract, the Firm agrees as follows:

a. The Firm will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Firm will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to: 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 Firm 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.

b. The Firm will, in all solicitations or advertisements for employees placed by or on behalf of the Firm, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.

c. The Firm will 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 said labor union or workers' representatives of the Firm's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Firm will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

e. The Firm will 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 will permit access to such books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

f. In the event of the Firm's non-compliance with the non-discrimination 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 the Firm 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, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. The Firm will include the portion of the sentence immediately preceding paragraph a. and the provisions of paragraphs a. through g. 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 will be binding upon each subcontractor or vendor. The Firm will take such action with respect to any subcontractor or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanction for non-compliance: provided, however, that in the event the Firm becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Firm may request the United States to enter into such litigation to protect the interests of the United States.

5. **CIVIL RIGHTS ACT OF 1964.** Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, religion or religious affiliation or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

6. **SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.** No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

7. **"SECTION 3" COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT AND BUSINESS OPPORTUNITIES.** The work to be performed under this contract is on a project assisted under a program providing federal financial assistance from the Department of Housing and Urban Development through the State of Colorado and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area, and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the project area.

8. **SECTION 504 OF THE REHABILITATION ACT OF 1973.** The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified.

9. **INTEREST OF MEMBERS OF A LOCAL PUBLIC AGENCY.** No member of the governing body of the Local Public Agency and no other officer, employee, or agent of the Local Public Agency who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the Firm shall take appropriate steps to assure compliance.

10. **INTEREST OF OTHER LOCAL PUBLIC OFFICIALS.** No member of the governing body of the Local Public Agency and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the Firm shall take appropriate steps to assure compliance.

11. **ARCHITECTURAL BARRIERS .** All design specifications for the construction of any building or residence shall provide access to the physically handicapped in accordance with **the Architectural Barriers Act of 1968; the American With Disabilities Act of 1990 (28 CFR Part 36), and Colorado Revise Statue, CRS 9-5-101 to 112.**

12. **THE GOVERNMENT-WIDE RESTRICTION ON LOBBYING,** prohibits spending CDBG funds to influence or attempt to influence federal officials; requires the filing of a disclosure form when non-CDBG funds are used for such purposes; requires certification of compliance by the state to include the certification language in grant awards it makes to units of general local government at all tiers and that all sub-recipients shall certify accordingly as imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

## Exhibit A – Procurement Guidelines (Excerpt)

## **SECTION 3: SOLICITATION REQUIREMENTS**

### **3.1 INFORMAL**

#### **A. DIRECT PURCHASES (Up to \$2,000)**

Expenditures for supplies, materials, or equipment less than two thousand dollars (\$2,000), approved by requesting Department Head, may be made by the department's authorized personnel.

#### **B. REQUEST FOR QUOTE (\$2,001-\$20,000)**

Expenditures for supplies, materials, or equipment less than twenty thousand dollars (\$20,000) may be made without using a formal process.

A minimum of three (3) written quotes is recommended in the solicitation process and award may be made to the vendor offering the "best value" to the City

### **3.2 FORMAL**

#### **A. SEALED BID OR REQUEST FOR PROPOSALS (RFP) (over \$20,001)**

Expenditures for supplies, materials, or equipment over \$20,001 may be made using the formal sealed bid or RFP.

After reviewing the submitted bids, the Department Head issues a Memo of Recommendation as outlined in section 2.5 of this document.

#### **B. OTHER REQUIREMENTS FOR FORMAL SOLICITATIONS:**

Telephone, e-mail or facsimile bids are NOT acceptable in the formal competitive sealed bid process. Appropriate bid forms must be used by all departments.

Sealed bid solicitations require a public notice be published at least twice in a general circulation newspaper in the City of Montrose and published at least seven (7) days preceding the bid opening date.

Bids may be awarded based on "best value" for the City.

# SECTION 4: TYPES OF SOLICITATION

## 4.1 REQUEST FOR PROPOSAL (RFP)

A. An RFP is utilized in acquiring services or specialized products when one or more of the following factors apply:

1. The complex nature or technical details of a particular procurement may not be practical or advantageous to the City to issue an Invitation for Bid (IFB);
2. Specifications cannot be prepared fairly or objectively as to permit open competition in an Invitation for Bid;
3. Electronic equipment or high technology equipment is available from a limited number of sources; or
4. Specifications cannot be prepared except by reference to specifications of the equipment of a single source of supply.

A Request for Proposal (RFP) is a process to be utilized in acquiring both *services* and *specialized products* when objective bid specifications cannot be used.

The City of Montrose requires the specialized skills, knowledge, resources and services of private contractors or consultants to complete complex studies, to develop or revise procedures, to conduct audits, or to provide a specialized product. Examples may include: management consulting services, feasibility studies, software programming, social or community programs, specialized products such as computer mainframes, scientific/research equipment, etc.

A contract for professional services or for specialized products between the City of Montrose and a contractor is an agreement containing the *Scope of Work (SOW)*, goods and services to be delivered, the timetable, and the responsibilities for the services to be provided.

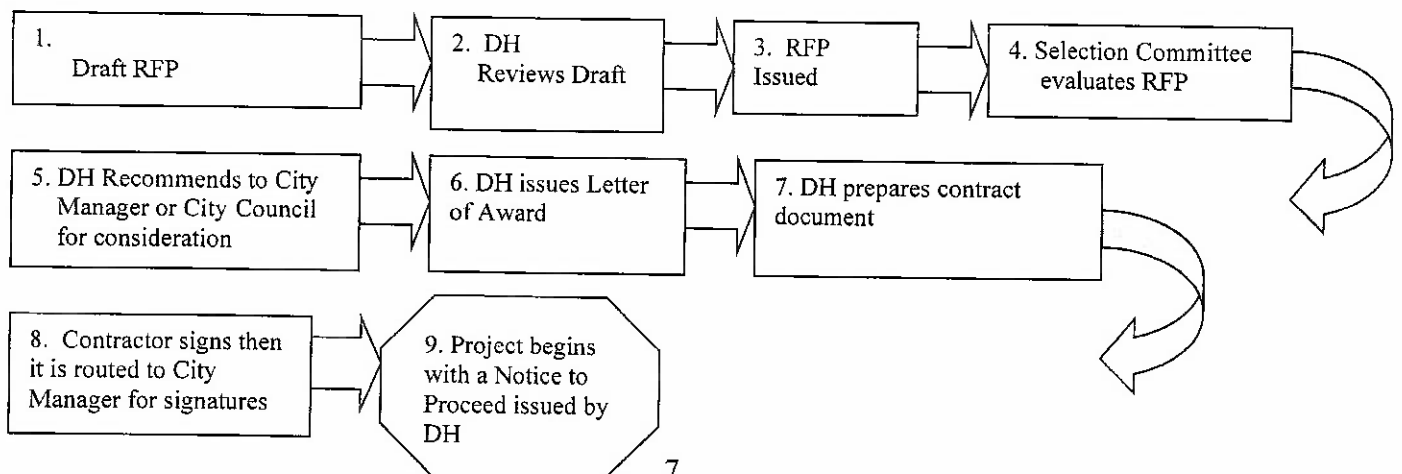
It must be determined that the RFP process is the appropriate process to be utilized in the purchase of the needed product or service and that competitive sealed bidding is neither practicable nor advantageous to the City.

## B. WHO CAN ISSUE AN RFP?

The Department Head is responsible for ensuring the process is followed when issuing an RFP.

## C. RFP PROCEDURES

The entire RFP process may become extensive from the time of receipt of the initial RFP rough draft to completion of the contract routing and signing. There are many variables included in the process and this should be taken into consideration by the requesting department. The process is as follows:





Department Head is responsible to ensure that all bidders have the same information in order to develop and submit their proposals. Verbal responses must not be provided to questions from an individual bidder when the answers may affect that bidder's proposal.

Addenda or supplements to the RFP may become necessary because of inquiries or the City feels additional information is necessary for further clarification.

#### **D. PUBLIC NOTICE**

A notice shall be placed in a general circulation newspaper in the City of Montrose and posted on the city's website.

A public notice shall be published at least seven (7) days preceding the bid opening date. This notice ensures all interested bidders have the opportunity to bid. All pertinent proposal information should be contained in the notice.

#### **E. BOND REQUIREMENTS**

Bid bonds or other security acceptable to the City, generally five percent (5%) of the total bid price and performance and payment bonds (100% of total bid price) are required on all City construction projects over fifty thousand dollars (\$50,000) or as the City Manager and/or the Department Head deems necessary to protect the City's interest. Bonds shall not expire prior to two (2) year following final payment.

Bid bonds or other security may be requested for commodity or service contracts as the Department Head deems advisable to protect the City's interests. Bid bonds shall be in the amount of five percent (5%) of the bid amount submitted by bidder.

Bonding security shall be held by the City until the contractor is in total compliance with bid specifications and contract documents. Final executed contract documents will be scanned into the document management system with the original filed with the bid documents.

Bid and performance/payment bonds shall not be used as a substitute for a determination of a bidder's responsibility.

#### **F. FORMAT/OUTLINE**

The RFP format should consist of the following minimum sections:

**1. ADMINISTRATIVE INFORMATION:** Formal "boiler plate" information must be included in the RFP. This information includes the schedule of activities; how, when and where proposals will be accepted, material ownership, confidential/proprietary information, etc. The procedure for answering bidder inquiries and any pre-bid conference or walk-thru questions must be described.

**2.BACKGROUND, OVERVIEW, GOALS:** This includes a general explanation of the City's involvement in the project, the need for the project, the specific goals or results to be achieved by the project and how the Scope of Work will be incorporated into the City's on-going program.

**3. SCOPE OF WORK (SOW):** The most important section of the RFP is the SOW, as it is the foundation of the development of any resulting contract. The contents of the SOW are not only specifications, but also a well thought out, complete effort to clearly

understand all elements of the project. The SOW is both results and procedures-oriented.

### **G. RECEIPT OF RFP**

All proposals shall be officially received-stamped upon receipt with the date, time and initials of the employee. All proposals shall be registered and the register shall contain the name of the bidder and a description sufficient to identify the product or service being requested. No other information, *including proposal price*, shall be disclosed at the opening. The register of proposals shall become public record after a Notice of Award (preliminary award) letter has been formally issued.

Confidential/proprietary information must not be disclosed at ANY time. Procedures regarding the submittal of confidential/proprietary information are included in the procedures for the RFP.

The bidder must specifically state the elements of the proposal that are considered confidential/proprietary. It must be separated from the rest of the proposal.

### **H. EVALUATION PROCESS**

A general description of the evaluation process and general evaluation factors must be included in the RFP:

1. An evaluation committee will review the merits of the proposals received in accordance with the evaluation factors stated in the RFP.
2. Failure of the proposer to provide any information requested in the RFP and any addendums may result in disqualification of the proposal. This responsibility is that of the bidder.
3. The sole objective of the evaluation committee will be to recommend the proposal which is most responsive to the City's needs within available monetary resources. The specifications within the RFP represent the minimum performance necessary for response.
4. The proposal with the most value points will be recommended for award.

### **I. EVALUATION COMMITTEE**

The evaluation committee must be comprised of a minimum of three qualified individuals representing the City's best interest. The names of the evaluation committee members are NOT to be revealed until all proposers have been officially notified as to the results of the successful proposer.

The committee may consist of personnel from the City, other agencies, other governmental entities, and from private business. The evaluation committee members shall be unbiased, instructed to follow the established evaluation format and be able to objectively evaluate all proposals. The Department Head or authorized representative shall be a designated evaluation committee member.

Once the evaluation committee has been established, their review of the individual proposals must be conducted **INDEPENDENTLY**. The evaluation committee may elect to hold discussions or ask for answers to specific questions from a proposer in order to clarify the

proposer's proposal. Any discussion will be held strictly between the committee and proposer. Any clarifications to the proposal must be confirmed in writing by or to the proposer.

The committee may also elect to have the top proposers give oral presentations. The purpose of the oral presentation is to give the proposer the opportunity to further promote or sell their proposal and to develop a better understanding of both the City's requirements and the proposer's proposal. These discussions are to be held strictly between the committee and proposer.

Terms and price of a Request for Proposal may be negotiated following preliminary award. If the proposer cannot meet the terms during the negotiations, the evaluation committee may elect to begin negotiations with the next proposer.

Proposers not considered for further evaluation are notified in writing and all documents pertaining to the RFP shall be made available for public inspection after the Notice of Award letter has been issued by the Purchasing Department.

### **J. Qualification Based Selection (QBS) Proposal Evaluation Process**

Used for projects when selection will be based not only on price, but on qualifications as well.

#### **QBS EVALUATION PROCESS:**

The City may choose to use a qualification based selection (QBS) process for RFP's on projects that require specialized consulting or contracting services. In those cases the City may follow the following process to evaluate and score proposals from interested firms. The description of process here is provided as a general guideline and should not be construed as a requirement for the City to follow this process as it may be beneficial for the City to deviate from the process described here on certain projects.

When the City issues an RFP where they plan on making the selection using qualification based processes, the RFP shall contain the proposal evaluation categories and their point values. These categories and point values will be project specific and will be determined by the City's project manager.

At a minimum, the RFP for projects using a QBS shall include a requirement that proposers submit a statement of qualifications (SOQ) addressing all items requested in the RFP. The City may or may not limit the number of pages to be included with the SOQ portion of the submittal. The City's project manager will determine whether the selection will be made purely on a qualification basis with price negotiations occurring following proposal evaluation or whether the selection will be made based on qualifications as submitted in the SOQ and price as submitted separately. This determination shall be made prior to issuing the RFP and will be stated as such in the RFP administrative information. In addition, if price will be a part of the selection process the proposers shall submit their costs and fee schedule in a separate sealed envelope.

*The following general procedures will be followed when evaluating a proposal for qualifications and price:*

- *Each evaluation committee member individually scores each SOQ submitted in response to the RFP.*

- *Project manager or evaluation committee chair compiles SOQ scores to determine the average score for each proposer.*
- *Evaluation committee meets to discuss results of the SOQ evaluation and determine a short list of the most qualified proposers (if appropriate).*
- *Project manager or the evaluation committee chair meets with the purchasing agent to open sealed price proposals.*
- *Project manager scores the price proposals with the same number of points given the qualifications (i.e. if the qualifications were worth a maximum point value of 40 than the cost has maximum point value of 40). The suggested cost scoring method produces a cost score for the low price proposal that is equal to the maximum cost score, while the cost score for all other proposals will be equal to the maximum score minus the percent they were above the lowest price proposal times the maximum available score. The suggested calculation method for scoring costs is shown below:*

$$CostScore = MCS - \frac{MCS(Price - LowPrice)}{LowPrice}$$

- MCS = Maximum Cost Score Possible
- Price = Price of Proposal being scored
- Low Price = Price of lowest cost proposer

The cost scores for each proposal are added to the qualification score to produce a total score for each proposal. In most cases the proposal with the highest total score should be selected as it theoretically produces a selection that balances the concerns of cost with the need to have qualified firms performing the work.

#### **K. NOTICE OF AWARD**

A written Notice of Award letter to the apparent successful bidder will be issued. The Department Head will also notify all unsuccessful bidders, in writing, as to the outcome of the evaluation process. The evaluation factors, points, evaluation committee member names, and completed evaluation summary and recommendation report will be made available to all interested parties after the Notice of Award Letter has been issued.

Following the Notice of Award letter to the successful bidder, the RFP documents will become part of the public record and open to public inspection.

In the event that no award is made or the RFP is canceled, all received proposals must *remain confidential and not open for public inspection*. The purpose is not to allow any future potential bidders an opportunity to review other bidder's proposals and to gain an advantage in submitting future proposals.

#### **4.2 Invitation for Bid (IFB)**

The Invitation for Bid (IFB) is the method of soliciting bids for supplies, materials, and equipment as well as construction projects through a formal competitive sealed bid process. Award is generally made to the lowest responsive and responsible bidder whose bid complies with the requirements set forth in the Contract Documents.

The bid documents state the time and date when the bids must be submitted and the procedures to be followed in receiving and opening all bids. Invitations also convey contractual terms, pre-bid conferences and other conditions applicable to the bidders. The bid documents will indicate where contract documents may be obtained and any special considerations such as bid bonds, payment and performance bonds, etc.

There may be special provisions such as warranty, service, brands, delivery, type of contracts, delivery penalties, bidder and owner responsibilities, escalation clause or special equipment information that are applicable to a particular bid and may become part of the contract documents.

- A. Procurement for services and/or commodities estimated to cost ten thousand dollars (\$10,000) or more shall be advertised by a public notice published a minimum of two (2) times in a general circulation newspaper in the City of Montrose and posted on the City of Montrose website.

A public notice shall be published at least seven (7) days preceding the bid opening date. This notice ensures all interested bidders have the opportunity to bid. All pertinent bid information should be contained in the notice including the City web site where they can print off all bid documents.

- B. Bid bonds or other security acceptable to the City, generally five percent (5%) of the total bid price and performance and payment bonds (100% of total bid price) are required on all City construction projects over fifty thousand dollars (\$50,000) or as the City Manager deems necessary to protect the City's interest. Bonds shall not expire prior to two (2) year following final payment.

Bid bonds or other security may be requested for commodity or service contracts as the City Manager deems advisable to protect the City's interests. Bid bonds shall be in the amount of five percent (5%) of the bid amount submitted by bidder.

Bonding security shall be held in a central location until the contractor is in total compliance with bid specifications and contract documents. Final executed contract documents will be on file with the City Clerk and file copies with the Department Head.

Bid and performance/payment bonds shall not be used as a substitute for a determination of a bidder's responsibility.

- C. Specifications are an important part of the bid document and shall be available to all bidders as stated in the IFB. If for any reason it is necessary to change the specifications, an addendum will be issued setting forth the changes.

Preparation of specifications is the responsibility of the Department Head.

Specification changes must allow adequate notice and mailing time. This addendum will be posted on the city's website for all bidders. In certain instances, the bid opening may be postponed to allow adequate time for respondents to prepare their bid, based on specification changes. If there is not sufficient time, the IFB will be canceled and a new bid process initiated.

- D. Bids remain sealed and secure prior to bid opening. The opening of sealed bids shall be a public ceremony. Bids shall be opened by the Department Head or a

designated representative at the time and place specified in the IFB. Public bid openings shall have a witness to the bid opening.

Prior to bid opening, the Department Head shall allow a final opportunity for submission of bids prior to allotted time. The Department Head will announce the names of those who bid and inquire if any bid previously submitted may have been omitted.

The name of each bidder, amount of bid and any other information the Department Head or designated representative deems to be relevant shall be recorded on a bid tabulation sheet. The bid tabulation sheet is a clean and concise abstract of the bid information and becomes part of the public record.

Bids must be received **PRIOR TO THE SPECIFIED DATE AND TIME** as established in the bid document. Bids received after the specified deadline must be immediately returned unopened to the non-responsive vendor.

- E. The Department Head shall make a written recommendation to the City Manager for award of all bids solicited through the formal competitive bid process.

Award is generally made to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the bid documents, as long as that bidder provides the City with the “best value” of all bids received.

The City Manager or City Council shall approve or disapprove the recommendation from the Department Head.

Following a bid opening and review, bids become confidential documents until the City Manager and/or City Council approves the recommendation. All bidder questions and/or communications must be referred to the Department Head.

- F. The Department Head has authority to waive bid irregularities if the item is an immaterial variation from exact requirement of the bid, has trivial or no effect on price, quality, quantity, delivery or performance and waiver would not affect the relative standing of bidders or be otherwise prejudicial.

Examples of minor bid irregularities that may be waived, but not limited to, are:

- Failure to furnish information regarding the bidder’s qualifications to perform the contract;
- Failure to submit the required descriptive information or brochure on product(s) offered,
- Failure to return bid addendum if bidder acknowledges receipt of such on the face of bid,
- Failure to return bid addendum and there is no material effect on bidder’s liability under the terms of the contract,
- Failure to sign a bid, when evidence is submitted with the bid that clearly shows the bid was the one intended by the bidder, and that failure to sign was strictly an oversight.

## Exhibit B – Section 3 Participation Plan

## MBE/WBE PARTICIPATION

### MBE/WBE Participation

Under the guidelines established by the U. S. Department of Housing and Urban Development for implementation of Executive Order 12432, the Authority promotes the participation of MBE/WBE in contracts involving its housing operations.

It is the goal of the Authority to ensure that certain percentages of the dollar value of contracts and subcontracts awarded in connection with its operations be awarded in MBE/WBE. The goals include the following:

1. Development Goal - Five percent (5%) of the dollar value of the total contracts awarded and purchases made under the development program;
2. Management Goal - Ten percent (10%) of the amount expended for contracts and purchases of supplies and services (as distinguished from salaries, wages and benefits paid to or on behalf of employees); and
3. Modernization Goal - Twenty percent (20%) of the dollar value of the total contracts awarded and purchases made with modernization funds during the fiscal year.

The term "Minority Business Enterprise/Women Business Enterprise" means businesses at least fifty-one percent (51%) of which are both owned and controlled in management and day-to-day operations by minorities or women.

To the maximum extent legally practicable, the Authority will ensure that all vendors providing its goods and or services provide employment opportunities to minorities and females equal to those of the majority. Vendors will be required to take positive actions to utilize MBE/WBE to the maximum extent feasible.

Upon request the Authority will provide MBE/WBE with general information on the preparation of bid specification, general bid requirement, state bid laws, job performance requirement, government contract requirement, wage/labor requirement, procurement opportunities, interpretation and referral agencies.

The Authority notifies all bidders that in regard to any contract awarded MBE/WBE will be afforded equal opportunity to submit bids and will not be discriminated against on the grounds of race, color, sex or national origin in consideration for a contract award.

Bidders of all contracts shall agree to assist the Authority in meeting its established MBE/WBE goals or shall demonstrate a "good faith effort" to include MBE/WBE firms in subcontract award.

Successful bidders shall provide the Authority with documentation using the attached



Letter of Assurance "A" in their efforts to solicit MBE/WBE participation in subcontract awards.

Successful bidders who propose to perform the entire contract with their own work force without the use of subcontractors shall provide the Authority with documentation using "Letter of Assurance B" of their intent to make material, equipment or other services purchases from MBE/WBE firms. The bidder using it's own work force must demonstrate that it is their normal business practice to perform such contract without the use of subcontractor.

"Good Faith Efforts" as used in this plan shall be defined as a vendor's effort to solicit MBE/WBE to bid on subcontracts and or their efforts to purchase goods and services from MBE/WBE firms.

MBE/WBE PARTICIPATION  
LETTER OF ASSURANCE "A"  
SCHEDULE OF SUBCONTRACTORS

Project Name: \_\_\_\_\_ Project Number: \_\_\_\_\_

The undersigned bidder hereby certifies that our firm will assist the Housing Authority of the City of Shreveport in attaining its established MBE/WBE goal or demonstrate a "good faith effort" in subcontract award to minorities.

Subcontractor	Classification*	Work/Material Description	Bid Amount
Name: _____ Address: _____ _____ Phone: _____ Contact Person: _____			
Name: _____ Address: _____ _____ Phone: _____ Contact Person: _____			
Name: _____ Address: _____ _____ Phone: _____ Contact Person: _____			
Name: _____ Address: _____ _____ Phone: _____ Contact Person: _____			
Name: _____ Address: _____ _____ Phone: _____ Contact Person: _____			

\*Non-Minority (Black, Hispanic, Female, American Indian, Asian, Other)

The undersigned intends to enter into a formal agreement with Minority Contractors/Suppliers if they are the low bidders, contingent upon execution of a contract with the Housing Authority of the City of Shreveport. This is not intended to commit the undersigned to execute a contract with each and every MBE/WBE firm listed on this schedule. Use additional sheets if required.

\_\_\_\_\_  
Name of Firm

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Signature

**MBE/WBE PARTICIPATION  
LETTER OF ASSURANCE "B"  
SCHEDULE OF SUPPLIERS**

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

Project Number: \_\_\_\_\_

The undersigned bidder hereby assures that our firm will perform the entire contract with our own work forces, within the use of any subcontractors, and submit information sufficient for the Housing Authority of the City of Shreveport to determine it is within our demonstrated capability and that it is our normal business practice.

As an act of "good faith effort" our firm also affirms that significant material purchase for goods, equipment and/or services will be made with MBE/WBE firms for the performance of the contract executed with the Housing Authority of the City of Shreveport as identified below.

Subcontractor	Classification*	Type of Material	Dollar Amount
Name: _____ Address: _____ Phone: _____ Contact Person: _____			
Name: _____ Address: _____ Phone: _____ Contact Person: _____			
Name: _____ Address: _____ Phone: _____ Contact Person: _____			
Name: _____ Address: _____ Phone: _____ Contact Person: _____			
Name: _____ Address: _____ Phone: _____ Contact Person: _____			

\*Non-Minority (Black, Hispanic, Female, American Indian, Asian, Other)

If no material purchases will be made with MBE/WBE for this contract, please explain.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Name of Firm

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Signature

# Exhibit C – Section 3 DOLA Checklist



**COLORADO**  
Department of Local Affairs  
Division of Housing

## Section 3 Documentation Checklist

This form is a checklist designed to help grantees whose projects have triggered Section 3 requirements with compliance. Monitoring the compliance of Section 3 is conducted prior to, during, and after the time of performance of a federally funded DOH contract. Successful administration of the program requires a thorough understanding of the terms, required documents, and procedures. A pre-contract conference with the Prime Contractor and all subcontractors is recommended.

### Prior to Contract

- Submit Section 3 Plan [Section 3 Plan Example](#)
- Register project on the [HUD Opportunity Portal](#)
- Submit GC contract with Section 3 requirements and Plan attached
- Go over requirements with subcontractors. Advise them to recruit Section 3 workers by word of mouth and have all applicable employees submit Section 3 documentation.

### During Contract

- Have all applicable employees complete [Section 3 Form](#)
- Have all applicable businesses complete [Section 3 Form](#)
- Have all applicable Targeted employees complete [Section 3 form](#)
- Complete [Section 3 Total Labor Hour Tracker](#)
- PHA Should complete [Form 60002-A](#)

NOTE: During the project you should be monitoring your progress. If you feel that you will not meet the benchmark, DOH encourages you to have a job fair, reach out to PHAs and other public service providers to recruit employees. Document your efforts to include: The date you advertised your project with public agencies, who you contacted, the method of advertisement, Job Fair dates, and responses.

### End of Contract

- Submit all required forms
  - Be prepared for questions and clarification during monitoring of project

# CONSTRUCTION CONTRACT DOCUMENTS

For

## Sunshine Peak Apartments I

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THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

by and between **Montrose County Housing Authority** acting herein through its Executive Director, a Colorado body corporate and politic, County of Montrose and State of Colorado, herein called "Owner", and

\_\_\_\_\_ a corporation/ a partnership/an individual (Strike Out Inapplicable Terms) doing business as

\_\_\_\_\_, of \_\_\_\_\_

County of \_\_\_\_\_ and State of \_\_\_\_\_,

hereinafter called "Contractor."

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the construction described as follows:

---

hereinafter called the project, for the sum of Dollars (\$ \_\_\_\_\_) and all extra work in connection therewith, under the terms as stated in the General and Supplemental Conditions of the Contract, the Terms and Conditions of the Contract, and the Labor Standards Provisions of the Contract; and at his (its or their) own proper cost and expense to furnish all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, the General Conditions, and Supplemental General Conditions of the Contract, the plans which include all maps, plats, blue prints, and other drawings and printed or written explanatory matter thereof, the specifications and contract documents therefore as prepared by \_\_\_\_\_ herein entitled the Architect/Engineer, and as enumerated in Paragraph 1 of the Supplemental General Conditions, all of which are made a part hereof and collectively evidence and constitute the Contract.

The Contractor hereby agrees to commence work under this Contract on or before a date to be specified in a written "Notice to Proceed" of the Owner and to fully complete the project within \_\_\_\_\_ consecutive calendar days thereafter. The Contractor further agrees to pay, as liquidated damages, the sum of \$ \_\_\_\_\_ for each consecutive calendar day thereafter as hereinafter provided in Paragraph 19 of the General Conditions.

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the Contract, subject to additions and deductions, as provided in the General Conditions of the Contract, and to make payments on account thereof as provided in Paragraph 25, "Payments to Contractor," of the General Conditions.

IN WITNESS WHEREOF, the parties to these presents have executed this Contract in six (6) counterparts, each of which shall be deemed an original in the year and day first above mentioned.

(SEAL)

\_\_\_\_\_

ATTEST:

Montrose County Housing Authority  
Owner

By \_\_\_\_\_

Secretary \_\_\_\_\_

Witness \_\_\_\_\_ Title \_\_\_\_\_

(SEAL)

Contractor \_\_\_\_\_

ATTEST:

By \_\_\_\_\_

Secretary \_\_\_\_\_

Witness \_\_\_\_\_ Title \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Address

## EXHIBIT VIII-O.1

### CERTIFICATIONS CIVIL RIGHTS

The undersigned is fully aware that this contract is wholly or partially federally funded, and further, agrees to abide by the:

**Civil Rights Act of 1964, Title VI**, as amended, that provides no person on the basis of Race, Color, or National Origin shall be excluded from participation, denied program benefits, or subjected to discrimination.

**And, Civil Rights Act of 1968, Title VIII**, as amended, will not discriminate in housing on the basis of Race, Color, Religion, Sex, or National Origin.

**And, Rehabilitation Act of 1973, Section 504**, as amended, that no otherwise qualified individual shall solely by reason of his or her handicap be excluded from participation and/or employment, denied program benefits, subjected to discrimination under any program receiving federal funds;

**And, Housing and Community Development Act of 1974, Section 109**, as amended, that no person shall be excluded from participation (including employment), denied program benefits, or subjected to discrimination on the basis of Race, Color, National Origin, Sex, Age, and Handicap under any program or activity funded in whole or part under Title I (CDBG) of the Act. **And, Age Discrimination Act of 1975**, as amended, that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funds.

**And, Americans with Disabilities Act of 1990**, as amended, that there shall be no employment discrimination against "qualified individuals with disabilities."

**And, Executive Order 11063**, that no person shall, on the basis of race, color, religion, sex, or national origin, be discriminated against in housing and related facilities provided with federal assistance, or lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the federal government.

**And, Executive Order 11246**, as amended, that no person shall be discriminated against, on the basis of race, color, religion, sex, or national origin, in any phase of employment during the performance of federal or federally assisted construction contracts in excess of \$10,000.

#### EQUAL EMPLOYMENT OPPORTUNITY

During the performance of the contract, the CONTRACTOR agrees as follows:

1. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, familial status, religious affiliation or handicap. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color, national origin, familial status, religious affiliation or handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the GRANTEE setting forth the provisions of this non-discrimination clause.

## EXHIBIT VIII-O.1

2. The CONTRACTOR will, in all solicitation or advertisements for employees placed by or on behalf of the CONTRACTOR for the GRANTEE, state that all qualified applicants will receive consideration for employment without regard to race, creed, sex, color, national origin, familial status, religious affiliation or handicap.
3. The CONTRACTOR will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
4. The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the GRANTEE's Department of Housing and/or Community Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
5. In the event of the CONTRACTOR's non-compliance with any provision of this contract or with any of such rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government 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, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
6. The CONTRACTOR will include the provisions of the subparagraphs 12 (a) through (f) 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 provision will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the GRANTEE's Department of Housing and/or Community Development may direct as a means of enforcing such provisions including sanctions for non-compliance: 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 the GRANTEE's Department of Housing and/or Community Development, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

### AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS

#### SECTION 503

(if contract \$25,000 or over)

1. The CONTRACTOR will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The CONTRACTOR agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
2. The CONTRACTOR agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
3. In the event of the CONTRACTOR's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.



## EXHIBIT VIII-O.1

4. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the CONTRACTOR's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
5. The CONTRACTOR will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the CONTRACTOR is bound by the terms of Section 503 of Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
6. The CONTRACTOR will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the Director of the Office of Federal contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

### ACCESS TO RECORDS AND RECORDS RETENTION

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

1. The individual, sole proprietor, partnership, corporation, and/or association agrees to permit the (TOWN / County of), State of Colorado Department of Local Affairs (DOLA), U. S. Department of Housing and Urban Development (HUD), and the Office of the Inspector General and/or their designated representatives to have access to all records for review, monitoring, and audit during normal working hours.
2. The individual, sole proprietor, partnership, corporation, and/or association agrees to retain all records for at least five years following the "official State of Colorado Department of Local Affairs (DOLA)"Closeout" date of the grant or the resolution of all audit findings, whichever is later.

### CONFLICT OF INTEREST

The undersigned is fully aware that this contract is wholly or partially federally funded, and further, by submission of the bid or proposal that the individual or firm, certifies that:

1. There is no substantial interest, as defined by Colorado Statutes, with any public official, employee, agency, commission, or committee with the Town / County \_\_\_\_\_ or DOLA.
2. Any substantial interest, as defined by Colorado Statutes, with any public official, employee, agency, commission, or committee (including members of their immediate family) with the Town / County that develops at any time during this contract will be immediately disclosed to the Town Town / County and DOLA.

### ANTI-LOBBYING CERTIFICATION

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

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or 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 the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any

## EXHIBIT VIII-O.1

cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this Certification be included in the award documents for all sub-awards to all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

### CERTIFICATIONS SIGNATURE FORM

*Return this page with proposal.*

These Certifications (Civil Rights, Equal Employment Opportunity, Affirmative Action for Handicapped Workers -Section 503, Access to Records and Records Retention, Conflict of Interest, Lobbying) are a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of these Certifications is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code.

---

(typed name of official)

---

(signature of official)

---

(typed name of entity)

---

(date)

**EXHIBIT VIII-O, Cont.**

**CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY**

**INSTRUCTIONS**

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

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

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**CERTIFICATION BY BIDDER**

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NAME AND ADDRESS OF BIDDER (Include ZIP Code)

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1. Bidder has participated in a previous contract or subcontractor subject to the Equal Opportunity Clause.  
\_\_\_\_\_ Yes      \_\_\_\_\_ No

---

2. Compliance reports were required to be completed in connection with such contract or subcontract.  
\_\_\_\_\_ Yes      \_\_\_\_\_ No

---

3. Bidder has filled all compliance reports due under applicable instructions.  
\_\_\_\_\_ Yes      \_\_\_\_\_ No

---

4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended.  
\_\_\_\_\_ Yes      \_\_\_\_\_ No

---

NAME AND TITLE OF SIGNER (Please type)

---

SIGNATURE

DATE

---

## **EXHIBIT VIII-O**

### **CONTRACTOR/SUBCONTRACTOR CERTIFICATIONS**

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Grantee must require that prospective bidders complete and incorporate the following certifications as part of their bid submittal package.

1. EQUAL EMPLOYMENT OPPORTUNITY - EXECUTIVE ORDER 11246
2. SECTION 3 & SEGREGATED FACILITIES CERTIFICATION
3. NONCOLLUSION AFFIDAVIT OF PRIME CONTRACTOR

EXHIBIT VIII-O, Cont.

NONCOLLUSION AFFIDAVIT OF PRIME BIDDER

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.

\_\_\_\_\_ being first duly sworn, deposes and says that:

- (1) He is \_\_\_\_\_ of \_\_\_\_\_, the Bidder that has submitted the attached Bid;
- (2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham Bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affined, has in any way colluded, conspired, connived or agreed, directly or indirectly with another Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix an overhead, profit or cost element of the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the (Local Public Agency) or any person interested in the proposed Contract; and
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including is affined.

(Signed) \_\_\_\_\_

Title \_\_\_\_\_

Subscribed and sworn to me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

By: \_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

**EXHIBIT VIII-O, Cont.**

**CERTIFICATION OF CONTRACTOR REGARDING  
SECTION 3 AND SEGREGATED FACILITIES**

---

Name of Contractor or Sub-Contractor

---

Project Name and Number

The undersigned hereby certifies that:

- (a) Section 3 provisions are included in the Contract if this is a Section 3 project.
- (b) No segregated facilities will be maintained as required by Title VI of the Civil Rights Act of 1964.

---

Name and Title of Signer (Type of Print)

---

Signature

---

Date

## EXHIBIT VIII-O.2 Section 3 Certifications

**This section should be included in all Section 3 covered contracts. The CDBG Program Manager will notify those grantees who have Section 3 covered activities.**

**Delete this section and the Section 3 forms if not applicable.**

**THIS PROJECT IS IN WHOLE OR IN PART FEDERALLY FUNDED AND THE SUCCESSFUL BIDDER WILL BE REQUIRED TO ADHERE TO SECTION 3 PROVISIONS**

*DOLA* will monitor compliance with such provisions and standards for the Town / County. The successful bidder will be required to complete the following forms in order to comply. A brief explanation of the form and when the form is to be submitted to *DOLA* is listed below. Should you have any questions concerning Section 3 or the forms to be submitted, please feel free to contact the *DOLA* CDBG Program Manager.

### **SECTION 3 BUSINESS SELF-CERTIFICATION (1 page)**

This form is to be completed by the contractor if applicable, and **submitted as a part of the bid package or within 3 days of contract award**. The bidder completes this form to qualify as a Section 3 business concern.

## EXHIBIT VIII-O.2 Section 3 Certifications

### Section 3 Business Self-Certification

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

Number: \_\_\_\_\_

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

It is the policy of the Congress and the purpose of the federal Section 3 policy to ensure that the employment and other economic opportunities generated by federal financial assistance for housing, economic and community development programs shall, to the greatest extent feasible, be directed toward low and very low income persons, particularly those who are the recipients of government assistance for housing.

Does your business qualify as a Section 3 business? \_\_\_\_\_ Yes \_\_\_\_\_ No

To qualify as a Section 3 business, you must meet one or more of the following three criteria (please check all that apply as per 24 CFR, Subchapter B, Part 135.5):

\_\_\_\_\_ Is owned (51% or more) by low- or very-low-income persons.

\_\_\_\_\_ Over 75% of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers.

\_\_\_\_\_ A business at least 51% owned and controlled by current public housing residents or residents who currently live in section-8 assisted housing.

\* Section 3 residents are persons who either live in public housing or are at or below the following income qualifications (available from your Project Monitor or at HUD.GOV)

COUNTY	Type of Household	1	2	3	4	5	6	7	8
	Moderate Income	Person	Person	Person	Person	Person	Person	Person	Person

I certify that the above information is accurate, and agree to provide records upon request for verification of my eligibility as a Section 3 business.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Date



**EXHBIT VIII-O.3**

**SECTION 3 RESIDENT/WORKER CERTIFICATION**

Project Name \_\_\_\_\_

Contract Number \_\_\_\_\_

I qualify as a Section 3 resident because:

- My income for the previous or annualized calendar year is below the income limit established by HUD (HUD Income Limits) (regardless of family size, report your County's AMI as a 1-person household)
- I am employed by a Section 3 Business Concern.
- I am a YouthBuild participant.
- I am NOT a Section 3 Resident.

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

Employee Name (print) \_\_\_\_\_

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

**EXHIBIT VIII-O.4**

**SECTION 3 TARGETED WORKER CERTIFICATION**

Project Name \_\_\_\_\_

Contract Number \_\_\_\_\_

I qualify as a Targeted Section 3 resident because:

- I live within the service area or the neighborhood of the project, as defined in 24 CFR § 75.5
- I am employed by a Section 3 Business Concern.
- I am a YouthBuild participant.
  
- I am NOT a Targeted Section 3 Resident.

§ 75.3 Applicability.

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

Employee Name (print) \_\_\_\_\_

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

## EXHIBIT VIII-I.2

### FORM OF STATEMENT OF BIDDER'S QUALIFICATIONS

All questions must be answered. The data given must be clear and comprehensive. This statement must be notarized.

1. Name of Bidder \_\_\_\_\_
2. Business Address \_\_\_\_\_
3. When Organized \_\_\_\_\_
4. Bidder is a (an) \_\_\_\_\_  
(Individual - Partnership - Corporation)

The full name and addresses of all persons interested in this proposal as partners and/or principal(s) are: If business is carried out in any other name(s) than that of the principal(s) or partner(s), also state such name(s) and address(es).

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#### CORPORATION

Corporation is incorporated in the State of: \_\_\_\_\_

President is: \_\_\_\_\_

Treasurer is: \_\_\_\_\_

Place of Business: \_\_\_\_\_

5. How many years have you been engaged in the contracting business under your present firm or trading name? \_\_\_\_\_
6. Financial Statement: (Attach Separate Sheet)
7. Credit Available for this Contract \$ \_\_\_\_\_
8. Contracts Now on Hand, Gross Amounts \$ \_\_\_\_\_
9. Have you ever refused to sign a contract at your original bid?  
\_\_\_\_\_
10. Have you ever defaulted on a contract?  
\_\_\_\_\_

FORM OF STATEMENT OF BIDDER'S QUALIFICATIONS

11. Remarks:

13. The undersigned hereby authorizes and requests any person to furnish any information requested by \_\_\_\_\_ in verification of the recitals comprising this Statement of Bidder's Qualifications.

Date at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
(Name of Bidder)

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

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

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_, being duly sworn, deposes and says that they are \_\_\_\_\_ of \_\_\_\_\_ and their answers to the foregoing questions and all statements therein contained are true and correct.

\_\_\_\_\_  
(Name of Bidder)

Sworn to before me this: \_\_\_\_\_

Day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

## EXHIBIT VIII-P

### CONTRACTOR ELIGIBILITY VERIFICATION LETTER (Debarment Check)

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Date

James Spiers  
State of Colorado  
Department of Local Affairs  
1313 Sherman Street, Room 521  
Denver, CO 80203  
James.spiers@state.co.us

RE: CDBG Contract #

Dear James:

The \_\_\_\_\_ (GRANTEE) \_\_\_\_\_ is considering the following prime contractors and subcontractors for our CDBG project. Please verify that these names do not appear as excluded on SAM.gov, <https://www.sam.gov/portal/public/SAM>, (all contractors interested in participating on Federal Contracts, must be registered and active in SAM). Any person or firm who has been declared ineligible because of previous instances of non-compliance may not participate in any contract involving CDBG funds.

(Provide UEI number & Entity name)

OR

(Firm / Owner Names and Addresses)  
(Include ALL Names and Addresses in one letter)

Sincerely,

Responsible Administrator