



**PURCHASING ITEM
FOR
PUBLIC HOUSING AUTHORITY COMMISSION**

1. Agenda Item Number:

PHAC 2

2. PHAC Meeting Date:

February 24, 2014

TO: CHAIRMAN & COMMISSIONERS

3. Date Prepared: February 11, 2014

THROUGH: CITY MANAGER

4. Requesting Department:

City Manager/Neighborhood Resources/Housing

5. SUBJECT: Agreement No. H04-745-334 for Parking Lot Sealcoat and Striping for the Public Housing Authority's (PHA) multifamily sites with Ace Asphalt of Arizona, Inc. in the amount of \$51,622.90.

6. RECOMMENDATION: Recommend approval of Agreement No. H04-745-334 for Parking Lot Sealcoat and Striping for the PHA's multifamily sites with Ace Asphalt of Arizona, Inc. in the amount of \$51,622.90.

7. HISTORICAL BACKGROUND/DISCUSSION: The Housing Division operates five apartment complexes that have asphalt vehicle parking lots and driveways. Preventive maintenance and timely repair of asphalt parking surfaces expands the life of these areas and postpones having to undertake major reconstruction of these surfaces. Approximately every five years it is necessary to crack fill and reseal all driveways and parking lots. This contract is part of the ongoing effort to extend the life span of these areas by patching, crack sealing, seal coating and re-striping all asphalt surfaces.

8. EVALUATION PROCESS: On January 2, 2014, staff issued an Invitation for Bid (IFB). The bid was advertised and all registered vendors were notified. Four (4) bids were received as listed below:

- Ace Asphalt of Arizona, Inc.: \$51,622.90
- Cactus Asphalt: \$59,500
- ABC Asphalt, LLC: \$66,184
- Cholla Pavement Maintenance: \$66,963

Staff is recommending award to Ace Asphalt, Inc., the lowest and most responsive and responsible bidder. The term of the agreement will be ninety calendar days from the issuance of the notice to proceed.

9. FINANCIAL IMPLICATIONS: Funds for the requested purchase are derived from HUD Public Housing Capital grants and will come from the following accounts:
234.4650.0.6211.3CG012

10. PROPOSED MOTION: Move to approve Agreement No. H04-745-334 for Parking Lot Sealcoat and Striping for the PHA's multifamily sites with Ace Asphalt of Arizona, Inc. in the amount of \$51,622.90.

APPROVALS

11. Requesting Department

Kurt Knutson

Kurt Knutson, Housing & Redevelopment Manager

12. Department Head

Jennifer Morrison

Jennifer Morrison, Neighborhood Resources Director

13. Procurement Officer

Raquel McMahon

Raquel McMahon, CPPB

14. City Manager

Rich Dlugas

Rich Dlugas, City Manager

**CITY OF CHANDLER SERVICES AGREEMENT
PARKING LOT SEALCOAT AND STRIPING FAMILY SITES PHA
AGREEMENT NO.: H04-745-3342**

THIS AGREEMENT is made and entered into this ____ day of _____, 2014, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and **ACE ASPHALT of ARIZONA, INC.**, hereinafter referred to as "CONTRACTOR".

WHEREAS, CONTRACTOR represents that CONTRACTOR has the expertise and is qualified to perform the services described in the Agreement.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATOR:

- 1.1. Contract Administrator.** CONTRACTOR shall act under the authority and approval of the Public Housing Coordinator/designee (Contract Administrator), to provide the services required by this Agreement.
 - 1.2. Key Staff.** This Contract has been awarded to CONTRACTOR based partially on the key personnel proposed to perform the services required herein. CONTRACTOR shall not change nor substitute any of these key staff for work on this Contract without prior written approval by CITY.
 - 1.3. Subcontractors.** During the performance of the Agreement, CONTRACTOR may engage such additional SUBCONTRACTORS as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with CONTRACTOR.
 - 1.4. Subcontracts.** CONTRACTOR shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of CITY. The subcontract shall incorporate by reference the terms and conditions of this Contract.
- 2. SCOPE OF WORK:** CONTRACTOR shall perform specified sealcoating and striping services to family sites all as more specifically set forth in the Scope of Work, labeled Exhibit B, Technical Specifications Exhibits C-F, Price, Exhibit G, Performance and Payment Bonds, Exhibits H1-H2 attached hereto and made a part hereof by reference and as set forth in the Specifications and details included therein.
- 2.1. Non-Discrimination.** The CONTRACTOR shall comply with State Executive Order No. 99-4 and all other applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.
 - 2.2. Licenses.** CONTRACTOR shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by the CONTRACTOR as applicable to this contract.
 - 2.3. Advertising, Publishing and Promotion of Contract.** The CONTRACTOR shall not use, advertise or promote information for benefit concerning this Contract without the prior written approval of the CITY.
 - 2.4. Compliance With Applicable Laws.** CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable licenses and permit requirements.

- 2.4.1 Pursuant to the provisions of A.R.S. § 41-4401, the Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").
- 2.4.2 A breach of the Contractor Immigration Warranty (Exhibit A) shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.
- 2.4.3 The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.
- 2.4.4 The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verifications.
- 2.4.5 The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.
- 2.4.6 In accordance with A.R.S. §35-393.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Iran.
- 2.4.7 In accordance with A.R.S. §35-391.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Sudan.
- 2.5. **Two-Year Warranty.** CONTRACTOR must provide a two-year warranty on all work performed pursuant to this Contract.
3. **ACCEPTANCE AND DOCUMENTATION:** Each task shall be reviewed and approved by the Contract Administrator to determine acceptable completion.
- 3.1. **Records.** The CONTRACTOR shall retain and shall contractually require each SUBCONTRACTOR to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.
- 3.2. **Audit.** At any time during the term of this Contract and five (5) years thereafter, the CONTRACTOR'S or any SUBCONTRACTOR'S books and records shall be subject to audit by the City to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, the CONTRACTOR shall produce a legible copy of any or all such records.
- 3.3. **New/Current Products.** All equipment, materials, parts and other components incorporated in the work or services performed pursuant to this Contract shall be new, or the latest model and of the most suitable grade for the purpose intended. All work shall be performed in a skilled and workmanlike manner.
- 3.4. **Property of CITY.** Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of CITY. CONTRACTOR is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. CONTRACTOR shall not use or release these materials without the prior written consent of CITY.

4. **PRICE:** CITY shall pay to CONTRACTOR an amount not to exceed **FIFTY ONE THOUSAND SIX HUNDRED TWENTY TWO DOLLARS NINETY CENTS (\$ 51,622.90)** for the completion of all the work and services described herein, which sum shall include all costs or expenses incurred by CONTRACTOR, payable as set forth in Exhibit C, attached hereto and made a part hereof by reference.
- 4.1. **Taxes.** CONTRACTOR shall be solely responsible for any and all tax obligations, which may result out of the CONTRACTOR'S performance of this Agreement. The CITY shall have no obligation to pay any amounts for taxes, of any type, incurred by the CONTRACTOR.
- 4.2. **Payment.** A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or completion of specified services and receipt of a correct invoice.
- 4.3. **Estimated Quantities.** The quantities shown on Exhibit C (the Price List) are estimates only, based upon available information. Payment shall be based on actual quantities and there is no guarantee that any certain quantity shall be required by CITY. City reserves the right to increase or decrease the quantities actually required.
- 4.4. **IRS W9 Form.** In order to receive payment CONTRACTOR shall have a current I.R.S. W9 Form on file with CITY, unless not required by law.
- 4.5. **Acceptance by City.** CITY reserves the right to accept or reject the request for a price increase. If CITY approves the price increase, the price shall remain firm for the renewal term for which it was requested. If a price increase is agreed upon a written Contract Amendment must be approved and executed by the Parties.
5. **TERM:** Following execution of this Agreement by CITY, CONTRACTOR shall immediately commence work and all work must be completed within **Ninety (90) days** from the Notice to Proceed.
- 5.1. **LIQUIDATED DAMAGES:** The CONTRACTOR understands that if Substantial Completion is not attained within the Contract Time as adjusted, the City will suffer damages, which are difficult to determine and accurately specify. The CONTRACTOR agrees that if Substantial Completion is not attained within the Contract Time as adjusted, the CONTRACTOR will pay as liquidated damages the amount of \$100 per calendar day for each day beyond the completion date indicated in the Notice to Proceed.
6. **USE OF THIS CONTRACT:** The Contract is for the sole convenience of the City of Chandler. CITY reserves the rights to obtain like services from another source to secure significant cost savings or when timely completion cannot be met by CONTRACTOR.
- 6.1. **Emergency Purchases:** CITY reserves the rights to purchase from other sources those items, which are required on an emergency basis and cannot be supplied immediately by the CONTRACTOR.

7. CITY'S CONTRACTUAL REMEDIES:

- 7.1. **Right to Assurance.** If the City in good faith has reason to believe that the CONTRACTOR does not intend to, or is unable to perform or continue performing under this Contract, the Contract Administrator may demand in writing that the CONTRACTOR give a written assurance of intent to perform. Failure by the CONTRACTOR to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Contract in addition to any other rights and remedies provided by law or this Contract.
- 7.2. **Stop Work Order.** The City may, at any time, by written order to the CONTRACTOR, require the CONTRACTOR to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the City after the order is delivered to the CONTRACTOR. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the CONTRACTOR shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
- 7.3. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the CONTRACTOR shall resume work. The Contract Administrator shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 7.4. **Non-exclusive Remedies.** The rights and the remedies of the City under this Contract are not exclusive.
- 7.5. **Nonconforming Tender.** Services and materials supplied under this Contract shall fully comply with Contract requirements and specifications. Services or materials that do not fully comply constitute a breach of contract.
- 7.6. **Right of Offset.** The City shall be entitled to offset against any sums due CONTRACTOR, any expenses or costs incurred by the City, or damages assessed by the City concerning the CONTRACTOR'S non-conforming performance or failure to perform the Contract, including expenses to complete the work and other costs and damages incurred by CITY.

8. TERMINATION:

- 8.1. **Termination for Convenience:** CITY reserves the right to terminate this Agreement or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, CONTRACTOR shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subCONTRACTORS to cease such work. As compensation in full for services performed to the date of such termination, the CONTRACTOR shall receive a fee for the percentage of services actually performed. This fee shall be in the amount to be mutually agreed upon by the CONTRACTOR and CITY, based on the agreed Scope of Work. If there is no mutual agreement, the Management Services Director shall determine the percentage of work performed under each task detailed in the Scope of Work and the CONTRACTOR'S compensation shall be based upon such determination and CONTRACTOR'S fee schedule included herein.

- 8.2. Termination for Cause:** City may terminate this Agreement for Cause upon the occurrence of any one or more of the following events:
- 1) If CONTRACTOR fails to perform pursuant to the terms of this Agreement
 - 2) If CONTRACTOR is adjudged a bankrupt or insolvent;
 - 3) If CONTRACTOR makes a general assignment for the benefit of creditors;
 - 4) If a trustee or receiver is appointed for CONTRACTOR or for any of CONTRACTOR'S property;
 - 5) If CONTRACTOR files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws;
 - 6) If CONTRACTOR disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction;
 - 7) Where Agreement has been so terminated by CITY, the termination shall not affect any rights of CITY against CONTRACTOR then existing or which may thereafter accrue.
- 8.3. Cancellation for Conflict of Interest.** Pursuant to A.R.S. § 38-511, CITY may cancel this Contract after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.
- 8.4. Gratuities.** CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by CONTRACTOR or a representative of CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by CONTRACTOR.
- 8.5. Suspension or Debarment.** CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that CONTRACTOR has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a SUBCONTRACTOR of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the CONTRACTOR is not currently suspended or debarred. If CONTRACTOR becomes suspended or debarred, CONTRACTOR shall immediately notify CITY.
- 8.6. Continuation of Performance Through Termination.** The CONTRACTOR shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.
- 8.7. No Waiver.** Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
- 8.8. Availability of Funds for the next Fiscal Year.** Funds may not presently be available under this agreement beyond the current fiscal year. No legal liability on the part of the CITY for services may arise under this agreement beyond the current fiscal year until funds are made available for performance of this agreement. The CITY may reduce services or terminate this agreement without further recourse, obligation, or penalty in the event that insufficient funds are appropriated. The City Manager shall have the sole and unfettered discretion in determining the availability of funds.

9. **FORCE MAJEURE:** Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.
10. **DISPUTE RESOLUTION:**
- 10.1. **Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 10.2. **Jurisdiction and Venue.** The parties agree that this Agreement is made in and shall be performed in Maricopa County. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Maricopa County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.
- 10.3. **Fees and Costs.** Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication.
11. **INDEMNIFICATION:** To the fullest extent permitted by law, CONTRACTOR, its successors, assigns and guarantors, shall defend, indemnify and hold harmless City and any of its elected or appointed officials, officers, directors, commissioners, board members, agents or employees from and against any and all allegations, demands, claims, proceedings, suits, actions, damages, including, without limitation, property damage, environmental damages, personal injury and wrongful death claims, losses, expenses (including claim adjusting and handling expenses), penalties and fines (including, but not limited to, attorney fees, court costs, and the cost of appellate proceedings), judgments or obligations, which may be imposed upon or incurred by or asserted against the City by reason of this Agreement or the services performed or permissions granted under it, or related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by CONTRACTOR, or any of its subcontractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, relating to the discharge of any duties or the exercise of any rights or privileges arising from or incidental to this Agreement, including but not limited to, any injury or damages claimed by any of CONTRACTOR's and subcontractor's employees
12. **INSURANCE:**
1. General.
- A. At the same time as execution of this Agreement, the CONTRACTOR shall furnish the City of Chandler a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY. Provided, however, the A.M. Best rating requirement shall not be deemed to apply to required Workers' Compensation coverage.
- B. The CONTRACTOR and any of its subcontractors, subconsultants or sublicensees shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.
- C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.

- D. The City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect CONTRACTOR from liabilities that might arise out of the performance of the Agreement services under this Agreement by CONTRACTOR, its agents, representatives, employees, subcontractors, sublicensees or subconsultants and the CONTRACTOR is free to purchase any additional insurance as may be determined necessary.
- E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve the CONTRACTOR from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.
- F. Use of SubContractors: If any work is subcontracted in any way, the CONTRACTOR shall execute a written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of the CONTRACTOR in this Agreement. The CONTRACTOR is responsible for executing the Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.

2. Minimum Scope And Limits Of Insurance. The CONTRACTOR shall provide coverage with limits of liability not less than those stated below.

- A. *Commercial General Liability-Occurrence Form.* CONTRACTOR must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.
- B. *Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles Vehicle Liability:* CONTRACTOR must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on CONTRACTOR owned, hired, and non-owned vehicles assigned to or used in the performance of the CONTRACTOR's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.
- C. *Workers Compensation and Employers Liability Insurance:* CONTRACTOR must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of CONTRACTOR employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than \$1,000,000 for each accident and \$1,000,000 disease for each employee.

3. Additional Policy Provisions Required.

- A. *Self-Insured Retentions Or Deductibles.* Any self-insured retentions and deductibles must be declared and approved by the City. If not approved, the City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the City, its officers, officials, agents, employees, and volunteers.
- B. *City as Additional Insured.* The policies are to contain, or be endorsed to contain, the following provisions:
 - 1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the CONTRACTOR including the City's general supervision of the CONTRACTOR; Products and Completed operations of the CONTRACTOR; and automobiles owned, leased, hired, or borrowed by the CONTRACTOR.

2. The CONTRACTOR's insurance must contain broad form contractual liability coverage and must not exclude liability arising out of explosion, collapse, or underground property damage hazards ("XCU") coverage.
3. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the CONTRACTOR even if those limits of liability are in excess of those required by this Agreement.
4. The CONTRACTOR's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees shall be in excess of the coverage provided by the CONTRACTOR and must not contribute to it.
5. The CONTRACTOR's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
6. Coverage provided by the CONTRACTOR must not be limited to the liability assumed under the indemnification provisions of this Agreement.
7. The policies must contain a severability of interest clause and waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by the CONTRACTOR for the City.
8. The CONTRACTOR, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of 3 years following completion and acceptance of the Work. The CONTRACTOR must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this 3 year period containing all the Agreement insurance requirements, including naming the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.
9. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the required policies expire during the life of this Agreement, the CONTRACTOR must forward renewal or replacement Certificates to the City within 10 days after the renewal date containing all the necessary insurance provisions.

13. **NOTICES:** All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of the CITY

Contract Administrator: Housing Project Coord.
Contact: Wayne McMinn
Mailing Address: _____
Physical Address: 235 S. Arizona Ave.
City, State, Zip Chandler, AZ 85225
Phone: 480-782-3204
FAX: 480-782-3220

Wayne.mcminn@chandleraz.gov

In the case of the CONTRACTOR

Firm Name: Ace Asphalt of Arizona Inc.
Contact: Mike Jensen
Address: 3030 S. 7th St.
City, State, Zip Phoenix, AZ 85040
Phone: 602-304-4023
FAX: 602-304-4023
jensenm@aceasphalt.com

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

14. **CONFLICT OF INTEREST:**

- 14.1. **No Kickback.** CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in CONTRACTOR'S proposal to the CITY.

- 14.2. **Kickback Termination.** CITY may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the CITY is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a CONTRACTOR to any other party to the Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when written notice from CITY is received by all other parties, unless the notice specifies a later time (A.R.S. §38-511).

- 14.3. **No Conflict:** CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

15. **GENERAL TERMS:**

- 15.1. **Ownership.** All deliverables and/or other products of the Contract (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by CONTRACTOR in performance of the Contract) shall be the sole, absolute and exclusive property of CITY, free from any claim or retention of right on the part of CONTRACTOR, its agents, sub-contractors, officers or employees.

15.2. Performance and Payment Bonds.

Within fifteen (15) days from the time a Contract is awarded, CONTRACTOR shall furnish fully executed Performance and Payment Bond (Labor and Materials) in such form and context as determined by CITY from a surety approved by CITY. Said bonds shall be in a sum no less than one hundred (100%) of the Contract price.

CITY has the option to forfeit said bonds if the Contract is terminated by the default of CONTRACTOR or if CITY determines that CONTRACTOR is unable or unwilling to complete the work as specified in the Contract Documents.

If the Contract schedule is not adhered to, and CITY determines that the work is unlikely to be completed within a reasonable time after the original target date, then CITY may terminate the Contract and collect the Performance Bond.

The Performance Bond will be reviewed annually and any increases in the contract amount will require bond to be increased and reissued.

- 15.3. Entire Agreement.** This Agreement, including all Exhibits attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.
- 15.4. Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 15.5. Assignment:** Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the CITY.
- 15.6. Amendments.** The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the CONTRACTOR are violations of the Contract. Any such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on such changes.
- 15.7. Independent CONTRACTOR.** The CONTRACTOR under this Contract is an independent CONTRACTOR. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 15.8. No Parole Evidence.** This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

15.9. **Authority:** Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this ____ day of _____, 2014.

FOR THE CITY OF CHANDLER

ATTEST:

City Clerk

Approved as to form:

City Attorney *[Signature]*

ACE ASPHALT OF ARIZONA, Inc.

FOR THE CONTRACTOR

By: *[Signature]*

Signature

MICHAEL G. MOERTL, PRESIDENT

ATTEST: If Corporation

SEAL

[Signature]
Secretary

EXHIBIT A

**Contractor Immigration Warranty
To Be Completed by Contractor Prior to Execution of Contract**

A.R.S. § 41-4401 requires as a condition of your contract verification of compliance by the contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

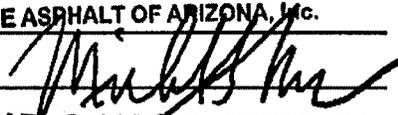
By completing and signing this form the contractor shall attest that it and all subcontractors performing work under the cited contract meet all conditions contained herein.

Contract Number: H04-745-3342		
Name (as listed in the contract): Ace Asphalt of Arizona Inc.		
Street Name and Number: 3030 S. 7th St.		
City: Phoenix	State: AZ	Zip Code: 85040

I hereby attest that:

1. The contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this contract;
2. All subcontractors performing work under this contract comply with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of their employees.

Signature of Contractor (Employer) or Authorized Designee:

ACE ASPHALT OF ARIZONA, Inc.
Printed Name: 
Title: MICHAEL G. MOERTL PRESIDENT
Date (month/day/year): _____

**EXHIBIT B
SCOPE OF WORK**

Parking Lot Surface Sealing & Striping Family Sites PHA

1. PROJECT SCOPE OF WORK

Contractor shall perform asphalt crack sealing, Tire Rubber Modified Surface Sealing (TRMSS), re-striping, and asphalt repairs at five (5) Public Housing multi-family sites. The Contractor shall supply all materials, equipment, labor, services, and transportation required to perform the work as described in this scope of work and specifications in a complete and professional manner.

This project is funded by the Department of Housing & Urban Development (HUD). The selected Contractor shall comply with the HUD requirements as noted in the HUD documents included as part of this bid packet. This is a Labor Standards Act, Davis-Bacon AND Related Acts (DBRA) wage rate project.

2. PARKING LOT & DRIVE LOCATIONS, APPROXIMATE SIZE AND NUMBER OF MOBILIZATIONS

Chandler Locations	Approximate Asphalt Area	Number of Mobilizations
A. 130 N. Hamilton St.	35,100 sq. ft.	Two
B. 210 N. McQueen Rd.	26,400 sq. ft.	Two
C. 73 S. Hamilton St.	68,300 sq. ft.	Two
D. 660 S. Palm Ln.	30,500 sq. ft.	Two
E. 127 N. Kingston St.	11,400 sq. ft.	One

3. WORK UNDER THIS CONTRACT

- A. The work under this contract shall be performed at five (5) Public Housing multi-family complexes. Contractor shall provide all labor, materials, tools, equipment, transportation and services necessary to properly complete all traffic control, asphalt patching, cleaning, crack filling, oil spot priming, TRMSS surface sealing, and re-striping as specified in the provisions and specifications contained herein.
- B. Limits of the work shall include all asphalt pavement driveways and parking spaces located at the five (5) Public Housing apartment complexes listed above. The work areas are outlined in yellow on the site plans in Exhibit P.
- C. This project occurs on occupied Public Housing sites where the protection of the residents and the public is essential. The Contractor must take necessary safety precautions to prevent any work related safety hazards for its employees, residents and the public.

4. GENERAL REQUIREMENTS

- A. Contractor shall use the most current version of the City's and/or Maricopa Association of Governments (M.A.G.) standard details and specifications for inspection and quality assurance for all work being done under this Agreement. Contractor shall be responsible for ensuring that workmanship, materials, equipment, and site preparation meet or exceed the required specifications. The Contract Administrator/designee will inspect all phases of work and any unsatisfactory work or preparation shall be redone at no additional cost to the City.
- B. The mobilization count is based on closing and performing all the described work on one half of each site at a time.
- C. Contractor shall have sole responsibility for accuracy of all measurements, estimates of materials quantities, sizes and square footage take-offs.

- D. Contractor shall be responsible for scheduling Blue Stake for identifying and locating all existing utilities affected by the work. Contractor shall be responsible for the repair of all damaged utilities resulting from this work and will coordinate with utility companies and affected residents and businesses for required outages.
- E. Contractor shall keep suitable equipment on hand at the job site for maintaining dust control and shall employ appropriate equipment for that purpose in accordance with the requirements of the "Maricopa County Health Department Air Pollution Control Regulations" Contractor shall be responsible for obtaining an Air Quality Permit from Maricopa County prior to starting the required work. Contractor shall pay all applicable permit fees.
- F. Contractor shall remove from the City's property and legally dispose of all asphalt, sub-grade materials, trash, and debris associated with this project.

5. SURFACE PREPARATION

- A. Contractor shall prepare all asphalt surfaces per the manufacturer's recommendations for the material being applied.
- B. Thoroughly clean existing asphalt using power sweepers, blowers, and wire bristled brooms as required.
- C. Oil, gas and grease spillage areas shall be treated with spot primer. Use Petro Seal by Sealmaster, Poly Oil Seal spot primer or approved alternate.

6. ASPHALT PATCHWORK

- A. Contractor shall remove and replace damaged asphalt in accordance with the technical specifications for Asphalt Patchwork provided in Exhibit D.
- B. The City shall mark all locations for patching.
- C. Asphalt patching shall be a minimum of four (4) inches deep.
- D. The existing asphalt pavement is approximately four (4) inches deep.
- E. There are 83 - 4'x4' patches, 33 - 5'x5 patches, and four (4) - 6'x6' patches for a total of 2,297 square feet of patchwork for the entire project.

7. CRACK SEALING

- A. Crack sealing shall be performed at all project sites prior to the application of TRMSS. Crack sealing shall be performed per the technical specifications for Asphalt Rubber Crack Sealing provided in Exhibit F.
- B. There is alligator cracking at two of the sites in which GatorPave by Sealmaster or approved alternate shall be used in lieu of the crack sealant. The complex at 73 S. Hamilton St. has a 70'x8' area that has alligator cracking. The complex at 127 N. Kingston St. has three areas approximately, 40'x4', 20'x4', and 30'x10' that have alligator cracking. Install the approved alligator crack sealer per the manufacturer's recommendations.
- C. **All cracks at the transition from asphalt to curbs, gutters and concrete flatwork shall be sealed regardless of clear opening size.**

8. TIRE RUBBER MODIFIED SURFACE SEALING

- TRMSS shall be performed per the technical specifications for Tire Rubber Modified Surface Sealing provided in Exhibit C.

9. STRIPING

- A. All traffic control and parking lot striping shall be re-done to match existing after the application of TRMSS in compliance with the technical specifications for Asphalt Striping and Markings provide in Exhibit G.
- B. All striping, speed humps, dumpster enclosures, parking space numbers and lettering, handicap parking, and traffic control markings shall be re-done to match existing.
- C. It shall be the Contractor's responsibility to verify the quantities for striping and markings.
- D. Striping and pavement markings that extend onto adjacent concrete surfaces shall be re-painted.
- E. No striping is required at the maintenance/fenced in area at 73 S. Hamilton St.

10. FIRE LANE MARKING

- A. All existing fire lane curbs, concrete, and asphalt markings shall be repainted red on three (3) sides.
- B. "NO PARKING-FIRE LANE" warnings shall be painted in white with three (3) inch lettering every 100 feet.
- C. The paint shall be red Pervo Brand (Pervostripe) or approved alternate.
- D. All chipped and peeling paint shall be removed prior to painting.

11. PERMITS & LICENSING

The awarded Contractor is responsible for any permitting and licensing required by Federal, State, and Local agencies associated with this project. A building permit from the City of Chandler is not required for this project.

12. WORK SCHEDULE

- A. The awarded Contractor will be permitted to perform work Monday through Friday 7:00 AM to 4:00 PM. Work is not permitted on City of Chandler designated Holidays. Exceptions would be on work deemed an emergency or requiring immediate attention by the Housing Project Coordinator.
- B. Once a site is started the Contractor will continue without delay until completed.
- C. **Contractor shall complete all work for each mobilization and return the affected parking area back to the City and residents for use, within 72 hours after closing the parking area for work.**
- D. Contractor must provide a construction schedule with proposed work dates including start and completion dates.
- E. The Contractor shall have a designated point of contact either a foreman or superintendent on site during operations.

13. CONTRACTOR QUALIFICATIONS

- A. The Contractor and/or Subcontractor(s) performing the work describe is this scope of work must possess one of the following Arizona Registrar of Contractors licenses: A, A-14, A-15, C-13, K-66, or K-69.
- B. The Contractor and/or Subcontractor(s) performing the work describe is this scope of work must provide have of a minimum five (5) years' experience as an Arizona Registrar of Contractors licensed Contractor under one of the required licenses listed above.
- C. The Contractor and/or Subcontractor(s) performing the work describe is this scope of work must have a minimum five (5) years' experience performing the work described in this scope of work.

14. POST AWARD SUBMITTALS

- A. Contractor shall provide the following submittals to the Project Coordinator for approval at the Pre-Construction meeting:
 - 1. Crack Sealing Material
 - 2. Tire Rubber Modified Surface Sealing
 - 3. Striping and Marking Paint
 - 4. Asphalt Patch Material
 - 5. Oil Spot Primer
- B. Project Schedule
- C. All required HUD documentation indicated in these Contract documents must be read, properly completed, signed, and returned.
- D. Certified Payroll Reports are due weekly.
- E. Section 3 monthly forms are due with each pay application.
- F. Contractor shall provide a copy of all material tickets before billing is accepted and paid by City.

15. QUALITY CONTROL

- A. Where not more specifically described in any of the contract documents, workmanship shall conform to all of the methods and operations of best standards and accepted practices of the trade or trades involved, and shall include all items of fabrication, construction, or installation regularly furnished or required for completion of the services. All work shall be executed by personnel skilled in their respective lines of work.
- B. The Project Coordinator shall have the authority to reject any material or workmanship that he feels is not within specified type, or quality as specified in these bid documents. The Contractor will correct or replace rejected work at no additional expense to the City.
- C. Contractor will have supervisor on site during operations who has the ability to answer questions or complaints, and the authority to make independent decisions on short notice.
- D. The contractor will provide sufficient manpower to complete the work within the scheduled time frame as shown on the approved schedule.
- E. Contractor will request the Project Coordinator to conduct a site inspection after the project is complete. The Project Coordinator will prepare a punch-list during the inspection and will forward a copy to the Contractor. After punch list items have been corrected, the Contractor will request a final inspection with the Project Coordinator. Final project approval is contingent upon the Project Coordinator's final inspection and written approval.
- F. The City reserves the right to stop work under this Agreement at any time if, in their opinion;
 - 1. Weather conditions become adverse for doing patchwork,
 - 2. Quality of work is deemed unacceptable,
 - 3. Material is deemed unacceptable by Contract Administrator/designee.

16. RESIDENT NOTIFICATION

- A. Prior to starting any work, the **Selected Contractor** ***must*** notify each resident, in writing, a **minimum of 1 week in advance, and again 48 hours in advance**, prior to starting any work. This will be accomplished with a 3-part door hanger (in both English & Spanish) to be left on **each** exterior entry door, as well as on the windshield of every vehicle parked on site at the time. A mailed letter (in both English & Spanish) may be substituted for the door hanger; however the individual vehicle notifications must still be utilized. If mailed letter is used, the Contractor must allow for sufficient transit time. Door hanger or letter will include the following (minimum) information: Reference Type Work (asphalt sealing and striping) Being Done for (The City of Chandler); Notice Date; Project Address; Project Start Date; Project Completion Date; Work Hours; **Special Instructions** (i.e. vehicles moved by [date], lot closed from [date] to [date], etc.); Vehicles not moved by [date & time] will be towed at owners expense; Name / Address / Phone Number of Company; Contact Person; and 24 Hour Emergency Phone Number. *Door Hanger or Letter ***must*** be pre-approved by the Project Manager prior to being used. A copy of each door hanger or letter will be provided to the Project Manager.*
- B. One week prior to the scheduled start date the Contractor will provide temporary signage at each site entrance advertising the upcoming project, and lot closure dates.
- C. In the event that the **Selected Contractor** is unable to start a previously notified unit (i.e. rain, labor dispute, material shortage, schedule change, lack of manpower, etc.), the Contractor will be required to re-notify that resident with another 48-hour door hanger or letter, with the same information as listed above.

17. SAFETY AND SITE PROTECTION

- A. These are occupied apartments with children; the Contractor will be required to remove all debris and equipment from the site on a daily basis.
- B. The Contractor shall be responsible for providing sufficient notification, warning signs, cones, barricades, tarps, plastic, flag tape, and other safety and traffic control equipment required to protect its employees, the residents, the public, surrounding areas, equipment and vehicles.
- C. The City will coordinate the towing of vehicles which have not been removed from work area by the tenants.
- D. Contractor must take necessary safety precautions to prevent any work related safety hazards for its employees, residents and the public.
- E. All possible safety hazards to workers, residents or the public shall be corrected immediately.
- F. Contractor shall repair any damage to City property caused by the Contractor or Subcontractor(s) associated with this project, at the Contractor's expense.
- G. The Contractor will be responsible for immediately notifying the Housing Project Coordinator of any damage caused by the Contractor during contract activities.
- H. The Contractor will be responsible for providing signage indicating a phone number for residents to contact in case of an emergency.
- I. All work shall comply with all OSHA, Federal, State and County regulations.

18. CLEANUP

- A. The Contractor shall keep the premises clean of all rubbish and debris generated by the work involved. All surplus material, rubbish and debris shall be disposed of by the Contractor daily at the Contractor's expense.
- B. City dumpsters and/or resident trash containers shall not be used for disposal of any construction related material. It is the Contractor's responsibility to dispose of all excess materials, trash and debris in an approved and lawful method.
- C. Remove asphalt materials from all metal covers.

19. DAVIS-BACON AND PROJECT RECORD DOCUMENTS

- A. Current Certified Payroll Reports and summary sheets are due weekly.
- B. All employees of the Contractor and/or Sub-Contractor(s) will be subject to a Federal Labor Standards Employee Interviews.
- C. All required Davis-Bacon notifications shall be posted at the work sites.

20. CONTRACTOR USE OF PREMISES

- A. Contractor shall complete all work for each mobilization and return the affected parking area back to the City and residents for use, within 72 hours after closing the parking area for work.
- B. All employees shall wear a company shirt and have a picture identification badge when working on the sites.
- C. Contractor shall remove all equipment and tools from the site at the end of each day.
- D. The Contractor shall furnish restroom facilities during the course of work. Resident and on site public restrooms are not to be used.
- E. The Contractor shall provide his/her own water.
- F. The Contractor shall provide his/her own power for equipment and tools.
- G. Contractor and subcontractors shall not park vehicles in resident parking spaces.
- H. The contractor shall inspect and locate all manholes, valve boxers, and survey monuments prior to commencement of the project.

21. These Construction Documents, and the joint and the several phases of construction hereby contemplated are to be governed, at all times, by applicable provisions of the federal laws, including but not limited to, the latest amendments of the following:

- A. William-Steiger Occupational Safety & Health Act of 1970, Public Law, 91-596; and
- B. Part 1910 – Occupational Safety & Health Standards, Chapter XVII of Title 29, Code of Federal Regulations; and
- C. Safety and Health Regulations for Construction, Chapter XVII of Title 29, Code of Federal Regulations.

END OF SCOPE OF WORK

EXHIBIT C
TECHNICAL SPECIFICATIONS
Tire Rubber Modified Surface Seal (TRMSS)

Contractor shall furnish all labor, material and equipment necessary to place material specified on parking lots designated by City. The Contractor shall be responsible for all traffic control in accordance with the City Barricade Manual and the Manual on Uniform Traffic Control Devices (MUTCD) or as directed by CONTRACT ADMINISTRATOR/designee. The Contractor shall place "Bump" signs on both sides of speed humps with a lit vertical panel on the center of the speed hump until permanent striping is completed. The Contractor shall be responsible for obtaining all required permits (ADOT, Maricopa County, etc.) to accomplish the scope of work.

1. **STANDARD SPECIFICATIONS AND STANDARD DETAILS:** Attention is called to the fact that City is now operating under the latest revision of the 2012 edition of the Uniform Standard Specification for Public Works Construction, published by the Maricopa Association of Governments as amended by City, which is herewith incorporated by reference and made a part hereof.

City is also operating under the latest revision of the 2012 edition of Standard Details as published by the Maricopa Association of Governments as amended by City.

2. **TIME OF APPLICATION AND WEATHER CONDITION:** TRMSS shall not be applied when the surface is wet or when there is a threat of rain. The ambient air temperature shall be at least 60°F and rising and the application shall cease when the air temperature is 65°F and falling.
3. **INSPECTION:** The Project Coordinator will perform inspections.
5. **MATERIAL:** The TRMSS shall meet the requirements of Table #1 attached. Contractor shall submit a certification from the manufacturer stating that the base emulsion being supplied meets the requirements of Table #1.
6. **PREPARATION OF PAVEMENT:** Pavement surface to be coated shall be sound, surface cured and clean in order for the TRMSS emulsion to perform properly.

Cleaned surface – Contractor shall clean the pavement to be free from clay, salt, sand, grease, dirt, and other foreign matter. It is imperative that the pavement be thoroughly cleaned. Cleaning shall be accomplished by means of power blowers, stiff bristle brooms, vacuum unit, or by pressure flushing. Only pick up type sweepers will be allowed, no sidekick brooms shall be used.

Deleterious matter - Accumulation of grease or oil shall be removed by scraping, burning or scrubbing with detergent (detergent shall be thoroughly rinsed from surface). Any areas where pavement is physically sound, yet oil has still soaked in shall be coated with a TRMSS oil spot primer to promote better adhesion and to prevent bleed through.

6. **APPLICATION OF MATERIALS:** TRMSS is provided ready-to-use by the manufacturer, do not dilute.

Application rate – Contractor shall apply sealer in one uniform coat utilizing a computer rate controlled asphalt spreader or standard sealcoat spray distributor trucks. Hand spray wands and squeegees may be used for small areas and trim. Application rate shall be 0.15 gallon per square yard or as directed by Contract Administrator/designee. Test sections prior to commencement of job shall determine actual coverage rate.

Outside temperature – Contractor shall apply the sealer when the ambient temperature is 60°F and rising with no threat of rain for an 8-hour period.

Drying time - Drying time for sealer shall normally be 2-hours before opening to traffic. Actual weather conditions will determine drying time and, in any case, avoid traffic until the surface is no longer tacky.

7. **POST APPLICATION:** After application of sealer, Contractor shall squeeze off depressions in the pavement that collect residual sealer and puddles to avoid a tacky, slow curing surface.
8. **PROTECTION TO ADJACENT PROPERTY:** Contractor shall take care to prevent the spraying of the TRMSS Seal Coat on adjacent on structures, guard rails, guide posts, markers (all types), manhole and valve covers, curbs, gutters, concrete, trees, shrubs, and adjacent property, improvements and facilities of all kinds. The Contractor shall cover or protect Raised Pavement Markers (RPM), Manhole Covers, Survey Monuments, Water Valve Covers, Valley Gutters and Aprons from TRMSS spray and shall remove the protection or cover before opening the streets to traffic. Contractor shall be responsible for removing TRMSS sprayed on to the items mentioned above.
9. **PROTECTION OF TREATED SURFACE:** Contractor shall be responsible for providing adequate barricading and signing to protect both the motorized public and the treated surface. In the event of loss of striping, Contractor shall be responsible for temporary traffic control using vertical panels, reflective raised pavement markers or chip seal markers. The treated surface shall be protected by barricades and/or signs until the TRMSS seal coat will not be picked up by traffic. Contractor shall follow the City Barricade Manual in providing the required traffic control. In addition to the barricade manual, Contractor shall be required to set out some informational signs. City Contract Administrator/designee will work with Contractor's crew leader in detailing the location for said signs.
10. **TRAFFIC CONTROL:** Contractor shall control all traffic through the work area in accordance with the requirements of the latest City of Chandler Traffic Barricade Manual.

Contractor shall furnish all signs, cones, equipment and other traffic control device necessary for the control of traffic and costs for these devices shall be included in the price per lineal feet bid under this agreement.

Traffic Control will be discussed and specific items reviewed with Contractor prior to commencing work.

11. **Site Preparation:** Contractor shall provide all resident notification, necessary traffic control, sweeping and cleaning, crack sealing, and surface preparation per M.A.G. and the manufacturer's recommendation in the parking lots.

TABLE #1

TIRE RUBBER MODIFIED SURFACE SEAL (TRMSS) for Preservative Sealing:

Tire Rubber Modified Surface Seal shall meet the requirements of Table 1 below:

TABLE 1 – TIRE RUBBER MODIFIED SURFACE SEAL (TRMSS)		
PROPERTY	TEST METHOD	REQUIREMENT
Viscosity, Krieb Unit (KU)	ASTM D 562	45 - 70
Weight/Gallon	ASTM D2939.07	8 - 9
Residue by Evaporation %	ASTM D2939.08	30 - 40
Sieve Analysis	ASTM D244	0.10 max
Performance criteria Testing, Note (1)		
Wet Track Abrasion	ISSA (TB-100)	Less than 1%, Note (2)
Accelerated Weathering Test	ASTM G 154	Pass, Note (3)
Fuel Resistant	ASTM D 2939.25	Pass
Asphalt Cement Certificate of Compliance. Note (4)		
Ground Whole Tire Rubber %	Certificate of compliance	10 - 16
Penetration 77 F, 100g, 5 sec, dmm	ASTM D5	15 - 35
Softening Point, F	ASTM D36	130 - 160
Solubility % (3 set average)	ASTM D2042	98 - 99

Note: (1) TRMSS diluted, ready-to-use.

Note: (2) Calculated weight loss, percentage of original Volume, 1 hour soak.

Note: (3) 1,000 hours. UVA-340 lamp, 0.77 W/m²(V1.0 calibration), 8 hours UV light @ 50°C, 5 min. spray, 3.55 hours condensation @ 50°C.

Note: (4) Ground whole tire rubber modified asphalt cement.

**EXHIBIT D
TECHNICAL SPECIFICATIONS
ASPHALT PATCHWORK**

1. DESCRIPTION

Work under this specification consists of removal and replacement of asphalt materials in existing bituminous pavement.

2. EQUIPMENT

The equipment used by Contractor for asphalt removal, sub-grade compaction, and installation of patch material shall be capable of achieving the performance requirements in accordance with M.A.G. standards.

3. Asphalt Removal, Sub-grade Compaction and Asphalt Replacement

- A. Contractor shall remove and replace asphalt materials, and dispose of old asphalt material at the Contractor's expense.
- B. Contractor shall saw-cut and remove the identified damaged asphalt pavement. All saw cut edges shall receive a tack coat prior to the placement of new asphalt.
- C. Sub-grade preparation after asphalt removal shall be in accordance with M.A.G. standards for this task.
- D. Placement and compaction of patch material shall be accomplished in two (2) equal lifts to ensure proper density. The finished surface of the patch shall be flush with the adjoining pavement on all edges. Any newly installed patch that is not acceptable to the Project Manager shall be removed and replaced to meet acceptable standards. Any additional cost incurred for re-work will be the responsibility of the Contractor. Compaction shall be accomplished using a self-propelled double drum vibratory asphalt roller, with a minimum operating weight of three (3) tons. Use of any other compaction equipment will not be allowed unless approved by the Project Coordinator.
- E. The City reserves the right to conduct in-place density testing on newly placed asphalt patches. Contractor shall be required to re-compact any patch that does not meet a minimum of 95% maximum density compaction for Marshall mix and 93% maximum density compaction for RICE mix design being used. If required compaction is no longer attainable due to material cooling below a workable temperature, Contractor shall remove and replace the material. The City shall be responsible only for the cost of the initial testing. Contractor shall be responsible for any cost associated with re-testing areas requiring re-work. Contractor shall not be allowed to re-heat asphalt patches with an open flame heater. Any asphalt patch reheated with open flames shall be removed and replaced by the Contractor at no additional cost to City.
- F. Contractor shall be responsible for identifying and locating (Blue Stake) all existing utilities affected by the work. Contractor shall be responsible for the repair of all damaged utilities resulting from this.
- G. The City shall mark all locations for patching.
- H. All pavement patches shall be crack sealed at the joints. The crack sealant material shall be a Type 3 Polyflex crack sealant such as Crafcro Polyflex Type 3, Part No. 34521, or approved alternate.

4. MATERIAL PRODUCT DATA

Contractor shall supply asphalt material for this contract. The asphalt mix design shall meet the East Valley Asphalt Committee (EVAC) mix design criteria.

**EXHIBIT E
TECHNICAL SPECIFICATIONS
ASPHALT RUBBER CRACK SEALING**

1. DESCRIPTION

Work under this specification consists of compressed air routing and cleaning cracks in the existing bituminous pavement and applying a premixed asphalt-rubber sealant.

2. EQUIPMENT

The equipment used by Contractor in the application of the asphalt rubber material shall have a mixing system in the material vat in order to maintain a consistent, uniform, homogenous mixture throughout the crack sealing operation. The unit shall heat the asphalt rubber material by means of an indirect heat transfer median for adequate material temperature control. The equipment shall provide a continuous supply so that operations may proceed without delays. The material shall be applied under pressure with a hose and wand assembly. The equipment designated for use by Contractor shall be approved by the Contract Administrator/designee prior to commencing work.

3. WEATHER CONDITION

The Contract Administrator/designee, together with the Contractor's Supervisor, shall determine if weather conditions are such as to adversely affect the operations, or whether or not the operations should cease. The asphalt-rubber mixture shall not be applied during wet weather or under conditions which will adversely affect the operations. The sealant shall not be placed in cracks that are wet. The sealant shall be placed at the material manufacturers recommended application temperature.

4. COMPRESSED AIR ROUTING, CLEANING OF CRACKS, and APPLYING SEALANT

A. Contractor shall seal all cracks that have an average clear opening 1/4 inch or greater. All cracks with an average clear opening of less than 1/4 inch shall not be sealed unless directed to do so by the Contract Administrator/designee. All cracks at the transition from asphalt to curbs, gutters and concrete flatwork shall be sealed regardless of clear opening size. Contractor shall contact the Contract Administrator/designee for filling of cracks 2" or wider. The Contract Administrator/designee shall make final determination as to what work will be done under this agreement.

Immediately prior to applying the sealant, Contractor shall thoroughly clean cracks and remove any loose particles, grass, grass roots, weeds, dust and other deleterious substances by means of high velocity compressed air or other methods prior approved by the Contract Administrator/designee. The compressor used shall be capable of a sustaining a minimum pressure of 90 psi. The crack cleaning equipment shall be capable of cleaning cracks to a minimum depth of 1/2" and shall be capable of dust containment by filtering particulate matter 10 micrometers or less in diameter with no dust clouds are visible. The conventional method of openly blowing out cracks with compressed air with no dust containment is not an acceptable crack cleaning method.

Crack cleaning shall be inspected and approved by the Contract Administrator/designee prior to the application of crack sealant.

B. Contractor shall place sealant so as to completely fill the crack and form a lap of greater than 1" on each side. Immediately after the application, a rubber squeegee or other acceptable means shall be used to level the sealant flush with the existing pavement surface. After cooling, the sealant shall not shrink more than 1/4" below the pavement surface.

C. Sealant shall be heated to between 325°F and 400°F (163°C and 204°C) for at least 1/2 hour prior to application. Sealant shall only be applied to clean, dry cracks that have been approved by the Contract Administrator/designee from the bottom up to the surface level. Contractor shall provide certificates on all temperature gauges.

- D. The sealant shall be intended to be placed entirely within the crack. Blotter material may be required to prevent asphalt-rubber bleed and/or pickup of sealant by vehicular traffic. Contractor shall install blotter material of a type acceptable to City and at the direction of the Contract Administrator/designee at no additional cost to the City. Typical blotter material shall be made up of sand/silica sand and cannot include powdered cement. Any blotter material must be pre-approved by the Contract Administrator/designee.
- E. Contractor shall clean all sidewalks and driveways on a daily basis within the work area to the satisfaction of the Contract Administrator/designee. The Contract Administrator/designee may require additional cleaning to be done, at no additional cost to the City, if an unsafe condition exists or excessive complaints are received from local residents. Contractor shall clean the gutters, sidewalks and driveways before the job is considered complete.
- F. Contract Administrator/designee shall inspect all work for quality of workmanship, width of cracks filled, cleanliness of cracks and lapping. Contractor shall correct all unacceptable work, at no additional cost to the City.
- G. While completing work, Contractor shall protect against damage to vehicles, people and any other property that may be in the work area. During and after the placement of sealant, Contractor shall protect any persons or animals that may come in contact with the hot material against any harm.

5. TRAFFIC CONTROL

- A. Contractor shall control all traffic through the work area in accordance with the requirements of the latest City of Chandler Traffic Barricade Manual. The City must approve the type of traffic control to be used.
- B. Contractor shall furnish all signs, cones, equipment and other traffic control device necessary for the control of traffic and costs for these devices shall be included in the price per lineal feet bid under this agreement.
- C. Traffic Control will be discussed and specific items reviewed with Contractor prior to commencing work.

6. MATERIAL PRODUCT DATA

The Contractor shall furnish and supply the approved rubberized asphalt crack sealant. The Contractor shall furnish and maintain an adequate supply of the approved material for each day's work.

6.1 GENERAL

The crack sealant material shall be a Type 3 Polyflex crack sealant such as Crafcro Polyflex Type 3, Part No. 34521, or approved alternate. Crack sealant shall be a hot-applied, asphalt based product used to fill cracks and joints in asphalt and Portland cement concrete pavement in warm to hot climates. Crack sealant shall be supplied in solid form which when melted and properly applied forms a highly adhesive and flexible compound that resists cracking in the winter and resists flow and pick-up at summer temperatures. Crack sealant is used in highway, street, airfield and parking lot pavements and is applied to pavement cracks using pressure feed melter applicators. At application temperature, crack sealant shall be a medium viscosity product which flows and penetrates cracks. Crack sealant material shall have VOC = 0g/l. Temperature limits shall be 70-100 in degrees Celsius. The unit weight of crack sealant shall be 10.0 lbs. per gallon (1.20 kg/L) at 60°F (15.5°C).

6.2 SPECIFICATION CONFORMANCE Specification limits of the crack sealant when heated in accordance with ASTM D5078 to the maximum heating temperature shall be as follows:

TEST	RECOMMENDED SPECIFICATION
Cone Penetration (ASTM D5329)	20-40
Resilience (ASTM D5329)	30% min.
Softening Point (ASTM D36)	210°F (99°C) min.
Ductility, 77F (25C) (ASTM D113)	30 cm min.
Flexibility (ASTM D3111 Modified)	Pass at 30°F (-1°C)
Flow 140°F (60°C) (ASTM D5329)	3 mm max
Brookfield Viscosity, 400°F (204°C) (ASTM D2669)	100 Poise max.
Asphalt Compatibility (ASTM D5329)	Pass
Bitumen Content (ASTM D4)	60% min.
Tensile Adhesion (ASTM D5329)	400% min.
Maximum Heating Temperature	400°F (204°C)
Minimum Application Temperature	380°F (193°C)

**EXHIBIT F
TECHNICAL SPECIFICATIONS
ASPHALT STRIPING AND MARKINGS**

1. DESCRIPTION

Work under this specification consists of painting parking lot striping, speed humps, dumpster enclosures, parking space numbers and lettering, handicap parking, and traffic control markings.

2. WEATHER CONDITION

The Project Manager together with the Contractor's supervisor shall determine if weather conditions are such as to adversely affect the operations, or whether or not the operations should cease. Paint shall not be applied during wet weather or under conditions, which will adversely affect the operations.

3. PAVEMENT PAINTING

The Contractor shall;

- A. shall remove all dirt, dust, grease, oil or other foreign material from the road surface prior to the application of paint,
- B. prepare surface and apply paint per the manufacturer's recommendations,
- C. apply paint with mechanical equipment to produce uniform straight edges,
- D. apply a minimum of two coats of paint at 15 mils per coat,
- E. insure that colors completely hide the black asphalt after applied and cured,
- F. paint 4" parking space lines and 10" letters and numbers in white,
- G. paint directional Arrows, speed humps and 4" no parking hash lines in yellow,
- H. paint handicap space marking in white and blue.

4. LAYOUT

All spacing, striping, lettering, numbering, traffic control, and No Parking areas should follow existing markings. In the event any of the items to be re-striped are not clearly visible for re-stripe, or otherwise not obvious to the contractor, the Contractor shall contact the Project Manager for verification.

5. TRAFFIC CONTROL

All traffic control while installing pavement markings is the sole responsibility of the Contractor. It is recommended that traffic control devices be of such type and quantity that residents cannot easily drive over or around. Contractor is responsible for protecting all striped or painted surfaces until completely cured and safe to drive on.

6. MATERIAL PRODUCT DATA

All paint used shall be water based and formulated for street striping and traffic marking purposes. The paint must be compatible with TRMSS. Acceptable products include Pervo – Pervostripe, Sherwin Williams – Pro-Park, Ennis-Flint – EF Series Standard Dry or approved alternate.

**EXHIBIT G
BID FORM**

BID NUMBER: H04-745-3342

In compliance with the Advertisement for Bids, by the City of Chandler Purchasing Division, the undersigned bidder:

Having examined the contract documents, work site, and being familiar with the conditions to be met, hereby submits the following bid for all labor, materials, and equipment, for the completion of the work listed and agrees to execute the contract documents and furnish the required bonds and certificates of insurance for the completion of said work, at the locations and for the prices set forth hereinafter.

Understands that the bid shall be submitted with a bid guarantee of cashier's check or surety bond for an amount not less than (10%) ten percent of the amount bid.

Work shall be completed within **NINETY (90)** calendar days, as specified in the Notice to Proceed. The time allowed for completion of the work includes lead time for obtaining the necessary material and/or equipment.

The bidder hereby acknowledges receipt of and agrees his bid is based on the following Addenda.

ADDENDUM 1 DATED 1/15/2014 ADDENDUM 2 DATED 1/23/2014

BASE BID

The undersigned agrees to complete this project at the prices listed below:

#	LOCATION	COST
1.	130 N. Hamilton St.	\$ 10,048.50
2.	210 N. McQueen Rd.	\$ 7,994.14
3.	73 S. Hamilton St.	\$ 19,425.07
4.	660 S. Palm Ln.	\$ 8,639.68
5.	127 N. Kingston St.	\$ 5,515.51
TOTAL		\$ 51,622.90

EXHIBIT H1
PERFORMANCE BOND

STATUTORY PERFORMANCE BOND PURSUANT TO
TITLE 34, CHAPTER 2, ARTICLE 2,
OF THE ARIZONA REVISED STATUTES
(Penalty of this bond must be 100% of the Bond amount)

KNOW ALL MEN BY THESE PRESENTS: That, _____ (hereinafter called the Principal), as Principal, and _____ a corporation organized and existing under the law of the State of _____ with its principal office in the City of _____, (hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Chandler, County of Maricopa, State of Arizona, in the amount of _____ Dollars (\$_____), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the City of Chandler, Dated the _____ day of _____, _____, for **Parking Lot Sealcoat and Striping Family Sites PHA; Bid No. H04-745-3342**, which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copies at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform and fulfill all the undertakings, covenants terms, conditions, and agreements of said contract during the original term of said Contract and any extensions thereof, with or without notice to the Surety, and during the life of any warranty required under the contract, and shall also perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of conditions of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; then the above obligations shall be void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2 of the Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of said Title, Chapter and Article, to the extent as if it were copied at length herein.

The prevailing party in a suit on this bond shall be entitled to such reasonable attorney's fees as may be fixed by a judge of the Court.

Witness our hands this ____ day of _____, 2014.

PRINCIPAL SEAL

AGENT OF RECORD

BY _____

SURETY SEAL

AGENT ADDRESS

**EXHIBIT H2
PAYMENT BOND**

ARIZONA STATUTORY PAYMENT BOND
PURSUANT TO TITLES 28, 34, AND 41, OF THE ARIZONA REVISED STATUTES
(Penalty of this Bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS:

THAT: _____ (hereinafter "Principal"), as Principal, and _____ (hereinafter "Surety"), a corporation organized and existing under the laws of the State of _____ with its principal office in the City of _____, holding a certificate of authority to transact surety business in Arizona issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, as Surety, are held and firmly bound unto the City of Chandler, (hereinafter "Obligee") County of Maricopa, State of Arizona, in the amount of _____ Dollars (\$ _____), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the City of Chandler, dated the _____ day of _____, 2014, **Parking Lot Sealcoat and Striping Family Sites PHA; Bid No. H04-745-3342**, which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copies at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal promptly pays all moneys due to all persons supplying labor or materials to the Principal or the Principal's subcontractors in the prosecution of the work provided for in said contract, this obligation is void. Otherwise it remains in full force and effect.

PROVIDED, HOWEVER that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2 Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the same extent as if it were copied at length in this agreement.

The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees that may be fixed by a judge of the court.

Witness our hands this _____ day of _____, 2014.

PRINCIPAL SEAL

AGENT OF RECORD

BY _____

AGENT ADDRESS

SURETY SEAL

EXHIBIT I

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

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

Representations, Certifications, and Other Statements of Bidders

Public and Indian Housing Programs

Table of Contents

Clause	Page
1. Certificate of Independent Price Determination	1
2. Contingent Fee Representation and Agreement	1
3. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions	1
4. Organizational Conflicts of Interest Certification	2
5. Bidder's Certification of Eligibility	2
6. Minimum Bid Acceptance Period	2
7. Small, Minority, Women-Owned Business Concern Representation	2
8. Indian-Owned Economic Enterprise and Indian Organization Representation	2
9. Certification of Eligibility Under the Davis-Bacon Act	3
10. Certification of Nonsegregated Facilities	3
11. Clean Air and Water Certification	3
12. Previous Participation Certificate	3
13. Bidder's Signature	3

1. Certificate of Independent Price Determination

(a) The bidder certifies that--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Contingent Fee Representation and Agreement

(a) Definitions. As used in this provision:

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

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

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

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

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

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

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

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

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

EXHIBIT J
DAVIS BACON INFORMATION

Davis-Bacon and Related Acts
(40 USC §276a; 29 CFR Parts 1, 3, 5, 6 and 7)

Who is Covered

The Davis-Bacon and Related Acts (DBRA) are administered by the Wage and Hour Division. These Acts apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works.

Basic Provisions/Requirements

The Davis-Bacon Act requires that all contractors and subcontractors performing on federal contracts (and contractors or subcontractors performing on federally assisted contracts under the related Acts) in excess of \$2,000 pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits listed in the contract's Davis-Bacon wage determination for corresponding classes of laborers and mechanics employed on similar projects in the area. Davis-Bacon labor standards clauses must be included in covered contracts.

Apprentices may be employed at less than predetermined rates if they are in an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department. Trainees may be employed at less than predetermined rates if they are in a training program certified by the Department.

Contractors and subcontractors on prime contracts in excess of \$100,000 are required, pursuant to the Contract Work Hours and Safety Standards Act, to pay employees one and one-half times their basic rates of pay for all hours over 40 worked on covered contract work in a workweek. Covered contractors and subcontractors are also required to pay employees weekly and to submit weekly certified payroll records to the contracting agency.

Employee Rights

The Davis-Bacon and Related Acts provide laborers and mechanics on covered federally financed or assisted construction contracts the right to receive at least the locally prevailing wage rate and fringe benefits, as determined by the Department of Labor, for the type of work performed. The Wage and Hour Division and respective federal contracting agencies accept complaints of alleged Davis-Bacon violations.

Recordkeeping, Reporting, Notices and Posters

Notices and Posters

Every employer performing work covered by the labor standards of the DBRA must post the WH-1321 "Employee Rights Under the Davis-Bacon Act" poster at the site of the work in a prominent and accessible place where it may be easily seen by employees. There is no particular size requirement. The wage determination must be similarly posted.

Recordkeeping

Under the DBRA, covered contractors must maintain payroll and basic records for all laborers and mechanics during the course of the work and for a period of three years thereafter. Records to be maintained include:

- Name, address, and Social Security number of each employee
- Each employee's work classifications
- Hourly rates of pay, including rates of contributions or costs anticipated for fringe benefits or their cash equivalents
- Daily and weekly numbers of hours worked
- Deductions made
- Actual wages paid

- If applicable, detailed information regarding various fringe benefit plans and programs, including records that show that the plan or program has been communicated in writing to the laborers and mechanics affected
- If applicable, detailed information regarding approved apprenticeship or trainee programs

Some of the records required to be kept under the law are also required under the Fair Labor Standards Act. See Wage and Hour Division Fact sheet #21: Recordkeeping Requirements under the Fair Labor Standards Act (FLSA).

Reporting

Each covered contractor and subcontractor must, on a weekly basis, **provide the federal agency a copy of all payrolls** providing the information listed above under "Recordkeeping" for the preceding weekly payroll period. **Each payroll submitted must be accompanied by a "Statement of Compliance."** The contractor, subcontractor or the authorized officer or employee of the contractor or subcontractor who supervises the payment of wages must sign the weekly statement. Statements of Compliance are to be made on the form WH-347 "Payroll (For Contractors Optional Use)" or on any form with identical wording. This must be completed within seven days after the regular pay date for the pay period.

Contractors may also be asked to submit, via survey, wage data that may be used by the Wage and Hour Division to determine the locally prevailing wage rates that will apply to workers on Davis-Bacon and DBRA-covered projects. The submission of wage data is encouraged, but voluntary. Contractors and others may use the WD-10 Form, Report of Construction Contractor's Wage Rates.

Penalties/Sanctions

Contractors or subcontractors found to have disregarded their obligations to employees, or to have committed aggravated or willful violations while performing work on Davis-Bacon covered projects, may be subject to contract termination and debarment from future contracts for up to three years. In addition, contract payments may be withheld in sufficient amounts to satisfy liabilities for unpaid wages and liquidated damages that result from overtime violations of the Contract Work Hours and Safety Standards Act (CWHSSA).

Contractors and subcontractors may challenge determinations of violations and debarment before an Administrative Law Judge. Contractors and subcontractors may appeal decisions by Administrative Law Judge's with the Department's Administrative Review Board. Final Board determinations on violations may be appealed to and are enforceable through the federal courts.

Falsification of certified payroll records or the required kickback of wages may subject a contractor or subcontractor to civil or criminal prosecution, the penalty for which may be fines and/or imprisonment.

Relation to State, Local, and Other Federal Laws

Since 1931, Congress has extended the Davis-Bacon prevailing wage requirements to some 60 related Acts which provide federal assistance for construction through loans, grants, loan guarantees, and insurance. These Acts include by reference the requirements for payment of the prevailing wages in accordance with the Davis-Bacon Act. Examples of the related Acts are the American Recovery and Reinvestment Act of 2009, the Federal-Aid Highway Acts, the Housing and Community Development Act of 1974, and the Federal Water Pollution Control Act.

The Copeland "Anti-Kickback" Act prohibits contractors from in any way inducing an employee to give up any part of the compensation to which he or she is entitled under his or her contract of employment, and requires contractors to submit a weekly statement of the wages paid to each employee performing DBRA covered work.

Contractors on projects subject to DBRA labor standards may also be subject to additional prevailing wage and overtime pay requirements under State and local laws. Also, overtime work pay requirements under CWHSSA and the Fair Labor Standards Act may apply.

Compliance Assistance Available

The Department of Labor provides employers, workers, and others with clear and easy-to-access information and assistance on how to comply with the Davis-Bacon and Related Acts, such as the [DBRA Forms page](#). Other compliance assistance related to the Act — including the [Davis-Bacon and Related Acts \(DBRA\) Web Page](#) and regulatory and interpretive materials — is available on the [Compliance Assistance "By Law" Web page](#). Also, the [Wage Determinations OnLine \(WDOL\) Web site](#) provides a single location for federal contracting officers to obtain Davis-Bacon wage determinations for use in covered contracts. The WDOL Web site library provides a variety of links that relate to compliance with the prevailing wage laws that apply to federal and federally assisted contracts.

EXHIBIT K

>

General Decision Number: AZ140001 01/17/2014 AZ1

Superseded General Decision Number: AZ20130001

State: Arizona

Construction Type: Residential

County: Maricopa County in Arizona.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories).

Modification Number	Publication Date
0	01/03/2014
1	01/17/2014

BRAZ0003-007 07/01/2010

	Rates	Fringes
BRICKLAYER.....	\$ 18.00	4.13

 ENGI0428-005 07/29/2013

	Rates	Fringes
OPERATOR: Grader/Blade.....	\$ 25.34	9.05

 * IRON0075-008 01/01/2014

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 26.52	21.02

 PLAS0394-006 07/01/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...\$	22.84	8.57

 SUAZ2011-001 07/28/2011

	Rates	Fringes
ALARM INSTALLER, Includes Wiring and Installation.....	\$ 13.91	0.00
CARPENTER, Excludes Drywall Hanging, and Form Work.....	\$ 18.16	0.00
DRYWALL HANGER.....	\$ 15.00	0.58
ELECTRICIAN, Excludes Low Voltage Wiring and Installation of Alarms.....	\$ 15.45	0.01

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====
END OF GENERAL DECISION

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

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

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

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

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

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

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

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

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

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

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

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

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

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the Journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

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

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

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

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such 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.

General Contract Conditions for Small Construction/Development Contracts EXHIBIT M

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing
OMB Approval No. 2577-0157 (exp. 01/31/2014)

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

1. Definitions

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

2. Prohibition Against Liens

The Contractor is prohibited from placing a lien on the PHA's property. This prohibition shall apply to all subcontractors at any tier and all materials suppliers. The only liens on the PHA's property shall be the Declaration of Trust or other liens approved by HUD.

3. Disputes

- (a) Except for disputes arising under the **Labor Standards** clauses, all disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the PHA against the Contractor shall be subject to a written decision by the Contracting Officer.
- (c) The Contracting Officer shall, within 30 days after receipt of the request, decide the claim or notify the Contractor of the date by which the decision will be made.
- (d) The Contracting Officer's decision shall be final unless the Contractor (1) appeals in writing to a higher level in the PHA in accordance with the PHA's policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within 30 days after receipt of the Contracting Officer's decision.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

4. Default

- (a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within this time, the Contracting Officer may, by written notice to the Contractor, terminate the right to proceed with the work (or separable part of the work) that has been delayed. In the event, the PHA may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, equipment, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the PHA resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the PHA in completing the work.

- (b) The Contractor's right to proceed shall not be terminated or the

Contractor charged with damages under this clause if –

- (1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor; and
 - (2) The Contractor, within 10 days from the beginning of such delay notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of Fact warrant such action, time for completing the work shall be extended by written modification to the contract. The findings of the Contracting Officer shall be reduced to a written decision which shall be subject to the provisions of the **Disputes** clause of this contract.
- (c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligation of the parties will be the same as if the termination had been for convenience of the PHA.

5. Termination for Convenience

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

6. Insurance

- (a) Before commencing work, the Contractor and each subcontractor shall furnish the PHA with certificates of insurance showing the following insurance is in force and will insure all operations under the Contract:

(1) Workers' Compensation, in accordance with state or Territorial Workers' Compensation laws.

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

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

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

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

7. Contract Modifications

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

change in the PHA address). All other contract modifications shall be in the form of supplemental agreements signed by the Contractor and the Contracting Officer.

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

8. Changes

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

breakdowns by hours or unit costs (identified with specific work to be performed); Construction equipment exclusively necessary for the change; Costs of preparation and/or revision to shop drawings resulting from the change; Worker's Compensation and Public Liability Insurance; Employment taxes under FICA and FUTA; and, Bond Costs - when size of change warrants revision.

- (2) Indirect Costs. Indirect costs may include overhead, general and administrative expenses, and fringe benefits not normally treated as direct costs.
- (3) Profit. The amount of profit shall be negotiated and may vary according to the nature, extent, and complexity of the work required by the change.

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

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

9. Examination and Retention of Contractor's Records

The HA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

10. Rights in Data and Patent Rights (Ownership and Proprietary Interest)

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

11. Energy Efficiency

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

12. Procurement of Recovered Materials

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

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

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the

qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

14. Labor Standards - Davis-Bacon and Related Acts

(a) Minimum Wages.

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

a prominent and accessible place where it can be easily seen by the workers.

- (2) (i) Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:
- (a) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (b) The classification is utilized in the area by the construction industry; and
 - (c) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employee Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.
- (iii) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.
- (iv) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (a)(2)(ii) or (iii) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (3) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (4) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; *provided*, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

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

(c) **Payrolls and Basic Records.**

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

of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

- (2) (i) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1214-0149.)
- (ii) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
- (A) That the payroll for the payroll period contains the information required to be maintained under paragraph (c)(1) of this clause and that such information is correct and complete;
- (B) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and
- (C) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (iii) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance" required by subparagraph (c)(2)(ii) of this clause.
- (iv) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.
- (3) The Contractor or subcontractor shall make the records required under subparagraph (c)(1) available for inspection, copying, or transcription by authorized representatives of HUD or its designee, the Contracting Officer, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(d) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

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

(e) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate

specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

(g) **Compliance with Copeland Act Requirements.** The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

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

(i) **Compliance with Davis-Bacon and related Act Requirements.** All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

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

(k) **Certification of Eligibility.**

- (1) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a United States Government

contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

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

(l) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this clause, and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.

(m) Non-Federal Prevailing Wage Rates. Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State law to be prevailing, with respect to any employee in any trade or position employed under the contract, is inapplicable to the contract and shall not be enforced against the Contractor or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate exceeds:

- (i) the applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141 et seq.) to be prevailing in the locality with respect to such trade;
- (ii) an applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the U.S. Department of Labor (DOL) or a DOL-recognized State Apprenticeship Agency; or
- (iii) an applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

EXHIBIT N

SECTION 3 REQUIREMENTS

Section 3 is a provision of the Housing and Urban Development Act of 1968, which recognizes that HUD funds are typically one of the largest sources of federal funding expended in communities. Section 3 is intended to ensure that when employment or contracting opportunities are generated because a covered project or activity necessitates the employment of additional persons or the awarding of contracts for work, preference must be given to low- and very low-income persons or business concerns residing in the community where the project is located.

The purpose of Section 3 (24 CFR Part 135) 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 and to business concerns that provide such opportunities to low and very low-income persons. Bidders are asked to review this entire exhibit and submit the documents requested as a part of your bid submittal.

ATTACHMENTS TO COMPLETE AND SUBMIT WITH BID SUBMITTAL

Attachment 1.	Statement of Workforce Needs
Attachment 2.	Certification for Business Concerns Seeking SECTION 3 Preference in Contracting and Demonstration of Capacity
Attachment 3.	Section 3 Income Verification, Self-Certification
Attachment 4.	Section 3 Compliance Certification

ATTACHMENT 1.

SECTION 3 STATEMENT OF WORKFORCE NEEDS

The Workforce Need Statement Worksheet gathers the following required information:

1. **employees you will need on this project**– *how many people will you to hire?*
2. **employees currently filling each position** – *how many people are already working?*
3. **estimated employees needed to fill each position** – *subtract the number of employees currently filling each position from number of employees needed for each positions to complete the estimated number of employees.*
4. **estimated number of Section 3 employees to be hired to fill the open positions** – *use column 3 to estimate the number of Section 3 residents you anticipate hiring.*

Contractor/Subcontractor Information:	
Company Name:	
Owner Name:	
Address:	
Phone:	Email:

TYPE OF BUSINESS: Corporation Partnership Sole Proprietorship

Estimated Project Workforce Breakdown

Job Category	Total Estimated Positions Needed (this Project)	Number of positions occupied by permanent employees	Number of positions not occupied	Number of positions to be filled with Section 3 Residents (this project)
Professionals				
Technicians				
Office/Clerical				
Officials/Managers				
Sales				
Craft Workers (skilled)				
Equipment Operators (semi-skilled)				
Laborers (unskilled)				
Service Workers				
Other Construction Trades				
TOTALS				

By signing below, I am certifying that the above information is an accurate estimate of workforce needs for this project.

Signature: _____

Date: _____

ATTACHMENT 2.

**CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE
IN CONTRACTING & DEMONSTRATION OF CAPABILITY**

Company Name:			
Company Owner:			
Address:			
Phone:	Fax:	Email:	
Business Type:	<input type="checkbox"/> Corporation	<input type="checkbox"/> Partnership	<input type="checkbox"/> Sole Proprietorship

SECTION 3 DETERMINATION:

If the answer to any of the questions below is YES, the business qualifies as a Section 3 Business Concern. Please provide the required documentation as needed to the City of Chandler Project Manager.

<p>1. Is the business owned (51% or more) by individuals whose household incomes are NO GREATER THAN 80% of Area Median Income? (Please see <i>Income Limits</i> below) <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, the business is considered a 'Section 3 Resident-Owned Enterprise'. One form of documentation is needed for each of the business owners:</p> <table><tr><td><input type="checkbox"/> Federal Income Tax Returns</td><td><input type="checkbox"/> W-2 Income Statements</td><td><input type="checkbox"/> Paycheck Stubs</td></tr><tr><td><input type="checkbox"/> Evidence of Public Assistance</td><td><input type="checkbox"/> Other:</td><td></td></tr></table>	<input type="checkbox"/> Federal Income Tax Returns	<input type="checkbox"/> W-2 Income Statements	<input type="checkbox"/> Paycheck Stubs	<input type="checkbox"/> Evidence of Public Assistance	<input type="checkbox"/> Other:	
<input type="checkbox"/> Federal Income Tax Returns	<input type="checkbox"/> W-2 Income Statements	<input type="checkbox"/> Paycheck Stubs				
<input type="checkbox"/> Evidence of Public Assistance	<input type="checkbox"/> Other:					
<p>2. Do 30% (or more) of your full time, permanent employees have household incomes that are NO GREATER THAN 80% of Area Median Income? (Please see <i>Income Limits</i> below) <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, the business is considered a Section 3 Business Concern. Please provide the following:</p> <table><tr><td><input type="checkbox"/> List of all current Full Time employees</td></tr><tr><td><input type="checkbox"/> Self-Certification Income Forms for all employees earning less than 80% of median income</td></tr></table>	<input type="checkbox"/> List of all current Full Time employees	<input type="checkbox"/> Self-Certification Income Forms for all employees earning less than 80% of median income				
<input type="checkbox"/> List of all current Full Time employees						
<input type="checkbox"/> Self-Certification Income Forms for all employees earning less than 80% of median income						
<p>3. Will you subcontract more than 25% of this contract with any business that is either 51% owned by Section 3 residents or 30% or more of its employees are Section 3 residents? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please provide the following documentation:</p> <table><tr><td><input type="checkbox"/> List of subcontracted Section 3 business(es) and subcontract amount.</td></tr><tr><td><input type="checkbox"/> Evidence which identifies the subcontractor is considered a Section 3 Business Concern (Sections 1 and 2 above provide examples of evidence to be used to identify a Section 3 Business Concern)</td></tr></table>	<input type="checkbox"/> List of subcontracted Section 3 business(es) and subcontract amount.	<input type="checkbox"/> Evidence which identifies the subcontractor is considered a Section 3 Business Concern (Sections 1 and 2 above provide examples of evidence to be used to identify a Section 3 Business Concern)				
<input type="checkbox"/> List of subcontracted Section 3 business(es) and subcontract amount.						
<input type="checkbox"/> Evidence which identifies the subcontractor is considered a Section 3 Business Concern (Sections 1 and 2 above provide examples of evidence to be used to identify a Section 3 Business Concern)						

2013 Income Limits - Maricopa County, Arizona

Classification	1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person	9 person	10 person
Extremely Low (30%)	\$13,300	\$15,200	\$17,100	\$18,950	\$20,500	\$22,000	\$23,500	\$25,050	\$26,500	\$28,050
Very Low (50%)	\$22,100	\$25,250	\$28,400	\$31,550	\$34,100	\$36,600	\$39,150	\$41,650	\$44,200	\$46,700
Low (80%)	\$35,350	\$40,400	\$45,450	\$50,500	\$54,550	\$58,600	\$62,650	\$66,700	\$70,700	\$74,750

By signing below, I am certifying that the above information is an accurate estimate of workforce needs for this project.

Signature: _____

Date: _____

**SECTION 3 COMPLIANCE CERTIFICATION
ECONOMIC OPPORTUNITIES FOR LOW AND VERY LOW INCOME PERSONS**

The Section 3 Compliance Certification form is provided to bidders to ensure they are aware of the requirements and clauses that will be required in all Section 3 covered subcontracts contracts. The selected contractor and its subcontractors will be bound by its provisions.

The City of Chandler Housing Division will ensure that the following clauses are included in all Section 3 covered contracts. The contractor and subcontractors (where applicable) will be bound by its provisions.

Every applicant, recipient, contracting part, contractor, and subcontractor shall incorporate, or cause to be incorporated, in all contractors for work in connection with a Section 3 covered project, the following clause:

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S. C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance of HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 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.

This form provides technical specifications as part of the HUD requirements pertaining to Section 3. The General Contractor that is selected for this project will be required to provide this form to any subcontractor hired for this project. If you are the selected contractor for this project, you must agree to comply with Steps 1, 2 & 3 below:

1. You must sign and date this form for every pay period in connection with this project and include with your Pay Application, and Davis-Bacon Certified Payroll Report:
2. In connection with this project, you must also complete, sign, date, and submit a MONTHLY report (Attachment 5) for every pay period worked, to the City of Chandler Project Manager.
3. If applicable, you must fill out and sign the **Certification For Business Concerns Seeking Section 3 Preference In Contracting And Demonstration Of Capability** (Attachment 2).

I have read, understand, and agree to comply with these requirements as stated above.

Authorized Name: _____
PRINT

Title: _____

Signature: _____

Company Name: _____
PRINT

Date: _____

**CITY OF CHANDLER SERVICES AGREEMENT
PARKING LOT SEALCOAT AND STRIPING FAMILY SITES PHA
AGREEMENT NO.: H04-745-3342**

THIS AGREEMENT is made and entered into this ____ day of _____, 2014, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and **ACE ASPHALT of ARIZONA, INC.**, hereinafter referred to as "CONTRACTOR".

WHEREAS, CONTRACTOR represents that CONTRACTOR has the expertise and is qualified to perform the services described in the Agreement.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATOR:

- 1.1. Contract Administrator.** CONTRACTOR shall act under the authority and approval of the Public Housing Coordinator/designee (Contract Administrator), to provide the services required by this Agreement.
 - 1.2. Key Staff.** This Contract has been awarded to CONTRACTOR based partially on the key personnel proposed to perform the services required herein. CONTRACTOR shall not change nor substitute any of these key staff for work on this Contract without prior written approval by CITY.
 - 1.3. Subcontractors.** During the performance of the Agreement, CONTRACTOR may engage such additional SUBCONTRACTORS as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with CONTRACTOR.
 - 1.4. Subcontracts.** CONTRACTOR shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of CITY. The subcontract shall incorporate by reference the terms and conditions of this Contract.
- 2. SCOPE OF WORK:** CONTRACTOR shall perform specified sealcoating and striping services to family sites all as more specifically set forth in the Scope of Work, labeled Exhibit B, Technical Specifications Exhibits C-F, Price, Exhibit G, Performance and Payment Bonds, Exhibits H1-H2 attached hereto and made a part hereof by reference and as set forth in the Specifications and details included therein.
- 2.1. Non-Discrimination.** The CONTRACTOR shall comply with State Executive Order No. 99-4 and all other applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.
 - 2.2. Licenses.** CONTRACTOR shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by the CONTRACTOR as applicable to this contract.
 - 2.3. Advertising, Publishing and Promotion of Contract.** The CONTRACTOR shall not use, advertise or promote information for benefit concerning this Contract without the prior written approval of the CITY.
 - 2.4. Compliance With Applicable Laws.** CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable licenses and permit requirements.

- 2.4.1 Pursuant to the provisions of A.R.S. § 41-4401, the Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").
- 2.4.2 A breach of the Contractor Immigration Warranty (Exhibit A) shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.
- 2.4.3 The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.
- 2.4.4 The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verifications.
- 2.4.5 The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.
- 2.4.6 In accordance with A.R.S. §35-393.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Iran.
- 2.4.7 In accordance with A.R.S. §35-391.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Sudan.
- 2.5. **Two-Year Warranty.** CONTRACTOR must provide a two-year warranty on all work performed pursuant to this Contract.
3. **ACCEPTANCE AND DOCUMENTATION:** Each task shall be reviewed and approved by the Contract Administrator to determine acceptable completion.
- 3.1. **Records.** The CONTRACTOR shall retain and shall contractually require each SUBCONTRACTOR to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.
- 3.2. **Audit.** At any time during the term of this Contract and five (5) years thereafter, the CONTRACTOR'S or any SUBCONTRACTOR'S books and records shall be subject to audit by the City to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, the CONTRACTOR shall produce a legible copy of any or all such records.
- 3.3. **New/Current Products.** All equipment, materials, parts and other components incorporated in the work or services performed pursuant to this Contract shall be new, or the latest model and of the most suitable grade for the purpose intended. All work shall be performed in a skilled and workmanlike manner.
- 3.4. **Property of CITY.** Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of CITY. CONTRACTOR is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. CONTRACTOR shall not use or release these materials without the prior written consent of CITY.

4. **PRICE:** CITY shall pay to CONTRACTOR an amount not to exceed **FIFTY ONE THOUSAND SIX HUNDRED TWENTY TWO DOLLARS NINETY CENTS (\$ 51,622.90)** for the completion of all the work and services described herein, which sum shall include all costs or expenses incurred by CONTRACTOR, payable as set forth in Exhibit C, attached hereto and made a part hereof by reference.
- 4.1. **Taxes.** CONTRACTOR shall be solely responsible for any and all tax obligations, which may result out of the CONTRACTOR'S performance of this Agreement. The CITY shall have no obligation to pay any amounts for taxes, of any type, incurred by the CONTRACTOR.
- 4.2. **Payment.** A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or completion of specified services and receipt of a correct invoice.
- 4.3. **Estimated Quantities.** The quantities shown on Exhibit C (the Price List) are estimates only, based upon available information. Payment shall be based on actual quantities and there is no guarantee that any certain quantity shall be required by CITY. City reserves the right to increase or decrease the quantities actually required.
- 4.4. **IRS W9 Form.** In order to receive payment CONTRACTOR shall have a current I.R.S. W9 Form on file with CITY, unless not required by law.
- 4.5. **Acceptance by City.** CITY reserves the right to accept or reject the request for a price increase. If CITY approves the price increase, the price shall remain firm for the renewal term for which it was requested. If a price increase is agreed upon a written Contract Amendment must be approved and executed by the Parties.
5. **TERM:** Following execution of this Agreement by CITY, CONTRACTOR shall immediately commence work and all work must be completed within **Ninety (90) days** from the Notice to Proceed.
- 5.1. **LIQUIDATED DAMAGES:** The CONTRACTOR understands that if Substantial Completion is not attained within the Contract Time as adjusted, the City will suffer damages, which are difficult to determine and accurately specify. The CONTRACTOR agrees that if Substantial Completion is not attained within the Contract Time as adjusted, the CONTRACTOR will pay as liquidated damages the amount of \$100 per calendar day for each day beyond the completion date indicated in the Notice to Proceed.
6. **USE OF THIS CONTRACT:** The Contract is for the sole convenience of the City of Chandler. CITY reserves the rights to obtain like services from another source to secure significant cost savings or when timely completion cannot be met by CONTRACTOR.
- 6.1. **Emergency Purchases:** CITY reserves the rights to purchase from other sources those items, which are required on an emergency basis and cannot be supplied immediately by the CONTRACTOR.

7. CITY'S CONTRACTUAL REMEDIES:

- 7.1. Right to Assurance.** If the City in good faith has reason to believe that the CONTRACTOR does not intend to, or is unable to perform or continue performing under this Contract, the Contract Administrator may demand in writing that the CONTRACTOR give a written assurance of intent to perform. Failure by the CONTRACTOR to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Contract in addition to any other rights and remedies provided by law or this Contract.
- 7.2. Stop Work Order.** The City may, at any time, by written order to the CONTRACTOR, require the CONTRACTOR to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the City after the order is delivered to the CONTRACTOR. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the CONTRACTOR shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
- 7.3.** If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the CONTRACTOR shall resume work. The Contract Administrator shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 7.4. Non-exclusive Remedies.** The rights and the remedies of the City under this Contract are not exclusive.
- 7.5. Nonconforming Tender.** Services and materials supplied under this Contract shall fully comply with Contract requirements and specifications. Services or materials that do not fully comply constitute a breach of contract.
- 7.6. Right of Offset.** The City shall be entitled to offset against any sums due CONTRACTOR, any expenses or costs incurred by the City, or damages assessed by the City concerning the CONTRACTOR'S non-conforming performance or failure to perform the Contract, including expenses to complete the work and other costs and damages incurred by CITY.

8. TERMINATION:

- 8.1. Termination for Convenience:** CITY reserves the right to terminate this Agreement or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, CONTRACTOR shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subCONTRACTORS to cease such work. As compensation in full for services performed to the date of such termination, the CONTRACTOR shall receive a fee for the percentage of services actually performed. This fee shall be in the amount to be mutually agreed upon by the CONTRACTOR and CITY, based on the agreed Scope of Work. If there is no mutual agreement, the Management Services Director shall determine the percentage of work performed under each task detailed in the Scope of Work and the CONTRACTOR'S compensation shall be based upon such determination and CONTRACTOR'S fee schedule included herein.

- 8.2. Termination for Cause:** City may terminate this Agreement for Cause upon the occurrence of any one or more of the following events:
- 1) If CONTRACTOR fails to perform pursuant to the terms of this Agreement
 - 2) If CONTRACTOR is adjudged a bankrupt or insolvent;
 - 3) If CONTRACTOR makes a general assignment for the benefit of creditors;
 - 4) If a trustee or receiver is appointed for CONTRACTOR or for any of CONTRACTOR'S property;
 - 5) If CONTRACTOR files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws;
 - 6) If CONTRACTOR disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction;
 - 7) Where Agreement has been so terminated by CITY, the termination shall not affect any rights of CITY against CONTRACTOR then existing or which may thereafter accrue.
- 8.3. Cancellation for Conflict of Interest.** Pursuant to A.R.S. § 38-511, CITY may cancel this Contract after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when the CONTRACTOR receives written notice of the cancellation unless the notice specifies a later time.
- 8.4. Gratuities.** CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by CONTRACTOR or a representative of CONTRACTOR to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by CONTRACTOR.
- 8.5. Suspension or Debarment.** CITY may, by written notice to the CONTRACTOR, immediately terminate this Contract if CITY determines that CONTRACTOR has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a SUBCONTRACTOR of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the CONTRACTOR is not currently suspended or debarred. If CONTRACTOR becomes suspended or debarred, CONTRACTOR shall immediately notify CITY.
- 8.6. Continuation of Performance Through Termination.** The CONTRACTOR shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.
- 8.7. No Waiver.** Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
- 8.8. Availability of Funds for the next Fiscal Year.** Funds may not presently be available under this agreement beyond the current fiscal year. No legal liability on the part of the CITY for services may arise under this agreement beyond the current fiscal year until funds are made available for performance of this agreement. The CITY may reduce services or terminate this agreement without further recourse, obligation, or penalty in the event that insufficient funds are appropriated. The City Manager shall have the sole and unfettered discretion in determining the availability of funds.

9. **FORCE MAJEURE:** Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.
10. **DISPUTE RESOLUTION:**
- 10.1. **Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 10.2. **Jurisdiction and Venue.** The parties agree that this Agreement is made in and shall be performed in Maricopa County. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Maricopa County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.
- 10.3. **Fees and Costs.** Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication.
11. **INDEMNIFICATION:** To the fullest extent permitted by law, CONTRACTOR, its successors, assigns and guarantors, shall defend, indemnify and hold harmless City and any of its elected or appointed officials, officers, directors, commissioners, board members, agents or employees from and against any and all allegations, demands, claims, proceedings, suits, actions, damages, including, without limitation, property damage, environmental damages, personal injury and wrongful death claims, losses, expenses (including claim adjusting and handling expenses), penalties and fines (including, but not limited to, attorney fees, court costs, and the cost of appellate proceedings), judgments or obligations, which may be imposed upon or incurred by or asserted against the City by reason of this Agreement or the services performed or permissions granted under it, or related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by CONTRACTOR, or any of its subcontractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, relating to the discharge of any duties or the exercise of any rights or privileges arising from or incidental to this Agreement, including but not limited to, any injury or damages claimed by any of CONTRACTOR's and subcontractor's employees
12. **INSURANCE:**
1. General.
- A. At the same time as execution of this Agreement, the CONTRACTOR shall furnish the City of Chandler a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY. Provided, however, the A.M. Best rating requirement shall not be deemed to apply to required Workers' Compensation coverage.
- B. The CONTRACTOR and any of its subcontractors, subconsultants or sublicensees shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.
- C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.

- D. The City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect CONTRACTOR from liabilities that might arise out of the performance of the Agreement services under this Agreement by CONTRACTOR, its agents, representatives, employees, subcontractors, sublicensees or subconsultants and the CONTRACTOR is free to purchase any additional insurance as may be determined necessary.
- E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve the CONTRACTOR from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.
- F. Use of SubContractors: If any work is subcontracted in any way, the CONTRACTOR shall execute a written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of the CONTRACTOR in this Agreement. The CONTRACTOR is responsible for executing the Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.
2. Minimum Scope And Limits Of Insurance. The CONTRACTOR shall provide coverage with limits of liability not less than those stated below.
- A. *Commercial General Liability-Occurrence Form.* CONTRACTOR must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.
- B. *Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles Vehicle Liability:* CONTRACTOR must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on CONTRACTOR owned, hired, and non-owned vehicles assigned to or used in the performance of the CONTRACTOR's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.
- C. *Workers Compensation and Employers Liability Insurance:* CONTRACTOR must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of CONTRACTOR employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than \$1,000,000 for each accident and \$1,000,000 disease for each employee.
3. Additional Policy Provisions Required.
- A. *Self-Insured Retentions Or Deductibles.* Any self-insured retentions and deductibles must be declared and approved by the City. If not approved, the City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the City, its officers, officials, agents, employees, and volunteers.
- B. *City as Additional Insured.* The policies are to contain, or be endorsed to contain, the following provisions:
1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the CONTRACTOR including the City's general supervision of the CONTRACTOR; Products and Completed operations of the CONTRACTOR; and automobiles owned, leased, hired, or borrowed by the CONTRACTOR.

2. The CONTRACTOR's insurance must contain broad form contractual liability coverage and must not exclude liability arising out of explosion, collapse, or underground property damage hazards ("XCU") coverage.
3. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the CONTRACTOR even if those limits of liability are in excess of those required by this Agreement.
4. The CONTRACTOR's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees shall be in excess of the coverage provided by the CONTRACTOR and must not contribute to it.
5. The CONTRACTOR's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
6. Coverage provided by the CONTRACTOR must not be limited to the liability assumed under the indemnification provisions of this Agreement.
7. The policies must contain a severability of interest clause and waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by the CONTRACTOR for the City.
8. The CONTRACTOR, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of 3 years following completion and acceptance of the Work. The CONTRACTOR must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this 3 year period containing all the Agreement insurance requirements, including naming the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.
9. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the required policies expire during the life of this Agreement, the CONTRACTOR must forward renewal or replacement Certificates to the City within 10 days after the renewal date containing all the necessary insurance provisions.

13. **NOTICES:** All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of the CITY

Contract Administrator: Housing Project Coord.
Contact: Wayne McMinn
Mailing Address: _____
Physical Address: 235 S. Arizona Ave.
City, State, Zip Chandler, AZ 85225
Phone: 480-782-3204
FAX: 480-782-3220

Wayne.mcminn@chandleraz.gov

In the case of the CONTRACTOR

Firm Name: Ace Asphalt of Arizona Inc.
Contact: Mike Jensen
Address: 3030 S. 7th St.
City, State, Zip Phoenix, AZ 85040
Phone: 602-304-4023
FAX: 602-304-4023
jensenm@aceasphalt.com

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

14. **CONFLICT OF INTEREST:**

- 14.1. **No Kickback.** CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in CONTRACTOR'S proposal to the CITY.

- 14.2. **Kickback Termination.** CITY may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the CITY is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a CONTRACTOR to any other party to the Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when written notice from CITY is received by all other parties, unless the notice specifies a later time (A.R.S. §38-511).

- 14.3. **No Conflict:** CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

15. **GENERAL TERMS:**

- 15.1. **Ownership.** All deliverables and/or other products of the Contract (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by CONTRACTOR in performance of the Contract) shall be the sole, absolute and exclusive property of CITY, free from any claim or retention of right on the part of CONTRACTOR, its agents, sub-contractors, officers or employees.

15.2. Performance and Payment Bonds.

Within fifteen (15) days from the time a Contract is awarded, CONTRACTOR shall furnish fully executed Performance and Payment Bond (Labor and Materials) in such form and context as determined by CITY from a surety approved by CITY. Said bonds shall be in a sum no less than one hundred (100%) of the Contract price.

CITY has the option to forfeit said bonds if the Contract is terminated by the default of CONTRACTOR or if CITY determines that CONTRACTOR is unable or unwilling to complete the work as specified in the Contract Documents.

If the Contract schedule is not adhered to, and CITY determines that the work is unlikely to be completed within a reasonable time after the original target date, then CITY may terminate the Contract and collect the Performance Bond.

The Performance Bond will be reviewed annually and any increases in the contract amount will require bond to be increased and reissued.

- 15.3. Entire Agreement.** This Agreement, including all Exhibits attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.
- 15.4. Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 15.5. Assignment:** Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the CITY.
- 15.6. Amendments.** The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the CONTRACTOR are violations of the Contract. Any such changes, including unauthorized written Contract Amendments shall be void and without effect, and the CONTRACTOR shall not be entitled to any claim under this Contract based on such changes.
- 15.7. Independent CONTRACTOR.** The CONTRACTOR under this Contract is an independent CONTRACTOR. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 15.8. No Parole Evidence.** This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

15.9. Authority: Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this ____ day of _____, 2014.

FOR THE CITY OF CHANDLER

ATTEST:

City Clerk

Approved as to form:

City Attorney *[Signature]*

ACE ASPHALT OF ARIZONA, Inc.

FOR THE CONTRACTOR

By: _____

[Signature]
Signature

MICHAEL G. MOERTL, PRESIDENT

ATTEST: If Corporation

SEAL

[Signature]
Secretary

EXHIBIT A

**Contractor Immigration Warranty
To Be Completed by Contractor Prior to Execution of Contract**

A.R.S. § 41-4401 requires as a condition of your contract verification of compliance by the contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form the contractor shall attest that it and all subcontractors performing work under the cited contract meet all conditions contained herein.

Contract Number: H04-745-3342		
Name (as listed in the contract): Ace Asphalt of Arizona Inc.		
Street Name and Number: 3030 S. 7th St.		
City: Phoenix	State: AZ	Zip Code: 85040

I hereby attest that:

1. The contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this contract;
2. All subcontractors performing work under this contract comply with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of their employees.

Signature of Contractor (Employer) or Authorized Designee:

ACE ASPHALT OF ARIZONA, Inc.

Printed Name: _____

Title: **MICHAEL G. MOERTL PRESIDENT**

Date (month/day/year): _____

**EXHIBIT B
SCOPE OF WORK**

Parking Lot Surface Sealing & Striping Family Sites PHA

1. PROJECT SCOPE OF WORK

Contractor shall perform asphalt crack sealing, Tire Rubber Modified Surface Sealing (TRMSS), re-striping, and asphalt repairs at five (5) Public Housing multi-family sites. The Contractor shall supply all materials, equipment, labor, services, and transportation required to perform the work as described in this scope of work and specifications in a complete and professional manner.

This project is funded by the Department of Housing & Urban Development (HUD). The selected Contractor shall comply with the HUD requirements as noted in the HUD documents included as part of this bid packet. This is a Labor Standards Act, Davis-Bacon AND Related Acts (DBRA) wage rate project.

2. PARKING LOT & DRIVE LOCATIONS, APPROXIMATE SIZE AND NUMBER OF MOBILIZATIONS

Chandler Locations	Approximate Asphalt Area	Number of Mobilizations
A. 130 N. Hamilton St.	35,100 sq. ft.	Two
B. 210 N. McQueen Rd.	26,400 sq. ft.	Two
C. 73 S. Hamilton St.	68,300 sq. ft.	Two
D. 660 S. Palm Ln.	30,500 sq. ft.	Two
E. 127 N. Kingston St.	11,400 sq. ft.	One

3. WORK UNDER THIS CONTRACT

- A. The work under this contract shall be performed at five (5) Public Housing multi-family complexes. Contractor shall provide all labor, materials, tools, equipment, transportation and services necessary to properly complete all traffic control, asphalt patching, cleaning, crack filling, oil spot priming, TRMSS surface sealing, and re-striping as specified in the provisions and specifications contained herein.
- B. Limits of the work shall include all asphalt pavement driveways and parking spaces located at the five (5) Public Housing apartment complexes listed above. The work areas are outlined in yellow on the site plans in Exhibit P.
- C. This project occurs on occupied Public Housing sites where the protection of the residents and the public is essential. The Contractor must take necessary safety precautions to prevent any work related safety hazards for its employees, residents and the public.

4. GENERAL REQUIREMENTS

- A. Contractor shall use the most current version of the City's and/or Maricopa Association of Governments (M.A.G.) standard details and specifications for inspection and quality assurance for all work being done under this Agreement. Contractor shall be responsible for ensuring that workmanship, materials, equipment, and site preparation meet or exceed the required specifications. The Contract Administrator/designee will inspect all phases of work and any unsatisfactory work or preparation shall be redone at no additional cost to the City.
- B. The mobilization count is based on closing and performing all the described work on one half of each site at a time.
- C. Contractor shall have sole responsibility for accuracy of all measurements, estimates of materials quantities, sizes and square footage take-offs.

- D. Contractor shall be responsible for scheduling Blue Stake for identifying and locating all existing utilities affected by the work. Contractor shall be responsible for the repair of all damaged utilities resulting from this work and will coordinate with utility companies and affected residents and businesses for required outages.
- E. Contractor shall keep suitable equipment on hand at the job site for maintaining dust control and shall employ appropriate equipment for that purpose in accordance with the requirements of the "Maricopa County Health Department Air Pollution Control Regulations" Contractor shall be responsible for obtaining an Air Quality Permit from Maricopa County prior to starting the required work. Contractor shall pay all applicable permit fees.
- F. Contractor shall remove from the City's property and legally dispose of all asphalt, sub-grade materials, trash, and debris associated with this project.

5. SURFACE PREPARATION

- A. Contractor shall prepare all asphalt surfaces per the manufacturer's recommendations for the material being applied.
- B. Thoroughly clean existing asphalt using power sweepers, blowers, and wire bristled brooms as required.
- C. Oil, gas and grease spillage areas shall be treated with spot primer. Use Petro Seal by Sealmaster, Poly Oil Seal spot primer or approved alternate.

6. ASPHALT PATCHWORK

- A. Contractor shall remove and replace damaged asphalt in accordance with the technical specifications for Asphalt Patchwork provided in Exhibit D.
- B. The City shall mark all locations for patching.
- C. Asphalt patching shall be a minimum of four (4) inches deep.
- D. The existing asphalt pavement is approximately four (4) inches deep.
- E. There are 83 - 4'x4' patches, 33 - 5'x5 patches, and four (4) - 6'x6' patches for a total of 2,297 square feet of patchwork for the entire project.

7. CRACK SEALING

- A. Crack sealing shall be performed at all project sites prior to the application of TRMSS. Crack sealing shall be performed per the technical specifications for Asphalt Rubber Crack Sealing provided in Exhibit F.
- B. There is alligator cracking at two of the sites in which GatorPave by Sealmaster or approved alternate shall be used in lieu of the crack sealant. The complex at 73 S. Hamilton St. has a 70'x8' area that has alligator cracking. The complex at 127 N. Kingston St. has three areas approximately, 40'x4', 20'x4', and 30'x10' that have alligator cracking. Install the approved alligator crack sealer per the manufacturer's recommendations.
- C. **All cracks at the transition from asphalt to curbs, gutters and concrete flatwork shall be sealed regardless of clear opening size.**

8. TIRE RUBBER MODIFIED SURFACE SEALING

- TRMSS shall be performed per the technical specifications for Tire Rubber Modified Surface Sealing provided in Exhibit C.

9. STRIPING

- A. All traffic control and parking lot striping shall be re-done to match existing after the application of TRMSS in compliance with the technical specifications for Asphalt Striping and Markings provide in Exhibit G.
- B. All striping, speed humps, dumpster enclosures, parking space numbers and lettering, handicap parking, and traffic control markings shall be re-done to match existing.
- C. It shall be the Contractor's responsibility to verify the quantities for striping and markings.
- D. Striping and pavement markings that extend onto adjacent concrete surfaces shall be re-painted.
- E. No striping is required at the maintenance/fenced in area at 73 S. Hamilton St.

10. FIRE LANE MARKING

- A. All existing fire lane curbs, concrete, and asphalt markings shall be repainted red on three (3) sides.
- B. "NO PARKING-FIRE LANE" warnings shall be painted in white with three (3) inch lettering every 100 feet.
- C. The paint shall be red Pervo Brand (Pervostripe) or approved alternate.
- D. All chipped and peeling paint shall be removed prior to painting.

11. PERMITS & LICENSING

The awarded Contractor is responsible for any permitting and licensing required by Federal, State, and Local agencies associated with this project. A building permit from the City of Chandler is not required for this project.

12. WORK SCHEDULE

- A. The awarded Contractor will be permitted to perform work Monday through Friday 7:00 AM to 4:00 PM. Work is not permitted on City of Chandler designated Holidays. Exceptions would be on work deemed an emergency or requiring immediate attention by the Housing Project Coordinator.
- B. Once a site is started the Contractor will continue without delay until completed.
- C. **Contractor shall complete all work for each mobilization and return the affected parking area back to the City and residents for use, within 72 hours after closing the parking area for work.**
- D. Contractor must provide a construction schedule with proposed work dates including start and completion dates.
- E. The Contractor shall have a designated point of contact either a foreman or superintendent on site during operations.

13. CONTRACTOR QUALIFICATIONS

- A. The Contractor and/or Subcontractor(s) performing the work describe is this scope of work must possess one of the following Arizona Registrar of Contractors licenses: A, A-14, A-15, C-13, K-66, or K-69.
- B. The Contractor and/or Subcontractor(s) performing the work describe is this scope of work must provide have of a minimum five (5) years' experience as an Arizona Registrar of Contractors licensed Contractor under one of the required licenses listed above.
- C. The Contractor and/or Subcontractor(s) performing the work describe is this scope of work must have a minimum five (5) years' experience performing the work described in this scope of work.

14. POST AWARD SUBMITTALS

- A. Contractor shall provide the following submittals to the Project Coordinator for approval at the Pre-Construction meeting:
 - 1. Crack Sealing Material
 - 2. Tire Rubber Modified Surface Sealing
 - 3. Striping and Marking Paint
 - 4. Asphalt Patch Material
 - 5. Oil Spot Primer
- B. Project Schedule
- C. All required HUD documentation indicated in these Contract documents must be read, properly completed, signed, and returned.
- D. Certified Payroll Reports are due weekly.
- E. Section 3 monthly forms are due with each pay application.
- F. Contractor shall provide a copy of all material tickets before billing is accepted and paid by City.

15. QUALITY CONTROL

- A. Where not more specifically described in any of the contract documents, workmanship shall conform to all of the methods and operations of best standards and accepted practices of the trade or trades involved, and shall include all items of fabrication, construction, or installation regularly furnished or required for completion of the services. All work shall be executed by personnel skilled in their respective lines of work.
- B. The Project Coordinator shall have the authority to reject any material or workmanship that he feels is not within specified type, or quality as specified in these bid documents. The Contractor will correct or replace rejected work at no additional expense to the City.
- C. Contractor will have supervisor on site during operations who has the ability to answer questions or complaints, and the authority to make independent decisions on short notice.
- D. The contractor will provide sufficient manpower to complete the work within the scheduled time frame as shown on the approved schedule.
- E. Contractor will request the Project Coordinator to conduct a site inspection after the project is complete. The Project Coordinator will prepare a punch-list during the inspection and will forward a copy to the Contractor. After punch list items have been corrected, the Contractor will request a final inspection with the Project Coordinator. Final project approval is contingent upon the Project Coordinator's final inspection and written approval.
- F. The City reserves the right to stop work under this Agreement at any time if, in their opinion;
 - 1. Weather conditions become adverse for doing patchwork,
 - 2. Quality of work is deemed unacceptable,
 - 3. Material is deemed unacceptable by Contract Administrator/designee.

16. RESIDENT NOTIFICATION

- A. Prior to starting any work, the **Selected Contractor** ***must*** notify each resident, in writing, a **minimum of 1 week in advance, and again 48 hours in advance**, prior to starting any work. This will be accomplished with a 3-part door hanger (in both English & Spanish) to be left on **each** exterior entry door, as well as on the windshield of every vehicle parked on site at the time. A mailed letter (in both English & Spanish) may be substituted for the door hanger; however the individual vehicle notifications must still be utilized. If mailed letter is used, the Contractor must allow for sufficient transit time. Door hanger or letter will include the following (minimum) information: Reference Type Work (asphalt sealing and striping) Being Done for (The City of Chandler); Notice Date; Project Address; Project Start Date; Project Completion Date; Work Hours; **Special Instructions** (i.e. vehicles moved by [date], lot closed from [date] to [date], etc.); Vehicles not moved by [date & time] will be towed at owners expense; Name / Address / Phone Number of Company; Contact Person; and 24 Hour Emergency Phone Number. *Door Hanger or Letter ***must*** be pre-approved by the Project Manager prior to being used. A copy of each door hanger or letter will be provided to the Project Manager.*
- B. One week prior to the scheduled start date the Contractor will provide temporary signage at each site entrance advertising the upcoming project, and lot closure dates.
- C. In the event that the **Selected Contractor** is unable to start a previously notified unit (i.e. rain, labor dispute, material shortage, schedule change, lack of manpower, etc.), the Contractor will be required to re-notify that resident with another 48-hour door hanger or letter, with the same information as listed above.

17. SAFETY AND SITE PROTECTION

- A. These are occupied apartments with children; the Contractor will be required to remove all debris and equipment from the site on a daily basis.
- B. The Contractor shall be responsible for providing sufficient notification, warning signs, cones, barricades, tarps, plastic, flag tape, and other safety and traffic control equipment required to protect its employees, the residents, the public, surrounding areas, equipment and vehicles.
- C. The City will coordinate the towing of vehicles which have not been removed from work area by the tenants.
- D. Contractor must take necessary safety precautions to prevent any work related safety hazards for its employees, residents and the public.
- E. All possible safety hazards to workers, residents or the public shall be corrected immediately.
- F. Contractor shall repair any damage to City property caused by the Contractor or Subcontractor(s) associated with this project, at the Contractor's expense.
- G. The Contractor will be responsible for immediately notifying the Housing Project Coordinator of any damage caused by the Contractor during contract activities.
- H. The Contractor will be responsible for providing signage indicating a phone number for residents to contact in case of an emergency.
- I. All work shall comply with all OSHA, Federal, State and County regulations.

18. CLEANUP

- A. The Contractor shall keep the premises clean of all rubbish and debris generated by the work involved. All surplus material, rubbish and debris shall be disposed of by the Contractor daily at the Contractor's expense.
- B. City dumpsters and/or resident trash containers shall not be used for disposal of any construction related material. It is the Contractor's responsibility to dispose of all excess materials, trash and debris in an approved and lawful method.
- C. Remove asphalt materials from all metal covers.

19. DAVIS-BACON AND PROJECT RECORD DOCUMENTS

- A. Current Certified Payroll Reports and summary sheets are due weekly.
- B. All employees of the Contractor and/or Sub-Contractor(s) will be subject to a Federal Labor Standards Employee Interviews.
- C. All required Davis-Bacon notifications shall be posted at the work sites.

20. CONTRACTOR USE OF PREMISES

- A. **Contractor shall complete all work for each mobilization and return the affected parking area back to the City and residents for use, within 72 hours after closing the parking area for work.**
- B. All employees shall wear a company shirt and have a picture identification badge when working on the sites.
- C. Contractor shall remove all equipment and tools from the site at the end of each day.
- D. The Contractor shall furnish restroom facilities during the course of work. Resident and on site public restrooms are not to be used.
- E. The Contractor shall provide his/her own water.
- F. The Contractor shall provide his/her own power for equipment and tools.
- G. Contractor and subcontractors shall not park vehicles in resident parking spaces.
- H. The contractor shall inspect and locate all manholes, valve boxers, and survey monuments prior to commencement of the project.

21. These Construction Documents, and the joint and the several phases of construction hereby contemplated are to be governed, at all times, by applicable provisions of the federal laws, including but not limited to, the latest amendments of the following:

- A. William-Steiger Occupational Safety & Health Act of 1970, Public Law, 91-596; and
- B. Part 1910 – Occupational Safety & Health Standards, Chapter XVII of Title 29, Code of Federal Regulations; and
- C. Safety and Health Regulations for Construction, Chapter XVII of Title 29, Code of Federal Regulations.

END OF SCOPE OF WORK

EXHIBIT C
TECHNICAL SPECIFICATIONS
Tire Rubber Modified Surface Seal (TRMSS)

Contractor shall furnish all labor, material and equipment necessary to place material specified on parking lots designated by City. The Contractor shall be responsible for all traffic control in accordance with the City Barricade Manual and the Manual on Uniform Traffic Control Devices (MUTCD) or as directed by CONTRACT ADMINISTRATOR/designee. The Contractor shall place "Bump" signs on both sides of speed humps with a lit vertical panel on the center of the speed hump until permanent striping is completed. The Contractor shall be responsible for obtaining all required permits (ADOT, Maricopa County, etc.) to accomplish the scope of work.

1. **STANDARD SPECIFICATIONS AND STANDARD DETAILS:** Attention is called to the fact that City is now operating under the latest revision of the 2012 edition of the Uniform Standard Specification for Public Works Construction, published by the Maricopa Association of Governments as amended by City, which is herewith incorporated by reference and made a part hereof.

City is also operating under the latest revision of the 2012 edition of Standard Details as published by the Maricopa Association of Governments as amended by City.

2. **TIME OF APPLICATION AND WEATHER CONDITION:** TRMSS shall not be applied when the surface is wet or when there is a threat of rain. The ambient air temperature shall be at least 60°F and rising and the application shall cease when the air temperature is 65°F and falling.
3. **INSPECTION:** The Project Coordinator will perform inspections.
5. **MATERIAL:** The TRMSS shall meet the requirements of Table #1 attached. Contractor shall submit a certification from the manufacturer stating that the base emulsion being supplied meets the requirements of Table #1.
6. **PREPARATION OF PAVEMENT:** Pavement surface to be coated shall be sound, surface cured and clean in order for the TRMSS emulsion to perform properly.

Cleaned surface – Contractor shall clean the pavement to be free from clay, salt, sand, grease, dirt, and other foreign matter. It is imperative that the pavement be thoroughly cleaned. Cleaning shall be accomplished by means of power blowers, stiff bristle brooms, vacuum unit, or by pressure flushing. Only pick up type sweepers will be allowed, no sidekick brooms shall be used.

Deleterious matter - Accumulation of grease or oil shall be removed by scraping, burning or scrubbing with detergent (detergent shall be thoroughly rinsed from surface). Any areas where pavement is physically sound, yet oil has still soaked in shall be coated with a TRMSS oil spot primer to promote better adhesion and to prevent bleed through.

6. **APPLICATION OF MATERIALS:** TRMSS is provided ready-to-use by the manufacturer, do not dilute.

Application rate – Contractor shall apply sealer in one uniform coat utilizing a computer rate controlled asphalt spreader or standard sealcoat spray distributor trucks. Hand spray wands and squeegees may be used for small areas and trim. Application rate shall be 0.15 gallon per square yard or as directed by Contract Administrator/designee. Test sections prior to commencement of job shall determine actual coverage rate.

Outside temperature – Contractor shall apply the sealer when the ambient temperature is 60°F and rising with no threat of rain for an 8-hour period.

Drying time - Drying time for sealer shall normally be 2-hours before opening to traffic. Actual weather conditions will determine drying time and, in any case, avoid traffic until the surface is no longer tacky.

7. **POST APPLICATION:** After application of sealer, Contractor shall squeeze off depressions in the pavement that collect residual sealer and puddles to avoid a tacky, slow curing surface.
8. **PROTECTION TO ADJACENT PROPERTY:** Contractor shall take care to prevent the spraying of the TRMSS Seal Coat on adjacent on structures, guard rails, guide posts, markers (all types), manhole and valve covers, curbs, gutters, concrete, trees, shrubs, and adjacent property, improvements and facilities of all kinds. The Contractor shall cover or protect Raised Pavement Markers (RPM), Manhole Covers, Survey Monuments, Water Valve Covers, Valley Gutters and Aprons from TRMSS spray and shall remove the protection or cover before opening the streets to traffic. Contractor shall be responsible for removing TRMSS sprayed on to the items mentioned above.
9. **PROTECTION OF TREATED SURFACE:** Contractor shall be responsible for providing adequate barricading and signing to protect both the motorized public and the treated surface. In the event of loss of striping, Contractor shall be responsible for temporary traffic control using vertical panels, reflective raised pavement markers or chip seal markers. The treated surface shall be protected by barricades and/or signs until the TRMSS seal coat will not be picked up by traffic. Contractor shall follow the City Barricade Manual in providing the required traffic control. In addition to the barricade manual, Contractor shall be required to set out some informational signs. City Contract Administrator/designee will work with Contractor's crew leader in detailing the location for said signs.
10. **TRAFFIC CONTROL:** Contractor shall control all traffic through the work area in accordance with the requirements of the latest City of Chandler Traffic Barricade Manual.

Contractor shall furnish all signs, cones, equipment and other traffic control device necessary for the control of traffic and costs for these devices shall be included in the price per lineal feet bid under this agreement.

Traffic Control will be discussed and specific items reviewed with Contractor prior to commencing work.

11. **Site Preparation:** Contractor shall provide all resident notification, necessary traffic control, sweeping and cleaning, crack sealing, and surface preparation per M.A.G. and the manufacturer's recommendation in the parking lots.

TABLE #1

TIRE RUBBER MODIFIED SURFACE SEAL (TRMSS) for Preservative Sealing:

Tire Rubber Modified Surface Seal shall meet the requirements of Table 1 below:

TABLE 1 – TIRE RUBBER MODIFIED SURFACE SEAL (TRMSS)		
PROPERTY	TEST METHOD	REQUIREMENT
Viscosity, Krieb Unit (KU)	ASTM D 562	45 - 70
Weight/Gallon	ASTM D2939.07	8 - 9
Residue by Evaporation %	ASTM D2939.08	30 - 40
Sieve Analysis	ASTM D244	0.10 max
Performance criteria Testing, Note (1)		
Wet Track Abrasion	ISSA (TB-100)	Less than 1%, Note (2)
Accelerated Weathering Test	ASTM G 154	Pass, Note (3)
Fuel Resistant	ASTM D 2939.25	Pass
Asphalt Cement Certificate of Compliance. Note (4)		
Ground Whole Tire Rubber %	Certificate of compliance	10 - 16
Penetration 77 F, 100g, 5 sec, dmm	ASTM D5	15 - 35
Softening Point, F	ASTM D36	130 - 160
Solubility % (3 set average)	ASTM D2042	98 - 99

Note: (1) TRMSS diluted, ready-to-use.

Note: (2) Calculated weight loss, percentage of original Volume, 1 hour soak.

Note: (3) 1,000 hours. UVA-340 lamp, 0.77 W/m²(V1.0 calibration), 8 hours UV light @ 50°C, 5 min. spray, 3.55 hours condensation @ 50°C.

Note: (4) Ground whole tire rubber modified asphalt cement.

**EXHIBIT D
TECHNICAL SPECIFICATIONS
ASPHALT PATCHWORK**

1. DESCRIPTION

Work under this specification consists of removal and replacement of asphalt materials in existing bituminous pavement.

2. EQUIPMENT

The equipment used by Contractor for asphalt removal, sub-grade compaction, and installation of patch material shall be capable of achieving the performance requirements in accordance with M.A.G. standards.

3. Asphalt Removal, Sub-grade Compaction and Asphalt Replacement

- A. Contractor shall remove and replace asphalt materials, and dispose of old asphalt material at the Contractor's expense.
- B. Contractor shall saw-cut and remove the identified damaged asphalt pavement. All saw cut edges shall receive a tack coat prior to the placement of new asphalt.
- C. Sub-grade preparation after asphalt removal shall be in accordance with M.A.G. standards for this task.
- D. Placement and compaction of patch material shall be accomplished in two (2) equal lifts to ensure proper density. The finished surface of the patch shall be flush with the adjoining pavement on all edges. Any newly installed patch that is not acceptable to the Project Manager shall be removed and replaced to meet acceptable standards. Any additional cost incurred for re-work will be the responsibility of the Contractor. Compaction shall be accomplished using a self-propelled double drum vibratory asphalt roller, with a minimum operating weight of three (3) tons. Use of any other compaction equipment will not be allowed unless approved by the Project Coordinator.
- E. The City reserves the right to conduct in-place density testing on newly placed asphalt patches. Contractor shall be required to re-compact any patch that does not meet a minimum of 95% maximum density compaction for Marshall mix and 93% maximum density compaction for RICE mix design being used. If required compaction is no longer attainable due to material cooling below a workable temperature, Contractor shall remove and replace the material. The City shall be responsible only for the cost of the initial testing. Contractor shall be responsible for any cost associated with re-testing areas requiring re-work. Contractor shall not be allowed to re-heat asphalt patches with an open flame heater. Any asphalt patch reheated with open flames shall be removed and replaced by the Contractor at no additional cost to City.
- F. Contractor shall be responsible for identifying and locating (Blue Stake) all existing utilities affected by the work. Contractor shall be responsible for the repair of all damaged utilities resulting from this.
- G. The City shall mark all locations for patching.
- H. All pavement patches shall be crack sealed at the joints. The crack sealant material shall be a Type 3 Polyflex crack sealant such as Crafcro Polyflex Type 3, Part No. 34521, or approved alternate.

4. MATERIAL PRODUCT DATA

Contractor shall supply asphalt material for this contract. The asphalt mix design shall meet the East Valley Asphalt Committee (EVAC) mix design criteria.

**EXHIBIT E
TECHNICAL SPECIFICATIONS
ASPHALT RUBBER CRACK SEALING**

1. DESCRIPTION

Work under this specification consists of compressed air routing and cleaning cracks in the existing bituminous pavement and applying a premixed asphalt-rubber sealant.

2. EQUIPMENT

The equipment used by Contractor in the application of the asphalt rubber material shall have a mixing system in the material vat in order to maintain a consistent, uniform, homogenous mixture throughout the crack sealing operation. The unit shall heat the asphalt rubber material by means of an indirect heat transfer median for adequate material temperature control. The equipment shall provide a continuous supply so that operations may proceed without delays. The material shall be applied under pressure with a hose and wand assembly. The equipment designated for use by Contractor shall be approved by the Contract Administrator/designee prior to commencing work.

3. WEATHER CONDITION

The Contract Administrator/designee, together with the Contractor's Supervisor, shall determine if weather conditions are such as to adversely affect the operations, or whether or not the operations should cease. The asphalt-rubber mixture shall not be applied during wet weather or under conditions which will adversely affect the operations. The sealant shall not be placed in cracks that are wet. The sealant shall be placed at the material manufacturers recommended application temperature.

4. COMPRESSED AIR ROUTING, CLEANING OF CRACKS, and APPLYING SEALANT

A. Contractor shall seal all cracks that have an average clear opening 1/4 inch or greater. All cracks with an average clear opening of less than 1/4 inch shall not be sealed unless directed to do so by the Contract Administrator/designee. All cracks at the transition from asphalt to curbs, gutters and concrete flatwork shall be sealed regardless of clear opening size. Contractor shall contact the Contract Administrator/designee for filling of cracks 2" or wider. The Contract Administrator/designee shall make final determination as to what work will be done under this agreement.

Immediately prior to applying the sealant, Contractor shall thoroughly clean cracks and remove any loose particles, grass, grass roots, weeds, dust and other deleterious substances by means of high velocity compressed air or other methods prior approved by the Contract Administrator/designee. The compressor used shall be capable of a sustaining a minimum pressure of 90 psi. The crack cleaning equipment shall be capable of cleaning cracks to a minimum depth of 1/2" and shall be capable of dust containment by filtering particulate matter 10 micrometers or less in diameter with no dust clouds are visible. The conventional method of openly blowing out cracks with compressed air with no dust containment is not an acceptable crack cleaning method.

Crack cleaning shall be inspected and approved by the Contract Administrator/designee prior to the application of crack sealant.

- B. Contractor shall place sealant so as to completely fill the crack and form a lap of greater than 1" on each side. Immediately after the application, a rubber squeegee or other acceptable means shall be used to level the sealant flush with the existing pavement surface. After cooling, the sealant shall not shrink more than 1/4" below the pavement surface.
- C. Sealant shall be heated to between 325°F and 400°F (163°C and 204°C) for at least 1/2 hour prior to application. Sealant shall only be applied to clean, dry cracks that have been approved by the Contract Administrator/designee from the bottom up to the surface level. Contractor shall provide certificates on all temperature gauges.

- D. The sealant shall be intended to be placed entirely within the crack. Blotter material may be required to prevent asphalt-rubber bleed and/or pickup of sealant by vehicular traffic. Contractor shall install blotter material of a type acceptable to City and at the direction of the Contract Administrator/designee at no additional cost to the City. Typical blotter material shall be made up of sand/silica sand and cannot include powdered cement. Any blotter material must be pre-approved by the Contract Administrator/designee.
- E. Contractor shall clean all sidewalks and driveways on a daily basis within the work area to the satisfaction of the Contract Administrator/designee. The Contract Administrator/designee may require additional cleaning to be done, at no additional cost to the City, if an unsafe condition exists or excessive complaints are received from local residents. Contractor shall clean the gutters, sidewalks and driveways before the job is considered complete.
- F. Contract Administrator/designee shall inspect all work for quality of workmanship, width of cracks filled, cleanliness of cracks and lapping. Contractor shall correct all unacceptable work, at no additional cost to the City.
- G. While completing work, Contractor shall protect against damage to vehicles, people and any other property that may be in the work area. During and after the placement of sealant, Contractor shall protect any persons or animals that may come in contact with the hot material against any harm.

5. TRAFFIC CONTROL

- A. Contractor shall control all traffic through the work area in accordance with the requirements of the latest City of Chandler Traffic Barricade Manual. The City must approve the type of traffic control to be used.
- B. Contractor shall furnish all signs, cones, equipment and other traffic control device necessary for the control of traffic and costs for these devices shall be included in the price per lineal feet bid under this agreement.
- C. Traffic Control will be discussed and specific items reviewed with Contractor prior to commencing work.

6. MATERIAL PRODUCT DATA

The Contractor shall furnish and supply the approved rubberized asphalt crack sealant. The Contractor shall furnish and maintain an adequate supply of the approved material for each day's work.

6.1 GENERAL

The crack sealant material shall be a Type 3 Polyflex crack sealant such as Crafcro Polyflex Type 3, Part No. 34521, or approved alternate. Crack sealant shall be a hot-applied, asphalt based product used to fill cracks and joints in asphalt and Portland cement concrete pavement in warm to hot climates. Crack sealant shall be supplied in solid form which when melted and properly applied forms a highly adhesive and flexible compound that resists cracking in the winter and resists flow and pick-up at summer temperatures. Crack sealant is used in highway, street, airfield and parking lot pavements and is applied to pavement cracks using pressure feed melter applicators. At application temperature, crack sealant shall be a medium viscosity product which flows and penetrates cracks. Crack sealant material shall have VOC = 0g/l. Temperature limits shall be 70-10 in degrees Celsius. The unit weight of crack sealant shall be 10.0 lbs. per gallon (1.20 kg/L) at 60°F (15.5°C).

6.2 SPECIFICATION CONFORMANCE Specification limits of the crack sealant when heated in accordance with ASTM D5078 to the maximum heating temperature shall be as follows:

TEST	RECOMMENDED SPECIFICATION
Cone Penetration (ASTM D5329)	20-40
Resilience (ASTM D5329)	30% min.
Softening Point (ASTM D36)	210°F (99°C) min.
Ductility, 77F (25C) (ASTM D113)	30 cm min.
Flexibility (ASTM D3111 Modified)	Pass at 30°F (-1°C)
Flow 140°F (60°C) (ASTM D5329)	3 mm max
Brookfield Viscosity, 400°F (204°C) (ASTM D2669)	100 Poise max.
Asphalt Compatibility (ASTM D5329)	Pass
Bitumen Content (ASTM D4)	60% min.
Tensile Adhesion (ASTM D5329)	400% min.
Maximum Heating Temperature	400°F (204°C)
Minimum Application Temperature	380°F (193°C)

**EXHIBIT F
TECHNICAL SPECIFICATIONS
ASPHALT STRIPING AND MARKINGS**

1. DESCRIPTION

Work under this specification consists of painting parking lot striping, speed humps, dumpster enclosures, parking space numbers and lettering, handicap parking, and traffic control markings.

2. WEATHER CONDITION

The Project Manager together with the Contractor's supervisor shall determine if weather conditions are such as to adversely affect the operations, or whether or not the operations should cease. Paint shall not be applied during wet weather or under conditions, which will adversely affect the operations.

3. PAVEMENT PAINTING

The Contractor shall;

- A. shall remove all dirt, dust, grease, oil or other foreign material from the road surface prior to the application of paint,
- B. prepare surface and apply paint per the manufacturer's recommendations,
- C. apply paint with mechanical equipment to produce uniform straight edges,
- D. apply a minimum of two coats of paint at 15 mils per coat,
- E. insure that colors completely hide the black asphalt after applied and cured,
- F. paint 4" parking space lines and 10" letters and numbers in white,
- G. paint directional Arrows, speed humps and 4" no parking hash lines in yellow,
- H. paint handicap space marking in white and blue.

4. LAYOUT

All spacing, striping, lettering, numbering, traffic control, and No Parking areas should follow existing markings. In the event any of the items to be re-striped are not clearly visible for re-stripe, or otherwise not obvious to the contractor, the Contractor shall contact the Project Manager for verification.

5. TRAFFIC CONTROL

All traffic control while installing pavement markings is the sole responsibility of the Contractor. It is recommended that traffic control devices be of such type and quantity that residents cannot easily drive over or around. Contractor is responsible for protecting all striped or painted surfaces until completely cured and safe to drive on.

6. MATERIAL PRODUCT DATA

All paint used shall be water based and formulated for street striping and traffic marking purposes. The paint must be compatible with TRMSS. Acceptable products include Pervo – Pervostripe, Sherwin Williams – Pro-Park, Ennis-Flint – EF Series Standard Dry or approved alternate.

**EXHIBIT G
BID FORM**

BID NUMBER: H04-745-3342

In compliance with the Advertisement for Bids, by the City of Chandler Purchasing Division, the undersigned bidder:

Having examined the contract documents, work site, and being familiar with the conditions to be met, hereby submits the following bid for all labor, materials, and equipment, for the completion of the work listed and agrees to execute the contract documents and furnish the required bonds and certificates of insurance for the completion of said work, at the locations and for the prices set forth hereinafter.

Understands that the bid shall be submitted with a bid guarantee of cashier's check or surety bond for an amount not less than (10%) ten percent of the amount bid.

Work shall be completed within **NINETY (90)** calendar days, as specified in the Notice to Proceed. The time allowed for completion of the work includes lead time for obtaining the necessary material and/or equipment.

The bidder hereby acknowledges receipt of and agrees his bid is based on the following Addenda.

ADDENDUM 1 DATED 1/15/2014 ADDENDUM 2 DATED 1/23/2014

BASE BID

The undersigned agrees to complete this project at the prices listed below:

#	LOCATION	COST
1.	130 N. Hamilton St.	\$ 10,048.50
2.	210 N. McQueen Rd.	\$ 7,994.14
3.	73 S. Hamilton St.	\$ 19,425.07
4.	660 S. Palm Ln.	\$ 8,639.68
5.	127 N. Kingston St.	\$ 5,515.51
TOTAL		\$ 51,622.90

EXHIBIT H1
PERFORMANCE BOND

STATUTORY PERFORMANCE BOND PURSUANT TO
TITLE 34, CHAPTER 2, ARTICLE 2,
OF THE ARIZONA REVISED STATUTES
(Penalty of this bond must be 100% of the Bond amount)

KNOW ALL MEN BY THESE PRESENTS: That, _____ (hereinafter called the Principal), as Principal, and _____ a corporation organized and existing under the law of the State of _____ with its principal office in the City of _____, (hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Chandler, County of Maricopa, State of Arizona, in the amount of _____ Dollars (\$ _____), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the City of Chandler, Dated the _____ day of _____, _____, for **Parking Lot Sealcoat and Striping Family Sites PHA; Bid No. H04-745-3342**, which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copies at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform and fulfill all the undertakings, covenants terms, conditions, and agreements of said contract during the original term of said Contract and any extensions thereof, with or without notice to the Surety, and during the life of any warranty required under the contract, and shall also perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of conditions of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; then the above obligations shall be void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2 of the Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of said Title, Chapter and Article, to the extent as if it were copied at length herein.

The prevailing party in a suit on this bond shall be entitled to such reasonable attorney's fees as may be fixed by a judge of the Court.

Witness our hands this ____ day of _____, 2014.

PRINCIPAL SEAL

AGENT OF RECORD

BY _____

SURETY SEAL

AGENT ADDRESS

**EXHIBIT H2
PAYMENT BOND**

ARIZONA STATUTORY PAYMENT BOND
PURSUANT TO TITLES 28, 34, AND 41, OF THE ARIZONA REVISED STATUTES
(Penalty of this Bond must be 100% of the Contract amount)

KNOW ALL MEN BY THESE PRESENTS:

THAT: _____ (hereinafter "Principal"), as Principal, and _____ (hereinafter "Surety"), a corporation organized and existing under the laws of the State of _____ with its principal office in the City of _____, holding a certificate of authority to transact surety business in Arizona issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, as Surety, are held and firmly bound unto the City of Chandler, (hereinafter "Obligee") County of Maricopa, State of Arizona, in the amount of _____ Dollars (\$ _____), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the City of Chandler, dated the _____ day of _____, 2014, **Parking Lot Sealcoat and Striping Family Sites PHA; Bid No. H04-745-3342**, which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copies at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal promptly pays all moneys due to all persons supplying labor or materials to the Principal or the Principal's subcontractors in the prosecution of the work provided for in said contract, this obligation is void. Otherwise it remains in full force and effect.

PROVIDED, HOWEVER that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2 Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the same extent as if it were copied at length in this agreement.

The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees that may be fixed by a judge of the court.

Witness our hands this _____ day of _____, 2014.

PRINCIPAL SEAL

AGENT OF RECORD

BY _____

AGENT ADDRESS

SURETY SEAL

EXHIBIT I

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

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

Representations, Certifications, and Other Statements of Bidders

Public and Indian Housing Programs

Table of Contents

Clause	Page
1. Certificate of Independent Price Determination	1
2. Contingent Fee Representation and Agreement	1
3. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions	1
4. Organizational Conflicts of Interest Certification	2
5. Bidder's Certification of Eligibility	2
6. Minimum Bid Acceptance Period	2
7. Small, Minority, Women-Owned Business Concern Representation	2
8. Indian-Owned Economic Enterprise and Indian Organization Representation	2
9. Certification of Eligibility Under the Davis-Bacon Act	3
10. Certification of Nonsegregated Facilities	3
11. Clean Air and Water Certification	3
12. Previous Participation Certificate	3
13. Bidder's Signature	3

1. Certificate of Independent Price Determination

(a) The bidder certifies that--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Contingent Fee Representation and Agreement

(a) Definitions. As used in this provision:

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

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

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

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

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

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

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

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

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

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

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a contract resulting from this solicitation;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the bidder shall complete and submit, with its bid, OMB standard form LLL, "Disclosure of Lobbying Activities;" and

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

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

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

4. Organizational Conflicts of Interest Certification

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

(a) Result in an unfair competitive advantage to the bidder; or,
(b) Impair the bidder's objectivity in performing the contract work.
[] In the absence of any actual or apparent conflict, I hereby certify that to the best of my knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement.

5. Bidder's Certification of Eligibility

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

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

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

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

6. Minimum Bid Acceptance Period

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

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

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

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

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

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

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

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

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

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

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

(Check the block applicable to you)

[] Black Americans [] Asian Pacific Americans
[] Hispanic Americans [] Asian Indian Americans
[] Native Americans [] Hasidic Jewish Americans

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

The bidder represents and certifies that it:

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Obtain identical certifications from the proposed subcontractors;
- (2) Retain the certifications in its files; and
- (3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities

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

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

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

The bidder certifies that:

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

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

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

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

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

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

13. Bidder's Signature

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

(Signature and Date)

(Typed or Printed Name)

(Title)

(Company Name)

(Company Address)

EXHIBIT J
DAVIS BACON INFORMATION

Davis-Bacon and Related Acts
(40 USC §276a; 29 CFR Parts 1, 3, 5, 6 and 7)

Who is Covered

The Davis-Bacon and Related Acts (DBRA) are administered by the Wage and Hour Division. These Acts apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works.

Basic Provisions/Requirements

The Davis-Bacon Act requires that all contractors and subcontractors performing on federal contracts (and contractors or subcontractors performing on federally assisted contracts under the related Acts) in excess of \$2,000 pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits listed in the contract's Davis-Bacon wage determination for corresponding classes of laborers and mechanics employed on similar projects in the area. Davis-Bacon labor standards clauses must be included in covered contracts.

Apprentices may be employed at less than predetermined rates if they are in an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department. Trainees may be employed at less than predetermined rates if they are in a training program certified by the Department.

Contractors and subcontractors on prime contracts in excess of \$100,000 are required, pursuant to the Contract Work Hours and Safety Standards Act, to pay employees one and one-half times their basic rates of pay for all hours over 40 worked on covered contract work in a workweek. Covered contractors and subcontractors are also required to pay employees weekly and to submit weekly certified payroll records to the contracting agency.

Employee Rights

The Davis-Bacon and Related Acts provide laborers and mechanics on covered federally financed or assisted construction contracts the right to receive at least the locally prevailing wage rate and fringe benefits, as determined by the Department of Labor, for the type of work performed. The Wage and Hour Division and respective federal contracting agencies accept complaints of alleged Davis-Bacon violations.

Recordkeeping, Reporting, Notices and Posters

Notices and Posters

Every employer performing work covered by the labor standards of the DBRA must post the WH-1321 "Employee Rights Under the Davis-Bacon Act" poster at the site of the work in a prominent and accessible place where it may be easily seen by employees. There is no particular size requirement. The wage determination must be similarly posted.

Recordkeeping

Under the DBRA, covered contractors must maintain payroll and basic records for all laborers and mechanics during the course of the work and for a period of three years thereafter. Records to be maintained include:

- Name, address, and Social Security number of each employee
- Each employee's work classifications
- Hourly rates of pay, including rates of contributions or costs anticipated for fringe benefits or their cash equivalents
- Daily and weekly numbers of hours worked
- Deductions made
- Actual wages paid

- If applicable, detailed information regarding various fringe benefit plans and programs, including records that show that the plan or program has been communicated in writing to the laborers and mechanics affected
- If applicable, detailed information regarding approved apprenticeship or trainee programs

Some of the records required to be kept under the law are also required under the Fair Labor Standards Act. See Wage and Hour Division Fact sheet #21: Recordkeeping Requirements under the Fair Labor Standards Act (FLSA).

Reporting

Each covered contractor and subcontractor must, on a weekly basis, **provide the federal agency a copy of all payrolls** providing the information listed above under "Recordkeeping" for the preceding weekly payroll period. **Each payroll submitted must be accompanied by a "Statement of Compliance."** The contractor, subcontractor or the authorized officer or employee of the contractor or subcontractor who supervises the payment of wages must sign the weekly statement. Statements of Compliance are to be made on the form WH-347 "Payroll (For Contractors Optional Use)" or on any form with identical wording. This must be completed within seven days after the regular pay date for the pay period.

Contractors may also be asked to submit, via survey, wage data that may be used by the Wage and Hour Division to determine the locally prevailing wage rates that will apply to workers on Davis-Bacon and DBRA-covered projects. The submission of wage data is encouraged, but voluntary. Contractors and others may use the WD-10 Form, Report of Construction Contractor's Wage Rates.

Penalties/Sanctions

Contractors or subcontractors found to have disregarded their obligations to employees, or to have committed aggravated or willful violations while performing work on Davis-Bacon covered projects, may be subject to contract termination and debarment from future contracts for up to three years. In addition, contract payments may be withheld in sufficient amounts to satisfy liabilities for unpaid wages and liquidated damages that result from overtime violations of the Contract Work Hours and Safety Standards Act (CWHSSA).

Contractors and subcontractors may challenge determinations of violations and debarment before an Administrative Law Judge. Contractors and subcontractors may appeal decisions by Administrative Law Judge's with the Department's Administrative Review Board. Final Board determinations on violations may be appealed to and are enforceable through the federal courts.

Falsification of certified payroll records or the required kickback of wages may subject a contractor or subcontractor to civil or criminal prosecution, the penalty for which may be fines and/or imprisonment.

Relation to State, Local, and Other Federal Laws

Since 1931, Congress has extended the Davis-Bacon prevailing wage requirements to some 60 related Acts which provide federal assistance for construction through loans, grants, loan guarantees, and insurance. These Acts include by reference the requirements for payment of the prevailing wages in accordance with the Davis-Bacon Act. Examples of the related Acts are the American Recovery and Reinvestment Act of 2009, the Federal-Aid Highway Acts, the Housing and Community Development Act of 1974, and the Federal Water Pollution Control Act.

The Copeland "Anti-Kickback" Act prohibits contractors from in any way inducing an employee to give up any part of the compensation to which he or she is entitled under his or her contract of employment, and requires contractors to submit a weekly statement of the wages paid to each employee performing DBRA covered work.

Contractors on projects subject to DBRA labor standards may also be subject to additional prevailing wage and overtime pay requirements under State and local laws. Also, overtime work pay requirements under CWHSSA and the Fair Labor Standards Act may apply.

Compliance Assistance Available

The Department of Labor provides employers, workers, and others with clear and easy-to-access information and assistance on how to comply with the Davis-Bacon and Related Acts, such as the [DBRA Forms page](#). Other compliance assistance related to the Act — including the [Davis-Bacon and Related Acts \(DBRA\) Web Page](#) and regulatory and interpretive materials — is available on the [Compliance Assistance "By Law" Web page](#). Also, the [Wage Determinations OnLine \(WDOL\) Web site](#) provides a single location for federal contracting officers to obtain Davis-Bacon wage determinations for use in covered contracts. The WDOL Web site library provides a variety of links that relate to compliance with the prevailing wage laws that apply to federal and federally assisted contracts.

EXHIBIT K

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General Decision Number: AZ140001 01/17/2014 AZ1

Superseded General Decision Number: AZ20130001

State: Arizona

Construction Type: Residential

County: Maricopa County in Arizona.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories).

Modification Number	Publication Date
0	01/03/2014
1	01/17/2014

BRAZ0003-007 07/01/2010

	Rates	Fringes
BRICKLAYER.....	\$ 18.00	4.13

 ENGI0428-005 07/29/2013

	Rates	Fringes
OPERATOR: Grader/Blade.....	\$ 25.34	9.05

 * IRON0075-008 01/01/2014

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 26.52	21.02

 PLAS0394-006 07/01/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 22.84	8.57

 SUAZ2011-001 07/28/2011

	Rates	Fringes
ALARM INSTALLER, Includes Wiring and Installation.....	\$ 13.91	0.00
CARPENTER, Excludes Drywall Hanging, and Form Work.....	\$ 18.16	0.00
DRYWALL HANGER.....	\$ 15.00	0.58
ELECTRICIAN, Excludes Low Voltage Wiring and Installation of Alarms.....	\$ 15.45	0.01

FORM WORKER.....	\$ 14.37	0.00
GLAZIER.....	\$ 13.45	0.00
HVAC MECHANIC (Installation of HVAC Duct).....	\$ 15.36	0.00
LABORER: Common or General.....	\$ 10.18	0.00
LABORER: Grade Checker.....	\$ 16.83	0.45
LABORER: Mason Tender - Brick...	\$ 12.77	0.00
LABORER: Mason Tender - Cement/Concrete/Stone.....	\$ 11.00	0.00
LABORER: Pipelayer.....	\$ 13.00	0.00
OPERATOR: Backhoe.....	\$ 18.29	0.00
OPERATOR: Excavator.....	\$ 24.67	0.00
OPERATOR: Forklift.....	\$ 16.17	0.00
OPERATOR: Loader (Front End)....	\$ 15.00	0.00
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....	\$ 20.75	0.00
OPERATOR: Roller.....	\$ 16.24	1.42
OPERATOR: Scraper.....	\$ 19.20	1.52
OPERATOR: Tractor.....	\$ 22.63	0.00
PAINTER: Brush, Roller and Spray, Excludes Drywall Finishing/Taping.....	\$ 12.89	0.00
PLUMBER.....	\$ 20.14	4.08
ROOFER.....	\$ 13.67	0.00
SPRINKLER FITTER (Fire Sprinklers).....	\$ 17.73	0.00
TRUCK DRIVER: Dump Truck.....	\$ 17.02	0.00
TRUCK DRIVER: Water Truck.....	\$ 14.50	0.00

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

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Unlisted classifications needed for work not included within
the scope of the classifications listed may be added after

award only as provided in the labor standards contract clauses.
(29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters , PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable , i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

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.

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

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

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

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

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

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

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

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

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

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

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

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

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

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

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

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

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

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

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

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

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

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

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such 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.

General Contract Conditions for Small Construction/Development Contracts **EXHIBIT M**

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing
OMB Approval No. 2577-0157 (exp. 01/31/2014)

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

1. Definitions

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

2. Prohibition Against Liens

The Contractor is prohibited from placing a lien on the PHA's property. This prohibition shall apply to all subcontractors at any tier and all materials suppliers. The only liens on the PHA's property shall be the Declaration of Trust or other liens approved by HUD.

3. Disputes

- (a) Except for disputes arising under the **Labor Standards** clauses, all disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the PHA against the Contractor shall be subject to a written decision by the Contracting Officer.
- (c) The Contracting Officer shall, within 30 days after receipt of the request, decide the claim or notify the Contractor of the date by which the decision will be made.
- (d) The Contracting Officer's decision shall be final unless the Contractor (1) appeals in writing to a higher level in the PHA in accordance with the PHA's policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within 30 days after receipt of the Contracting Officer's decision.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

4. Default

- (a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within this time, the Contracting Officer may, by written notice to the Contractor, terminate the right to proceed with the work (or separable part of the work) that has been delayed. In the event, the PHA may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, equipment, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the PHA resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the PHA in completing the work.

- (b) The Contractor's right to proceed shall not be terminated or the

Contractor charged with damages under this clause if --

- (1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor; and
 - (2) The Contractor, within 10 days from the beginning of such delay notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of Fact warrant such action, time for completing the work shall be extended by written modification to the contract. The findings of the Contracting Officer shall be reduced to a written decision which shall be subject to the provisions of the **Disputes** clause of this contract.
- (c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligation of the parties will be the same as if the termination had been for convenience of the PHA.

5. Termination for Convenience

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

6. Insurance

- (a) Before commencing work, the Contractor and each subcontractor shall furnish the PHA with certificates of insurance showing the following insurance is in force and will insure all operations under the Contract:

(1) Workers' Compensation, in accordance with state or Territorial Workers' Compensation laws.

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

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

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

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

7. Contract Modifications

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

change in the PHA address). All other contract modifications shall be in the form of supplemental agreements signed by the Contractor and the Contracting Officer.

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

8. Changes

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

breakdowns by hours or unit costs (identified with specific work to be performed); Construction equipment exclusively necessary for the change; Costs of preparation and/ or revision to shop drawings resulting from the change; Worker's Compensation and Public Liability Insurance; Employment taxes under FICA and FUTA; and, Bond Costs - when size of change warrants revision.

- (2) Indirect Costs. Indirect costs may include overhead, general and administrative expenses, and fringe benefits not normally treated as direct costs.
- (3) Profit. The amount of profit shall be negotiated and may vary according to the nature, extent, and complexity of the work required by the change.

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

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

9. Examination and Retention of Contractor's Records

The HA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

10. Rights in Data and Patent Rights (Ownership and Proprietary Interest)

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

11. Energy Efficiency

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

12. Procurement of Recovered Materials

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

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

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the

qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

14. Labor Standards - Davis-Bacon and Related Acts

(a) Minimum Wages.

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

a prominent and accessible place where it can be easily seen by the workers.

- (2) (i) Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:
- (a) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (b) The classification is utilized in the area by the construction industry; and
 - (c) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employee Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.
- (iii) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.
- (iv) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (a)(2)(ii) or (iii) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (3) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (4) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; *provided*, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

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

(c) **Payrolls and Basic Records.**

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

of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

- (2) (i) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1214-0149.)
- (ii) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
- (A) That the payroll for the payroll period contains the information required to be maintained under paragraph (c)(1) of this clause and that such information is correct and complete;
- (B) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and
- (C) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (iii) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance" required by subparagraph (c)(2)(ii) of this clause.
- (iv) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.
- (3) The Contractor or subcontractor shall make the records required under subparagraph (c)(1) available for inspection, copying, or transcription by authorized representatives of HUD or its designee, the Contracting Officer, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(d) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

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

(e) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate

specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (f) **Equal Employment Opportunity.** The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.
- (g) **Compliance with Copeland Act Requirements.** The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.
- (h) **Contract Termination; Debarment.** A breach of the labor standards clauses in this contract may be grounds for termination of the contract and for debarment as a Contractor and a subcontractor as provided in 29 CFR 5.12.
- (i) **Compliance with Davis-Bacon and related Act Requirements.** All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.
- (j) **Disputes Concerning Labor Standards.** Disputes arising out of the labor standards provisions of this clause shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the PHA, HUD, the U.S. Department of Labor, or the employees or their representatives.
- (k) **Certification of Eligibility.**
- (1) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - (2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a United States Government

contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

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

(l) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this clause, and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.

(m) Non-Federal Prevailing Wage Rates. Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State law to be prevailing, with respect to any employee in any trade or position employed under the contract, is inapplicable to the contract and shall not be enforced against the Contractor or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate exceeds:

- (i) the applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141 et seq.) to be prevailing in the locality with respect to such trade;
- (ii) an applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the U.S. Department of Labor (DOL) or a DOL-recognized State Apprenticeship Agency; or
- (iii) an applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

EXHIBIT N

SECTION 3 REQUIREMENTS

Section 3 is a provision of the Housing and Urban Development Act of 1968, which recognizes that HUD funds are typically one of the largest sources of federal funding expended in communities. Section 3 is intended to ensure that when employment or contracting opportunities are generated because a covered project or activity necessitates the employment of additional persons or the awarding of contracts for work, preference must be given to low- and very low-income persons or business concerns residing in the community where the project is located.

The purpose of Section 3 (24 CFR Part 135) 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 and to business concerns that provide such opportunities to low and very low-income persons. Bidders are asked to review this entire exhibit and submit the documents requested as a part of your bid submittal.

ATTACHMENTS TO COMPLETE AND SUBMIT WITH BID SUBMITTAL

- | | |
|---------------|---|
| Attachment 1. | Statement of Workforce Needs |
| Attachment 2. | Certification for Business Concerns Seeking SECTION 3 Preference in Contracting and Demonstration of Capacity |
| Attachment 3. | Section 3 Income Verification, Self-Certification |
| Attachment 4. | Section 3 Compliance Certification |

ATTACHMENT 1.

SECTION 3 STATEMENT OF WORKFORCE NEEDS

The Workforce Need Statement Worksheet gathers the following required information:

1. **employees you will need on this project**– *how many people will you to hire?*
2. **employees currently filling each position** – *how many people are already working?*
3. **estimated employees needed to fill each position** – *subtract the number of employees currently filling each position from number of employees needed for each positions to complete the estimated number of employees.*
4. **estimated number of Section 3 employees to be hired to fill the open positions** – *use column 3 to estimate the number of Section 3 residents you anticipate hiring.*

Contractor/Subcontractor Information:	
Company Name:	
Owner Name:	
Address:	
Phone:	Email:

TYPE OF BUSINESS: Corporation Partnership Sole Proprietorship

Estimated Project Workforce Breakdown

Job Category	Total Estimated Positions Needed (this Project)	Number of positions occupied by permanent employees	Number of positions not occupied	Number of positions to be filled with Section 3 Residents (this project)
Professionals				
Technicians				
Office/Clerical				
Officials/Managers				
Sales				
Craft Workers (skilled)				
Equipment Operators (semi-skilled)				
Laborers (unskilled)				
Service Workers				
Other Construction Trades				
TOTALS				

By signing below, I am certifying that the above information is an accurate estimate of workforce needs for this project.

Signature:

Date:

ATTACHMENT 2.

**CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE
IN CONTRACTING & DEMONSTRATION OF CAPABILITY**

Company Name:			
Company Owner:			
Address:			
Phone:	Fax:	Email:	
Business Type:	<input type="checkbox"/> Corporation	<input type="checkbox"/> Partnership	<input type="checkbox"/> Sole Proprietorship

SECTION 3 DETERMINATION:

If the answer to any of the questions below is YES, the business qualifies as a Section 3 Business Concern. Please provide the required documentation as needed to the City of Chandler Project Manager.

1. Is the business owned (51% or more) by individuals whose household incomes are NO GREATER THAN 80% of Area Median Income? (Please see Income Limits below) Yes No

If yes, the business is considered a 'Section 3 Resident-Owned Enterprise'. One form of documentation is needed for each of the business owners:

- | | | |
|--|--|---|
| <input type="checkbox"/> Federal Income Tax Returns | <input type="checkbox"/> W-2 Income Statements | <input type="checkbox"/> Paycheck Stubs |
| <input type="checkbox"/> Evidence of Public Assistance | <input type="checkbox"/> Other: | |

2. Do 30% (or more) of your full time, permanent employees have household incomes that are NO GREATER THAN 80% of Area Median Income? (Please see Income Limits below) Yes No

If yes, the business is considered a Section 3 Business Concern. Please provide the following:

- List of all current Full Time employees
- Self-Certification Income Forms for all employees earning less than 80% of median income

3. Will you subcontract more than 25% of this contract with any business that is either 51% owned by Section 3 residents or 30% or more of its employees are Section 3 residents? Yes No

If yes, please provide the following documentation:

- List of subcontracted Section 3 business(es) and subcontract amount.
- Evidence which identifies the subcontractor is considered a Section 3 Business Concern (Sections 1 and 2 above provide examples of evidence to be used to identify a Section 3 Business Concern)

2013 Income Limits - Maricopa County, Arizona

Classification	1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person	9 person	10 person
Extremely Low (30%)	\$13,300	\$15,200	\$17,100	\$18,950	\$20,500	\$22,000	\$23,500	\$25,050	\$26,500	\$28,050
Very Low (50%)	\$22,100	\$25,250	\$28,400	\$31,550	\$34,100	\$36,600	\$39,150	\$41,650	\$44,200	\$46,700
Low (80%)	\$35,350	\$40,400	\$45,450	\$50,500	\$54,550	\$58,600	\$62,650	\$66,700	\$70,700	\$74,750

By signing below, I am certifying that the above information is an accurate estimate of workforce needs for this project.

Signature: _____

Date: _____

SECTION 3 INCOME VERIFICATION AND SELF CERTIFICATION

Date: _____ Last 4 No.SSN _____

Name: _____
 Address: _____
 Last Name First Name M.I.
 Street City Zip

Male: Female: Phone No. _____

It is the policy of these employers to provide equal opportunity to all of the employees and applicants for employment and to ensure that there be no discrimination against any persons on the grounds of race, color, national origin, political affiliation, sexual preference, age, or sex. The following questions are for the purpose of tracking the hiring benefits of this project and are optional and will remain confidential. This information will not be made a part of your personnel records.

Race/Ethnic Group (check) African American Am. Indian / Native American
 Asian / Pacific Islander Caucasian Hispanic / Latino Other

Annual Household Income (Please check one income box for your family size)

Family Size	Yearly Household Income			
	Less than		or	greater than
1 <input type="checkbox"/>	\$37,350	<input type="checkbox"/>	or	\$37,351 <input type="checkbox"/>
2 <input type="checkbox"/>	\$42,650	<input type="checkbox"/>	or	\$43,651 <input type="checkbox"/>
3 <input type="checkbox"/>	\$48,000	<input type="checkbox"/>	or	\$48,001 <input type="checkbox"/>
4 <input type="checkbox"/>	\$53,300	<input type="checkbox"/>	or	\$53,301 <input type="checkbox"/>
5 <input type="checkbox"/>	\$57,600	<input type="checkbox"/>	or	\$57,601 <input type="checkbox"/>
6 <input type="checkbox"/>	\$61,850	<input type="checkbox"/>	or	\$61,851 <input type="checkbox"/>
7 <input type="checkbox"/>	\$66,100	<input type="checkbox"/>	or	\$66,101 <input type="checkbox"/>
8 <input type="checkbox"/>	\$70,400	<input type="checkbox"/>	or	\$70,401 <input type="checkbox"/>

This income can be verified by:

- Federal Income Tax Returns / W2s Pay Stubs / Other Income Stubs
 _____ Housing Authority AHCCS, ALTCS, TANF, or Food Stamp Recipient

Certification and Agreement

This information will be used to ensure compliance with U.S. Department of Housing and Urban Development Section 3 eligibility requirements. With your signature, you are certifying that the above information is correct to the best of your knowledge; falsifying information on this form is a federal offense. The penalty for making false statements is prescribed in the US Criminal Code 18 U.S.C. 1001.

Signature: _____

**SECTION 3 COMPLIANCE CERTIFICATION
ECONOMIC OPPORTUNITIES FOR LOW AND VERY LOW INCOME PERSONS**

The Section 3 Compliance Certification form is provided to bidders to ensure they are aware of the requirements and clauses that will be required in all Section 3 covered subcontracts contracts. The selected contractor and its subcontractors will be bound by its provisions.

The City of Chandler Housing Division will ensure that the following clauses are included in all Section 3 covered contracts. The contractor and subcontractors (where applicable) will be bound by its provisions.

Every applicant, recipient, contracting part, contractor, and subcontractor shall incorporate, or cause to be incorporated, in all contractors for work in connection with a Section 3 covered project, the following clause:

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S. C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance of HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 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.

This form provides technical specifications as part of the HUD requirements pertaining to Section 3. The General Contractor that is selected for this project will be required to provide this form to any subcontractor hired for this project. If you are the selected contractor for this project, you must agree to comply with Steps 1, 2 & 3 below:

1. You must sign and date this form for every pay period in connection with this project and include with your Pay Application, and Davis-Bacon Certified Payroll Report:
2. In connection with this project, you must also complete, sign, date, and submit a MONTHLY report (Attachment 5) for every pay period worked, to the City of Chandler Project Manager.
3. If applicable, you must fill out and sign the **Certification For Business Concerns Seeking Section 3 Preference In Contracting And Demonstration Of Capability** (Attachment 2).

I have read, understand, and agree to comply with these requirements as stated above.

Authorized Name: _____
PRINT

Title: _____

Signature: _____

Company Name: _____
PRINT

Date: _____