



# BROWNFIELDS SUBGRANT AGREEMENT

## **1.0 INTRODUCTION**

This Agreement is entered into by the City of Austin (City), a Texas home-rule municipal corporation, acting through Austin Resource Recovery (ARR), and Project Transitions (Subgrantee), each of which are individually a “Party” and are collectively the “Parties” to this Agreement. This Agreement is for abatement of asbestos-containing materials at the property located at 5606 Roosevelt Avenue, Austin, Texas 78756 (Site), which is owned by the Subgrantee.

This Agreement establishes the terms and conditions of the City’s grant to the Subgrantee, which shall be used to fund the abatement of asbestos-containing materials at the Site.

## **2.0 BACKGROUND**

The Austin Brownfields Revitalization Office (ABRO), a division of ARR, provides environmental services to entities planning to redevelop or revitalize a property. This is possible through a Revolving Loan Fund (RLF) grant that the City received from the U.S. Environmental Protection Agency (EPA) in 2016 (Exhibit A) to create a loan and grant program to fund the cleanup of environmental contamination and to facilitate property redevelopment in the city of Austin.

## **3.0 SCOPE OF AGREEMENT**

### **3.1 Asbestos Abatement**

Previous environmental assessments completed by ABRO identified the extent of asbestos contamination and the abatement design. The Subgrantee agrees to use the grant funds solely for the asbestos abatement activities at the Site as outlined in the Project Manual for Abatement of Asbestos Materials (Exhibit C). The Subgrantee shall conduct cleanup activities as required by the City. (See Section VI(B)(1)(g) of Exhibit A.) Only costs directly related to asbestos abatement activities as specified in Exhibit C shall be considered eligible for reimbursement (Eligible Expenses) under this Agreement. The Subgrantee’s overhead and administrative expenses are not Eligible Expenses. The City will not reimburse expenses incurred for work that is commenced before the EPA approves and signs the City’s Quality Assurance Project Plan (QAPP) (Exhibit E) to the EPA.

### **3.2 Grant Terms**

The City will grant \$100,000. The City will pay the funds as provided in Section 3.3, Reimbursement for Eligible Expenses.

### **3.3 Reimbursement for Eligible Expenses**

3.3.1 To receive reimbursement, the Subgrantee shall e-mail invoices for Eligible Expenses from asbestos abatement contractors (“Subgrantee’s contractors”) to the City Agreement Manager (as defined in Section 4.2, City Agreement Manager) with a copy e-mailed to [ARR.AP@austintexas.gov](mailto:ARR.AP@austintexas.gov). The Subgrantee’s invoices are due to the City Agreement Manager within fifteen (15) calendar days after the Subgrantee receives the invoices from the Subgrantee’s contractors. The invoices must be itemized and must include:

- A. The contractor’s name and remit to address;
- B. Description of services rendered;



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- C. Start date of service; and
- D. Completion date of service, if applicable.

- 3.3.2 The City's Agreement Manager will review the submitted invoices to ensure the charges are for Eligible Expenses and will notify the Subgrantee via e-mail within fifteen (15) calendar days of any ineligible charges. The Parties agree that the City, at its sole discretion, has the right to determine whether a charge is an Eligible Expense. The City will exercise its discretion in accordance with the City's interpretation of Exhibit C.
- 3.3.3 ARR will issue a check for Eligible Expenses to the Subgrantee within thirty (30) calendar days of receiving the Subgrantee's invoices. City staff may hand-deliver or mail the check to the Subgrantee, or the Subgrantee may pick up the check from the City during the City's regular business hours.
- 3.3.4 The Parties agree that the City may enter to inspect the Site to ensure that the asbestos abatement activities comply with this Agreement and applicable laws, and to verify that the work associated with the invoices received has been properly completed. The Parties agree that the City has the right to deny reimbursement if the City is unable to ensure and verify that the asbestos abatement activities are completed correctly and in compliance with this Agreement.

### 3.4 Required Submittals

- 3.4.1 Employee Certification: The Subgrantee agrees to contractually require the Subgrantee's contractors and all levels of subcontractors to identify, in writing, the trade classification agreed to by all laborers and mechanics employed by them for the purpose of performing the asbestos abatement activities and subject to reimbursement under this Agreement ("Worker"). The Subgrantee agrees to contractually require the Subgrantee's contractors and subcontractors to prepare a completed employee certification form (Exhibit G) for the signature of each Worker, and a witness shall sign the form in the presence of the Worker. If the work performed by the Worker is different than the trade classification agreed upon, the Worker shall be paid for that work no less than the minimum prevailing wage for that specified trade. The Subgrantee shall submit each Exhibit G form to the City.
- 3.4.2 Weekly Payrolls and Wage Compliance Statements: A contractor or subcontractor engaging in asbestos abatement activities subject to reimbursement under this Agreement must comply with the [Davis-Bacon and Related Acts](#). To ensure compliance with Davis-Bacon prevailing wage requirements, it is the Subgrantee's obligation to collect a copy of all weekly payrolls and a signed wage compliance statement (Exhibit F, Form WH-347) from the Subgrantee's contractors and subcontractors and submit them weekly via e-mail to the City's Agreement Manager.
  - 3.4.2.1 The weekly payroll (Exhibit F) shall include the following:
    - A. The name of each Worker who performs the asbestos abatement activities subject to reimbursement under this Agreement;
    - B. The Worker's work classification;



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- C. The actual per diem wages paid to each Worker; and
- D. An identifying number for each Worker, which shall not be a full Social Security number, but which may be the last four digits of a Social Security number.

3.4.2.2 The wage compliance statement (Exhibit F) shall be signed and dated by the party responsible for supervising the payment of persons employed by the Subgrantee or the Subgrantee's contractors or subcontractors. The signed statement shall attest that the payroll complies with 29 CFR issued by the U.S. Secretary of Labor. The wage compliance statement shall, at a minimum, include: the name of the signatory and the signatory's title; the name of the project; the dates of the payroll period; and the name of the contractor or subcontractor responsible for supervising payment of the Workers listed on the payroll.

3.4.3 Monthly Updates: The Subgrantee shall submit monthly updates via e-mail to the City Agreement Manager. Each monthly update is due on or before the 15<sup>th</sup> day of each month. Each monthly update shall include the following information ("the Success Metrics") from the prior month:

- A. Status of the cleanup, demolition, and construction of the new building;
- B. Photos of site – before, during, and after cleanup and construction;
- C. The numbers of jobs created or retained resulting from the development;
- D. Any private and/or public project funds received;
- E. Any concerns or issues, and any schedule updates;
- F. New information or progress, if any, since the previous monthly update; and
- G. Any other information that the City requests for the purpose of evaluating the success of the abatement, or which may be required or helpful in the City's reports to the EPA.

3.4.3.1 The City reserves the right to request that this information be submitted in a quarterly report.

3.4.4 Standard Form 1413. Before a subcontractor begins work on asbestos abatement activities at the Site, the Subgrantee shall provide the City with Standard Form 1413, Statement and Acknowledgement (Exhibit J). The Subgrantee shall contractually require its contractor(s) to provide the Subgrantee with the signed form in Exhibit J before each subcontractor commences work on the asbestos abatement activities to be performed at the Site.

### 3.5 Safety Requirements

3.5.1 The Subgrantee shall ensure that cleanup activities subject to reimbursement under this Agreement comply with all applicable federal, state, and local safety laws, rules, and regulations and are protective of human health and the environment.

3.5.2 The Subgrantee agrees to ensure that the Subgrantee's contractors and subcontractors comply with Exhibit C and Exhibit E of this Agreement.



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- 3.5.3 The Subgrantee must make available for review at the Site at least one copy of EPA, Occupational Health & Safety Administration (OSHA), and applicable state, county, and city regulations governing the work.

### 3.6 Davis-Bacon and Related Acts Compliance

- 3.6.1 The Subgrantee agrees that the Workers performing the work subject to reimbursement under this Agreement shall be paid Davis-Bacon prevailing wages (in accordance with Exhibit H) and that the Subgrantee must ensure that its contractors and subcontractors comply with the Davis-Bacon and Related Acts. The Subgrantee agrees to ensure that all payments to Workers for all work performed and subject to reimbursement under this Agreement are made in compliance with the Davis-Bacon and Related Acts. Subgrantee shall take all actions necessary to ensure that Workers who perform the asbestos abatement activities subject to reimbursement under this Agreement, pursuant to a contract in excess of \$2,000, shall not be paid less than prevailing wage rates, including fringe benefits, as published by the Department of Labor (DOL) or the \$15.00 minimum wage required by City of Austin Ordinance No. 20160324-015, whichever is higher. (See Exhibit H.) The total minimum wage required can be met by using any combination of cash and non-cash qualified fringe benefits, provided that the cash component meets or exceeds the \$15.00 minimum wage required.
- 3.6.2 The Subgrantee must state in a solicitation for a contract that Davis-Bacon prevailing wage rates are applicable, and bid packages must include the current Davis-Bacon general wage determination for the area where the work will occur. The prevailing wage rate determination for a specific locality is available at <http://www.wdol.gov>. The Subgrantee shall contractually require the Subgrantee's contractors and subcontractors to comply with the Davis-Bacon and Related Acts and the Austin City Code, including by paying either prevailing wage rates as published by the DOL or the minimum wage rate required in the Austin City Code, whichever is higher. The Subgrantee shall require the Subgrantee's contractors and subcontractors to abide by and include Exhibits F, G, H, I, J, and K in agreements for asbestos abatement work at the Site that is subject to reimbursement under this Agreement.
- 3.6.3 ARR will periodically interview Workers entitled to Davis-Bacon prevailing wages to verify that all contractors and/or subcontractors are paying the appropriate wage rates. All interviews will be conducted in confidence. ARR will conduct more frequent interviews if the initial interviews or other information indicate that there is a risk that the contractor or subcontractor is not complying with the Davis-Bacon and Related Acts. The City has the right to determine, at its discretion, the number of Workers that will be interviewed.
- 3.6.4 In the event of failure to pay any Worker, including any apprentice, trainee, or helper, employed or working on the Site of the abatement, all or part of the wages required by the Davis-Bacon and Related Acts, DOL regulations, or the City Code, the City may, after written notice to the Subgrantee, take such action as may be necessary to cause the suspension of any further reimbursement until the City has confirmed





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that such violations have ceased and until restitution has been made. The City may withhold or cause to be withheld such sums as may be necessary to satisfy any liabilities from unpaid wages or liquidated damages. The City may also withhold payments if the Subgrantee fails to provide weekly payroll reports or fails to provide copies in a timely manner upon request by the City.

- 3.6.5 The City reserves the right to seek an opinion from DOL to determine whether the Subgrantee or the Subgrantee's contractors or subcontractors have violated the Davis-Bacon and Related Acts or federal regulations.
- 3.6.6 In the event of a violation of the Davis-Bacon Act or the Austin City Code, the Subgrantee, the contractor, or the subcontractor responsible shall be liable for the unpaid wages. In addition, the Subgrantee, contractor, or subcontractor may be liable to the federal government for liquidated damages.

### **3.7 Compliance with CERCLA and Other Federal Requirements**

- 3.7.1 Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") Compliance: The Subgrantee shall comply with CERCLA and ensure that cleanup activities subject to reimbursement under this Agreement comply with all applicable federal, state, and local laws, rules, and regulations and are protective of human health and the environment. The Subgrantee shall use the grant funds only for Eligible Expenses and in compliance with the requirements of CERCLA § 104(k) and other applicable federal, state, and local laws and regulations.
- 3.7.2 By signing this Agreement, the Subgrantee certifies that the Subgrantee is not currently subject, nor has the Subgrantee ever been subject, to any penalties resulting from environmental non-compliance at the Site for which the grant funds have been awarded. The Subgrantee also certifies that the Subgrantee is not potentially liable for the Site under CERCLA § 107.
- 3.7.3 The Subgrantee's contractor shall document through its bid/proposal for work and the invoices how the grant funds are used. The Subgrantee shall maintain records, including its invoices, consistent with Section 3.8, City's Right to Audit. The Subgrantee shall obtain written approval from the City before disposing of records relating to this grant and the abatement activities. The Subgrantee shall also provide authorized representatives of the federal government with access to records relating to the grant and abatement activities, including but not limited to records relating to Eligible Expenses that were reimbursed with grant funds.
- 3.7.4 At a minimum, the Subgrantee is responsible for complying with the following laws and regulations:
  - A. Applicable EPA assistance regulations (2 CFR Parts 200 and 1500);
  - B. Applicable procurement standards in 2 CFR 200.317-200.326;
  - C. DBE requirements at 40 CFR 33;
  - D. OSHA Worker Health & Safety Standard 29 CFR 1910.120;
  - E. The Uniform Relocation Act;
  - F. The National Historic Preservation Act;



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- G. The Endangered Species Act;
- H. Permits required by Section 404 of the Clean Water Act;
- I. Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR 60-4;
- J. Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. 327-333);
- K. The Anti-Kickback Act (40 U.S.C. 276c);
- L. Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250; and
- M. Any other applicable federal, state, or local laws and regulations, including but not limited to those relating to procurement.

3.7.5 The Subgrantee shall inform the City Agreement Manager via e-mail within twenty-four (24) hours if the Subgrantee or any of the Subgrantee's contractors or subcontractors have changed the project scope related to asbestos abatement, including schedule, budget, or any issues related to safety. The Subgrantee is responsible for any notifications to other agencies and/or to the public, as required by local, state, and federal laws, rules, and regulations.

3.7.6 The Subgrantee shall allow the City to place signs on the Site stating that the cleanup is being financed in part by "U.S. EPA Brownfields Loan Funds and the Austin Brownfields Revitalization Office."

3.7.7 The Subgrantee shall also ensure that all required signage is posted or allow the City to post signage that includes:

- A. Contacts for obtaining information on activities being conducted on the Site;
- B. Contacts for obtaining information for reporting Davis-Bacon Act compliance; and
- C. Contacts for reporting suspected criminal activities and non-compliance with health and safety laws and rules.

3.7.7.1 The Subgrantee shall contractually require the Subgrantee's contractors and subcontractors to ensure that federal and City bulletins on wage and safety requirements, in both English and Spanish (Exhibit I), are posted at the Site at all times during the period when Workers are performing the abatement activities.

3.7.7.2 The City reserves the right to hang additional signage. Any sign(s) erected on the Site shall comply with state and local requirements for on-premises outdoor advertising.

### 3.8 City's Right to Audit

The Subgrantee agrees that the representatives of the Office of the City Auditor, or other authorized representatives of the City, shall have access to, and the right to audit, examine, or reproduce, any and all records of the Subgrantee related to the performance under this Agreement. The Subgrantee shall retain all such records for a period of three (3) years after receiving the final payment under this Agreement, or until all audit and litigation matters that



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the City has brought to the attention of the Subgrantee are resolved, whichever is longer. The Subgrantee shall require all contractors and subcontractors to abide by the auditing and records retention requirements in this section.

### **3.9 Right to Assurance**

If the City in good faith has reason to question the Subgrantee's intent to perform its obligations under this Agreement or otherwise comply with the terms of this Agreement, the City may demand that the Subgrantee provide written assurance of the intent to perform or otherwise comply. The Subgrantee has ten (10) business days to provide notice of its written assurance of intent to perform or otherwise comply with this Agreement. If the Subgrantee fails to provide this assurance, the City may treat this failure as an anticipatory repudiation of this Agreement.

### **3.10 Default**

The Subgrantee shall be in default under the Agreement if the Subgrantee: (a) fails to fully, timely, and faithfully perform any of its obligations under the Agreement, and following receipt of written notice of such failure, fails to timely cure the failure within ten (10) business days; or (b) fails to provide adequate assurance of performance or compliance in response to the City's demand for such assurance.

### **3.11 Subgrantee's Responsibility to Secure the Site**

If the Subgrantee becomes unable or unwilling to complete abatement, the Subgrantee shall be responsible for securing the site to the satisfaction of the City and the EPA. The Subgrantee shall be responsible for all costs of securing the site. If the Subgrantee fails to secure the site to the City's and EPA's satisfaction, the Subgrantee agrees that the City may secure the site and the Subgrantee will reimburse the City for its expenses related to securing the site.

### **3.12 Dispute Resolution**

If a dispute arises between the Parties regarding performance under this Agreement, which the Parties are unable to resolve through negotiation, the Parties agree that the dispute will be submitted for mediation before any suit is filed. If the mediation does not successfully resolve this dispute, each Party is free to pursue other remedies available to them.

### **3.13 Indemnification**

**THE SUBGRANTEE SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS OFFICERS, APPOINTED OR ELECTED OFFICIALS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUCCESSORS, AND ASSIGNS (THE "INDEMNIFIED PARTIES"), AGAINST ANY AND ALL COSTS, LIABILITIES, DAMAGES, CLAIMS, SUITS, ACTIONS, AND CAUSES OF ACTIONS ("CLAIMS"), TO THE EXTENT ARISING DIRECTLY OR INDIRECTLY OUT OF (A) A BREACH OF THIS AGREEMENT OR VIOLATION OF LAW BY SUBGRANTEE, ITS OFFICERS, AGENTS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, SUCCESSORS, OR ASSIGNS (THE "SUBGRANTEE PARTIES"), (B) A FALSE REPRESENTATION OR WARRANTY MADE BY THE SUBGRANTEE PARTIES IN THIS AGREEMENT OR IN SUBGRANTEE'S PROPOSAL, OR (C) THE NEGLIGENCE, WILLFUL MISCONDUCT, OR BREACH OF A STANDARD OF STRICT**



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**LIABILITY BY THE SUBGRANTEE PARTIES IN CONNECTION WITH THIS AGREEMENT. CLAIMS TO BE INDEMNIFIED UNDER THIS ARTICLE INCLUDE CLAIMS FOR BODILY INJURY OR DEATH, OCCUPATIONAL ILLNESS OR DISEASE, LOSS OF SERVICES WAGES OR INCOME, DAMAGE, DESTRUCTION OR LOSS OF PROPERTY, AND WORKERS' COMPENSATION CLAIMS. ENTITY'S OBLIGATIONS UNDER THIS AGREEMENT ARE NOT EXCUSED IN THE EVENT A CLAIM IS CAUSED IN PART BY THE ALLEGED NEGLIGENCE OR WILLFUL MISCONDUCT OF THE INDEMNIFIED PARTIES.**

### **3.14 Insurance Requirements**

- 3.14.1 At all times during the term of this Agreement, the Subgrantee shall maintain insurance and require all contractors and subcontractors to maintain insurance as outlined in Exhibit D.
- 3.14.2 All insurance coverage must be written by companies that have an A.M. Best rating of B+, VII or better, and are authorized by the State of Texas to do business in Texas.
- 3.14.3 It is the responsibility of the Subgrantee to ensure its contractors and any of its contractors' subcontractors maintain the required insurance coverage in force at all times. The Subgrantee's failure to do so will not relieve the Subgrantee of any contractual obligation or responsibility.
- 3.14.4 In the event of the Subgrantee's failure to maintain the required insurance in effect, the City may order the Subgrantee to immediately stop work and, upon fourteen (14) calendar days' notice and without any opportunity to cure, pursue any of its remedies for breach of this Agreement as provided for herein or otherwise provided by law.

### **3.15 Prohibition against Personal Interest in Contract**

The Subgrantee acknowledges that if it takes action, directly or indirectly, that results in a violation of City Code § 2-7-61 through 2-7-67 by any person with respect to the performance of this Agreement or the solicitation for work performed under this Agreement, the City at its sole discretion may void this Agreement.

### **3.16 Amendments and Complete Agreement**

This Agreement may not be amended in whole or in part except in a written amendment executed by both Parties to the Agreement. The Subgrantee shall not unreasonably withhold consent to the City's proposed amendment where the City seeks to change the cleanup activities in accordance with the City's obligations to the EPA under Exhibit A, Section V(E)(1). This Agreement constitutes the entire agreement and understanding between the parties and supersedes all previous agreements, understandings, discussions, or representations concerning its subject matter.

### **3.17 Permits and Licenses**

During the term of this Agreement, the Subgrantee shall maintain in force all permits, licenses, approvals, certifications, and proof of inspections as required by federal, state, or local law.



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### **3.18 City Responsibilities**

The City will be responsible for:

- A. Complying with all federal reporting requirements, including, but not limited to, federal requirements for contract closeout;
- B. Reviewing invoices to determine whether expenses are eligible for reimbursement, as provided in Section 3.3; and
- C. Reimbursing Eligible Expenses in accordance with Section 3.3.

### **3.19 Jurisdiction and Venue**

This Agreement is made under and shall be governed by the laws of the State of Texas, without regard to conflicts of law principles which would apply the law of any other jurisdiction. Venue for any dispute arising out of or concerning this Agreement, either administrative or judicial, shall be proper and lie exclusively in Travis County, Texas.

### **3.20 Assignment**

The Subgrantee may not assign or transfer its interests under this Agreement without the City's consent in writing.

### **3.21 Survival of Obligations**

All provisions of this Agreement that impose continuing obligations on the Parties, including but not limited to warranty, indemnification, limitation of liability, and confidentiality, shall survive the expiration or termination of this Agreement.

### **3.22 Accounting Principles**

In order to ensure accurate financial reporting, the Subgrantee shall maintain an accounting system in accordance with Generally Accepted Accounting Principles (GAAP) and shall prepare and maintain all financial and programmatic records pertaining to all matters relating to this Agreement.

### **3.23 Property Ownership**

EPA requires that the Subgrantee must own the property for the entire duration of the cleanup and during the period in which the Subgrantee incurs any Eligible Expenses. By signing this Agreement, the Subgrantee affirms that the Subgrantee is currently the owner in fee simple of the property and will remain so for the duration of the Agreement.

### **3.2.4 Exhibits**

The following exhibits are incorporated into and made a part of this Agreement:

- A. Exhibit A – EPA Revolving Loan Fund Agreement;
- B. Exhibit B – Site Map;
- C. Exhibit C – Project Manual for Abatement of Asbestos Materials;
- D. Exhibit D – Insurance Requirements;
- E. Exhibit E – QAPP;
- F. Exhibit F – Wage Compliance Form WH-347 and WH-347 Instructions;
- G. Exhibit G – Employee Certification Forms (English and Spanish);
- H. Exhibit H – Residential Construction Wage Rates (English and Spanish);
- I. Exhibit I – Federal and City Wage and Safety Bulletins (English and Spanish);





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- J. Exhibit J – Standard Form 1413, Statement and Acknowledgment for Federally Funded Projects; and
- K. Exhibit K – Davis-Bacon Prevailing Wage Terms and Conditions for Cooperative Agreements with Cleanup Activities using Hazardous Waste Funding – Governmental Entities.

### **4.0 CONTACT INFORMATION FOR THE PARTIES**

#### **4.1 Subgrantee Contact**

The personnel listed below shall be the Subgrantee's main point of contact and will manage the services, operations, and communications under this Agreement.

Madge Whistler, CFO  
Project Transitions, Inc.  
Phone: 512-454-8646 ext. 102  
E-mail: [finance@projecttransitions.org](mailto:finance@projecttransitions.org)  
Mailing Address: 7101 Woodrow Avenue, Austin, Texas 78757

#### **4.2 City Agreement Manager**

The City Agreement Manager listed below will be the City's main point of contact and will manage the services, operations, and communications under this Agreement. E-mail communication is preferred, but in the case of emergencies, please contact the Agreement Manager by phone.

Christine Whitney, Brownfields Program Manager  
City of Austin Brownfields Revitalization Office  
Phone: 512-974-6085  
E-mail: [christine.whitney@austintexas.gov](mailto:christine.whitney@austintexas.gov) and copy [brownfields@austintexas.gov](mailto:brownfields@austintexas.gov)  
Mailing Address: P.O. Box 1088, Austin, Travis County, Texas 78767

#### **4.3 Contact Changes**

Either Party may designate an alternative main point of contact, address, or addressee by sending written notice to the other Party. Each Party agrees to notify the other Party of any change to the Party's main point of contact, address, or telephone number within five (5) business days of the change occurring.

### **5.0 TERM OF AGREEMENT**

This Agreement commences on the date of execution by the last of the Parties to sign this Agreement. This Agreement ends when (1) the abatement project at the Site is completed; (2) the City accepts the final monthly or quarterly report documenting the completion of construction; (3) the Subgrantee submits to the City the documentation from the air monitoring contractor that asbestos removal was successful, and this opinion comes from an individual licensed or registered to engage in asbestos-related activities by the Texas Department of State Health Services; and (4) when applicable, the City's Building Official issues a certificate of occupancy for the structure where asbestos was removed or for the new structure at the Site.



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### AGREED TO AND EXECUTED BY:

DocuSigned by:  
*Madge Whistler*

BD9145E78CC749C

Madge Whistler  
Project Transitions, Inc.

7/29/2020

Date

*Ken Snipes*

Ken Snipes, Director  
City of Austin  
Austin Resource Recovery

*29 July 20*  
Date

### Approved as to form:

*Holly Heinrich*

Holly Heinrich  
Assistant City Attorney  
City of Austin

*7/22/20*  
Date




## EXHIBIT LIST FOR BROWNFIELDS SUBGRANT AGREEMENT

Exhibit	Title
Exhibit A	EPA Revolving Loan Fund Agreement
Exhibit B	Site Map
Exhibit C	Project Manual for Abatement of Asbestos Materials
Exhibit D	Insurance Requirements
Exhibit E	QAPP
Exhibit F	Form WH 347 and Form WH 347 Instructions
Exhibit G	Employee Certification Forms (English and Spanish)
Exhibit H	Residential Construction Wage Rates (English and Spanish)
Exhibit I	Federal and City Wage and Safety Bulletins (English and Spanish)
Exhibit J	Standard Form 1413
Exhibit K	Davis Bacon Terms and Conditions For Cooperative Agreements with Cleanup Activities using Hazardous Waste Funding - Governmental Entities

# Exhibit A

EPA Revolving Loan Fund Agreement

	<b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b>  <b>Cooperative Agreement</b>	<b>GRANT NUMBER (FAIN):</b> 01F21301	<b>DATE OF AWARD</b> 09/08/2016
		<b>MODIFICATION NUMBER:</b> 0	<b>MAILING DATE</b> 09/15/2016
		<b>PROGRAM CODE:</b> BF	<b>ACH#</b> 67088
		<b>TYPE OF ACTION</b> New	
<b>RECIPIENT TYPE:</b> Municipal		<b>Send Payment Request to:</b> Las Vegas Finance Center	
<b>RECIPIENT:</b> City of Austin dba Austin Resource Recovery 310 W. 2nd Street Austin, TX 78701 <b>EIN:</b> 74-6000085		<b>PAYEE:</b> TX CoAus - City of Austin dba Austin Resource Recovery 310 W. 2nd Street Austin, TX 78701	
<b>PROJECT MANAGER</b> Christine Margaret Whitney 310 W. 2nd Street Austin, TX 78701-3906 <b>E-Mail:</b> Christine.Whitney@austintexas.gov <b>Phone:</b> 512-974-1926	<b>EPA PROJECT OFFICER</b> Camisha Scott Superfund Division, 6SF-VB <b>E-Mail:</b> Scott.Camisha@epa.gov <b>Phone:</b> 214-665-6755	<b>EPA GRANT SPECIALIST</b> Lisa Kapsh Grant Programs Section, 6MD-CG <b>E-Mail:</b> Kapsh.Lisa@epa.gov <b>Phone:</b> 214-665-7335	
<b>PROJECT TITLE AND DESCRIPTION</b> City of Austin Brownfields Program RLF The purpose of this grant is to capitalize a revolving loan fund for the purpose of cleaning up brownfields sites throughout the jurisdiction of the City of Austin. This is a Brownfields Revolving Loan Fund cooperative agreement in that it will assist the City of Austin in enhancing a local Brownfields Program that is in accordance with the Brownfields Revitalization Act of 2002 and EPA Brownfields National Guidance. This Revolving Loan Fund cooperative agreement will enable the City of Austin to capitalize a revolving loan fund to carry out cleanup activities at brownfields sites. The grantee will also be able to conduct community outreach and education regarding their Brownfields program, as well as market the program to potential developers and others. This cooperative agreement will also assist the City of Austin in obtaining information and tools they need to carry out their responsibilities in connection with cleanup of hazardous and petroleum brownfields properties to move properties towards reuse/redevelopment.			
<b>BUDGET PERIOD</b> 10/01/2016 - 09/30/2021	<b>PROJECT PERIOD</b> 10/01/2016 - 09/30/2021	<b>TOTAL BUDGET PERIOD COST</b> \$984,000.00	<b>TOTAL PROJECT PERIOD COST</b> \$984,000.00
<b>NOTICE OF AWARD</b>			
Based on your Application dated 12/16/2015 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$820,000. EPA agrees to cost-share 80.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$820,000. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.			
<b>ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)</b>		<b>AWARD APPROVAL OFFICE</b>	
<b>ORGANIZATION / ADDRESS</b> Grant Programs Section, 6MD-CG 1445 Ross Avenue, Suite 1200 Dallas, TX 75202-2733		<b>ORGANIZATION / ADDRESS</b> U.S. EPA, Region 6 Superfund Division (6SF) 1445 Ross Avenue, Suite 1200 Dallas, TX 75202-2733	
<b>THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY</b>			
<b>Digital signature applied by EPA Award Official</b> Donna Miller - Chief, Grant Programs Section			<b>DATE</b> 09/08/2016



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FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 820,000	\$ 820,000
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$ 164,000	\$ 164,000
State Contribution	\$	\$ 0	\$ 0
Local Contribution	\$	\$ 0	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 984,000	\$ 984,000

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.818 - Brownfields Assessment and Cleanup Cooperative Agreements	CERCLA: Sec. 104(k)(3)	2 CFR 200 2 CFR 1500 and 40 CFR 33

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
AUSTIN	1606BFG012	16	E4	0600AG7	301D79	4114	G600OL00	-	550,000
AUSTIN	1606BFG012	16	E4	0600AG7	301D79XBP	4114	G600OL00	-	270,000
									820,000

## Budget Summary Page

<b>Table A - Object Class Category (Non-construction)</b>	<b>Total Approved Allowable Budget Period Cost</b>
<b>1. Personnel</b>	\$0
<b>2. Fringe Benefits</b>	\$0
<b>3. Travel</b>	\$4,964
<b>4. Equipment</b>	\$0
<b>5. Supplies</b>	\$0
<b>6. Contractual</b>	\$49,200
<b>7. Construction</b>	\$0
<b>8. Other</b>	\$929,836
<b>9. Total Direct Charges</b>	\$984,000
<b>10. Indirect Costs: % Base</b>	\$0
<b>11. Total (Share: Recipient <u>20.00</u> % Federal <u>80.00</u> %.)</b>	\$984,000
<b>12. Total Approved Assistance Amount</b>	\$820,000
<b>13. Program Income</b>	\$53,500
<b>14. Total EPA Amount Awarded This Action</b>	\$820,000
<b>15. Total EPA Amount Awarded To Date</b>	\$820,000

## Detailed Table B Budget Page: 1

<b>Table B - Program Element Classification (Non-construction)</b>	<b>Total Approved Allowable Budget Period Cost</b>
<b>1. Travel</b>	\$4,964
<b>2. Contractual</b>	\$49,200
<b>3. Other</b>	\$765,836
<b>4.</b>	\$
<b>5.</b>	\$
<b>6.</b>	\$
<b>7.</b>	\$
<b>8.</b>	\$
<b>9.</b>	\$
<b>10. Match</b>	\$164,000
<b>11. Total (Share: Recip <u>20.00</u> % Fed %)</b>	\$984,000
<b>12. Total Approved Assistance Amount</b>	\$

## **Administrative Conditions**

### **General Terms and Conditions**

The recipient agrees to comply with the current EPA general terms and conditions available at: <https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-march-29-2016-or-later>. These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at <http://www.epa.gov/grants/grant-terms-and-conditions>.

### **A. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

#### **GENERAL COMPLIANCE, 40 CFR, Part 33**

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

#### **MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E**

MBE/WBE reporting is required in annual reports for assistance agreements where there are funds budgeted for procuring construction, equipment, services and supplies, including funds budgeted for direct procurement by the recipient or procurement under sub-awards or loans in the "Other" category that exceed the threshold amount of \$150,000, including amendments and/or modifications.

Based on EPA's review of the planned budget, this award has the potential to meet the conditions above and may be subject to the Disadvantaged Business Enterprise (DBE) Program reporting requirements. While the recipient's direct procurement budget is less than \$150,000, procurement within the planned sub-awards included in the "other" category may cause the threshold to be exceeded. Since it is unclear at the time of this award whether funds budgeted in the "other" category triggers reporting, the recipient must make reporting a requirement of all sub-awards/loans and use these reports to determine whether recipient reporting is necessary. If cumulative funds budgeted or expended during the period of the agreement exceed the \$150,000 threshold amount, the recipient is required to submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis. All procurement actions are reportable, not just that portion that exceeds \$150,000.

If the recipient believes this award does not meet these conditions, it must provide [insert Regional or Headquarters point of contact] with a justification and budget detail within 21 days of the award date clearly demonstrating that, based on the planned budget, this award is not subject to the DBE reporting requirements.

When completing the annual report, recipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30th of each year. Final reports are due by October 30th or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on total procurements. Recipients with expended and/or budgeted funds for procurement are required to report annually whether the planned procurements take place during the reporting period or not. If no budgeted procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be sent to [insert name and contact information of the appropriate DBE coordinator and Grants Specialist (optional)]. The current EPA Form 5700-52A can be found at the EPA

Office of Small Business Program's Home Page at [http://www.epa.gov/osbp/dbe\\_reporting.htm](http://www.epa.gov/osbp/dbe_reporting.htm)

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Good Faith Effort requirements as described in 40 CFR Part 33 Subpart C, and Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D.

**RLF recipients only:**

**Objective/Goals of Loan Recipients**

As a recipient of an EPA financial assistance agreement to capitalize revolving loan funds, the recipient agrees to either apply its own fair share objectives negotiated with EPA to identified loans using a substantially similar relevant geographic market, or negotiate separate fair share objectives with its identified loan recipients. These separate objectives/goals must be based on demonstrable evidence of the availability of MBEs and WBEs in accordance with 40 CFR, Part 33, Subpart D.

The recipient agrees that if procurements will occur over more than one year, the recipient may choose to apply the fair share objective in place either for the year in which the identified loan is awarded or for the year in which the procurement action occurs. The recipient must specify this choice in the financial assistance agreement, or incorporate it by reference therein.

**SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C**

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
- (f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

**CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302**

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

**BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)**

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create

and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

**B. Unliquidated Obligations:** Pursuant to 40 CFR 31.41(b) and 31.50(b), EPA recipients shall submit an annual Federal Financial Report (SF-425) to EPA no later than 90 calendar days following the end of the reporting quarter.

The following reporting period end dates shall be used for interim reports: 3/31, 6/30, 9/30, or 12/31.

At the end of the project, the recipient must submit a final Federal Financial Report to EPA no later than 90 calendar days after the end of the project period. The form is available on the internet at <http://www2.epa.gov/financial/forms>. All FFRs must be submitted to the Las Vegas Finance Center:

US EPA, Las Vegas Finance Center  
4220 S. Maryland Pkwy, Bld C, Rm 503  
Las Vegas, NV 89119

or by email to: [lvfc-grants@epa.gov](mailto:lvfc-grants@epa.gov)

The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

EPA may take enforcement actions in accordance with 40 CFR 31.43 if the recipient does not comply with this term and condition.

**C. N/A**

**D. QUALITY MANAGEMENT PLAN (QMP)** - The recipient will submit an update or revision of the Quality Management Plan annually to the Region Quality Assurance Manager (6MD) for approval, or a certification that the plan is current, and include a copy of the recipient's new approval pages for the QMP.

**E. QUALITY ASSURANCE PROJECT PLAN (QAPP) - Sixty days prior to the initiation of any environmental measurements or data generation**, the recipient shall submit to the EPA Project Officer, for review and approval, a written Quality Assurance Project Plan (QAPP) for this grant project. The QAPP shall comply with the guidelines specified in the document entitled "EPA Requirements for Quality Assurance Project Plans for Environmental Data Operations", EPA QA/R5. If any change is required after EPA approval, the recipient must notify the Project Officer **immediately** and request approval for the change **prior to implementation**.

**Any costs for environmental measurements or data generation incurred prior to approval of the Quality Assurance Project Plan by the EPA Project Officer will be ineligible for reimbursement.**

**F. FY12 or later Unpaid Federal Tax Liabilities and Felony Convictions For Non-Profit and For-Profit Organizations:** This award is subject to the provisions contained in the Consolidated Appropriations Act, 2014, Public Law 113-76, Division G, Title IV, Sections 422 and 423 regarding unpaid federal tax liabilities and federal felony convictions, which also have been included in prior appropriations acts. Accordingly, by accepting this award the recipient acknowledges that it: (1) is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) has not been convicted of a felony criminal conviction under any Federal law within 24 months preceding the award, unless EPA has considered suspension or debarment of the corporation based on these tax liabilities or convictions and determined that such action is not necessary to protect the



Government's interests. If the recipient fails to comply with these provisions, EPA will annul this agreement and may recover any funds the recipient has expended in violation of Sections 422 and 423.

## **Programmatic Conditions**

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FY16 RLF Terms and Conditions

### **Revolving Loan Fund (RLF) Terms and Conditions**

Please note that these Terms and Conditions (T&Cs) apply to Brownfields RLF capitalization Grants awarded under CERCLA § 104(k) and those that chose to transition to § 104(k), or those agreements which have been amended after 12/24/14

They do not apply to pre-FY 2003 grants subject to § 104(d).

**NOTE TO PO's: All T&C's in this document must be used as presented here unless they are marked "OPTIONAL" or "CAN CHANGE."**

## **I. GENERAL FEDERAL REQUIREMENTS**

### **A. Federal Policy and Guidance**

1. Cooperative Agreement Recipients: By awarding this cooperative agreement, EPA has approved the proposal for the Cooperative Agreement Recipient (CAR).

***OPTIONAL - include if the workplan is not approved or conditionally approved:*** By awarding this cooperative agreement, EPA has not approved/conditionally approved the proposal for the Cooperative Agreement Recipient (CAR) submitted in the Fiscal Year 2016 competition for Brownfields assessment cooperative agreements. The CAR may not expend ("draw down") funds to carry out this agreement until EPA's award official approves the work plan.

2. In implementing this agreement, the cooperative agreement recipient shall comply with and require that work done by borrowers and subrecipients with cooperative agreement funds comply with the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k). The CAR will ensure that cleanup activities supported with cooperative agreement funding comply with all applicable Federal and State laws and regulations. The CAR will ensure cleanups are protective of human health and the environment.
3. The CAR must consider whether it is required to have borrowers or subrecipients conduct cleanups through a State or Tribal response program. If the CAR chooses not to require borrowers and subrecipients to participate in a State or Tribal response program, then the CAR is required to consult with the Environmental Protection Agency (EPA) on each loan or subaward to ensure the proposed cleanup is protective of human health and environment.
4. ***OPTIONAL - Optional T&C for CAR recipients where there is no promulgated State or***

***Tribal response program.***

If the State or Tribe does not have a promulgated Response Program, then the CAR is required to consult with the Environmental Protection Agency (EPA) to ensure protectiveness of human health and environment.

## **II. SITE/BORROWER/SUBRECIPIENTS ELIGIBILITY**

### **A. Brownfields Site Eligibility**

1. The CAR must provide information to EPA about site-specific work prior to incurring any costs under this cooperative agreement. The information that must be provided includes whether or not the site meets the definition of a brownfield site as defined in § 101(39) of CERCLA, whether the CAR is the potentially responsible party under CERCLA 107 and/or has defenses to liability.
2. If the site is excluded from the general definition of a brownfield site, but is eligible for a property-specific funding determination, then the CAR may request a property-specific funding determination. In their request, the CAR must provide information sufficient for EPA to make a property-specific funding determination on how financial assistance will protect human health and the environment, and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes. The CAR must not incur costs for cleaning up sites requiring a property-specific funding determination by EPA until the EPA Project Officer has advised the CAR that the Agency has determined that the property is eligible.
3. For any petroleum-contaminated brownfields site, the CAR shall provide sufficient documentation to the EPA prior to incurring costs under this cooperative agreement which includes (refer to EPA's *Proposal Guidelines for Brownfields Revolving Loan Fund Grants* dated October 2015 for discussion of this element) documenting that:
  - a. a State has determined that the petroleum site is of relatively low risk, as compared to other petroleum sites in the State;
  - b. the State determines there is "no viable responsible party" for the site;
  - c. the State determines that the person assessing, investigating, or cleaning up the site is a person who is not potentially liable for cleaning up the site; and
  - d. the site is not subject to any order issued under section 9003(h) of the Solid Waste Disposal Act.

This documentation must be prepared by the CAR or the State following contact and discussion with the appropriate state petroleum program official.

4. Documentation must include (1) the identity of the State program official contacted, (2) the State official's telephone number, (3) the date of the contact, and (4) a summary of the discussion to reach each determination that the site is of relatively low risk, that there is no viable responsible party and that the person assessing, investigating, or cleaning up the site is not potentially liable for cleaning up the site. Other documentation provided by a State to the recipient relevant to any of the determinations by the State must also be provided to the EPA

Project Officer.

5. If the State chooses not to make the determinations described in 3.a. above, the CAR must contact the EPA Project Officer and provide the information necessary for EPA to make the requisite determinations.
6. EPA will make all determinations on the eligibility of petroleum-contaminated brownfields sites located on tribal lands (i.e., reservation lands or lands otherwise in Indian country, as defined at 18 U.S.C. 1151). Before incurring costs for these sites, the CAR must contact the EPA Project Officer and provide the information necessary for EPA to make the determinations described in “3” above.

## **B. Borrower and Subrecipient Eligibility**

1. The CAR may only provide cleanup subawards to an eligible entity or nonprofit organization to clean up sites *owned* by the eligible entity or nonprofit organization at the time of the subawards. Eligible subrecipients include eligible entities as defined under CERCLA § 104(k)(1) and nonprofit organizations as defined in Section 4(6) of the Federal Financial Assistance Management Improvement Act of 1999. Nonprofit organizations described in Section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act of 1995 are not eligible for subawards.
2. The subrecipient must retain ownership of the site throughout the period of performance of the subaward. For the purposes of this agreement, the term “owns” means fee simple title unless EPA headquarters approves a different ownership arrangement. **However, the CAR may not provide a subaward to itself or another component of its own unit of government or organization.**
3. The CAR may discount loans, also referred to as the practice of forgiving a portion of loan principle. For an individual loan, the amount of principal discounted may be any percentage of the total loan amount up to 30 percent, provided that the total amount of the principal forgiven for that loan shall not exceed \$200,000. Eligible entities include those identified in CERCLA § 104(k)(1) and nonprofit organizations as defined at Section 4(6) of the Federal Financial Assistance Management Improvement Act of 1999. **Private, for-profit entities are not eligible for discounted loans.**
4. The CAR shall not loan or subaward funds that will be used to pay for cleanup activities at a site for which a loan or grant recipient is potentially liable under CERCLA § 107. The CAR may rely on its own investigation which can include an opinion from the subrecipient’s or borrower’s counsel. However, the CAR must advise the borrower or subrecipient that the investigation and/or opinion of the subrecipient’s or borrower’s counsel is not binding on the Federal Government.
5. For approved eligible petroleum-contaminated brownfields sites, the person cleaning up the site must be a person who is not potentially liable for cleaning up the site. For brownfields grant purposes, an entity generally will not be considered potentially liable for petroleum contamination if it has not dispensed or disposed of petroleum or petroleum-product at the site, has not exacerbated the contamination at the site, and taken reasonable steps with regard to the contamination at the site.

6. The CAR shall maintain sufficient documentation supporting and demonstrating the eligibility of the sites, borrowers, and subrecipients.
7. A borrower or subrecipient must submit information regarding its overall environmental compliance history including any penalties resulting from environmental non-compliance at the site subject to the loan or subaward. The CAR, in consultation with the EPA, must consider this history in its analysis of the borrower or subrecipient as a cleanup and business risk.
8. An entity that is currently suspended, debarred, or otherwise declared ineligible cannot be a borrower or subrecipient.

**C. Obligations for Grant Recipients, Borrowers, or Subrecipients Asserting a Limitation on Liability from CERCLA § 107**

1. Grant recipients, borrowers, or subrecipients who are eligible, or seek to become eligible, to receive a grant, loan, or subaward based on a liability protection from CERCLA as a: (1) bona fide prospective purchaser (BFPP), (2) contiguous property owner (CPO), or (3) innocent landowner (ILO) (known as the “landowner liability protections”), must meet certain threshold criteria and satisfy certain continuing obligations to maintain their status as an eligible grant recipient, borrower, or subrecipients. These include, but are not limited to the following:
  - a. All grant recipients, borrowers, or subrecipients asserting a BFPP, CPO or ILO limitation on liability must perform (or have already performed) "all appropriate inquiry," as found in section 101(35)(B) of CERCLA, on or before the date of acquisition of the property.
  - b. Grant recipients, borrowers, or subrecipients seeking to qualify as bona fide prospective purchasers or contiguous property owners must not be potentially liable, or affiliated with any other person that is potentially liable for response costs at the facility through:
    - (a) any direct or indirect familial relationship; or
    - (b) any contractual, corporate, or financial relationships; or
    - (c) a reorganized business entity that was potentially liable or otherwise liable under CERCLA § 107(a) as a prior owner or operator, or generator or transporter of hazardous substances to the facility.
  - c. Landowners must meet certain continuing obligations in order to achieve and maintain status as a landowner protected from CERCLA liability. These continuing obligations include:
    - i. complying with any land use restrictions established or relied on in connection with the response action at the vessel or facility and not impeding the effectiveness or integrity of institutional controls;
    - ii. taking reasonable steps to stop any continuing hazardous substance

releases, prevent any threatened future release, and prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance;

- iii. providing full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration;
- iv. complying with information requests and administrative subpoenas (applies to bona fide prospective purchasers and contiguous property owners); and
- v. complying with legally required notices (again, applies to bona fide prospective purchasers and contiguous property owners) [see CERCLA § 101(40)(B)-(H), 107(q)(1)(A), 101(35)(A)-(B).].

- d. CERCLA requires additional obligations to maintain liability protection. These obligations are found at §§ 101(35), 101(40), 107(b), 107(q) and 107(r).

### **III. GENERAL COOPERATIVE AGREEMENT ADMINISTRATIVE REQUIREMENTS**

#### **A. Term of the Agreement**

- 1. The term of an RLF agreement is five years, unless otherwise extended by EPA at the CAR's request.
- 2. If after 2 years from the date of award, EPA determines that the recipient has not made sufficient progress in implementing its cooperative agreement the recipient must implement a corrective action plan approved by the EPA Project Officer or EPA may terminate this agreement for material non-compliance with its terms. Sufficient progress is indicated by the grantee having made loan(s) and/or subaward(s), but may also be demonstrated by a combination of all the following: hiring of all key personnel, the establishment and advertisement of the RLF, and the development of one or more potential loans/subawards.

#### **B. Substantial Involvement**

- 1. The U.S. EPA may be substantially involved in overseeing and monitoring this cooperative agreement.
  - a. Substantial involvement by the U.S. EPA generally includes administrative activities such as: monitoring; reviewing and approving of procedures for loan and subrecipient selection; review of project phases; and approving substantive terms included in professional services contracts.
  - b. Substantial EPA involvement also includes brownfields property-specific funding determinations described in I.B.1. under *EPA and/or State Approvals of Brownfields Sites* above. The CAR may also request technical assistance



from EPA to determine if sites qualify as brownfields sites and to determine whether the statutory prohibition found in section 104(k)(4)(B)(i)(IV) of CERCLA applies. This prohibition prohibits a grant or loan recipient from using grant funds to clean up a site if the recipient is potentially liable under §107 of CERCLA for that site.

- c. Substantial EPA involvement may include reviewing financial and environmental status reports; and monitoring all reporting, record-keeping, and other program requirements.
- d. Substantial EPA involvement may include the review of the substantive terms of RLF loans and cleanup subawards.
- e. EPA may waive any of the provisions in term and condition III.B.1, with the exception of property-specific funding determinations. EPA will provide waivers in writing.

2. Effect of EPA's substantial involvement includes:

- a. EPA's review of any project phase, document, or cost incurred under this cooperative agreement will not have any effect upon CERCLA § 128 *Eligible Response Site* determinations or for rights, authorities, and actions under CERCLA or any federal statute.
- b. The CAR remains responsible for ensuring that all cleanups are protective of human health and the environment and comply with all applicable federal and state laws. If changes to the expected cleanup become necessary based on public comment or other reasons, the CAR must consult with EPA.
- c. The CAR remains responsible for ensuring costs are allowable under 2 CFR Parts 200 and 1500.

**C. Cooperative Agreement Recipient Roles and Responsibilities**

- 1. The CAR is responsible for establishing an RLF team that will implement the program and for coordinating the team's activities as outlined below.
- 2. The CAR must acquire the services of a qualified environmental professional(s) to coordinate, direct, and oversee the brownfields cleanup activities at a particular site, if they do not have such a professional on staff.
- 3. The CAR shall act as or appoint a qualified "fund manager" to carry out responsibilities that relate to financial management of the loan and/or subaward program. However, the CAR remains accountable to EPA for the proper expenditure of cooperative agreement funds. Any funding arrangements between the CAR and the fund manager for services performed must be consistent with 2 CFR Parts 200 and 1500.
- 4. The CAR shall appoint appropriate legal counsel if counsel is not already available. Counsel

should review all loan/subaward agreements prior to execution.

5. The CAR is responsible for ensuring that borrowers and subaward recipients comply with the terms of their agreements with the CAR, and that agreements between the CAR and borrowers and subaward recipients are consistent with the terms and conditions of this agreement.
6. **Competency of Organizations Generating Environmental Measurement Data:** In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, the CAR agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, the CAR agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. The CAR shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at [http://www.epa.gov/fem/lab\\_comp.htm](http://www.epa.gov/fem/lab_comp.htm) or a copy may also be requested by contacting the EPA project officer for this award.

#### **D. Quarterly Progress Reports**

1. The CAR must submit progress report on a quarterly basis to the EPA Project Officer. Quarterly progress report must include:
  - a. Summary of approved activities performed during the reporting quarter; a summary of the performance outputs/outcomes achieved during the reporting quarter; and a description of problems encountered during the reporting quarter that may affect the project schedule.
  - b. An update on project schedules and milestones.
  - c. A list of the loans and/or subawards during the reporting quarter.
  - d. A budget recap summary table with the following information: current approved project budget; costs incurred during the reporting quarter; costs incurred to date (cumulative expenditures); cost share updates; and total remaining funds.
2. The CAR must maintain records that will enable it to report to EPA on the amount of funds expended on specific properties under this cooperative agreement.
3. In accordance with 2 CFR 200.328(d)(1) the CAR agrees to inform EPA as soon as problems, delays, or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the approved work plan.

#### **E. Property Profile Submission**

1. The CAR must report on interim progress (i.e., loan signed, cleanup started) and any final accomplishments (i.e., cleanup completed, contaminants removed, Institution Controls, Engineering Controls) by completing and submitting relevant portions of the Property Profile Form using the Brownfields Program on-line reporting system, known as Assessment, Cleanup and Redevelopment Exchange System (ACRES). The CAR must enter the data in ACRES as soon as the interim action or final accomplishment has occurred,

or within 30 days after the end of each reporting quarter. EPA will provide the CAR with training prior to obtaining access to ACRES. The training is required to obtain access to ACRES. The CAR must utilize the ACRES system unless approval is obtained from the regional Project Officer to utilize the Property Profile Form.

## **F. Final Report**

1. The CAR must submit a final report at the end of the period of performance in order to finalize the closeout of the grant. This final report must capture the site names, what work was done at each site and how much funding was spent at each site. It should also provide information that documents the outreach efforts done by the CAR and other activities that help explain where the funding was utilized. See Section VII for more details on final report and closeout.

## **IV. FINANCIAL ADMINISTRATION REQUIREMENTS**

***OPTIONAL/CAN CHANGE - Not applicable if cost-share waived by EPA***

### **A. Cost Share Requirement**

1. CERCLA § 104(k)(9)(B)(iii) requires the recipient of this cooperative agreement to pay a cost share (which may be in the form of a contribution of money, labor, material, or services from a non-federal source) of at least 20 percent (i.e., 20 percent of the total federal funds awarded). The cost share contribution must be for costs that are eligible and allowable under the cooperative agreement and must be supported by adequate documentation.

### **B. Eligible uses of the Funds for the Cooperative Agreement Recipient, Borrower, and/or Subrecipients**

1. To the extent allowable under the EPA approved workplan, cooperative agreement funds may be used for eligible programmatic expenses to capitalize the RLF and conduct cleanups.
  - a. The CAR must maintain records that will enable it to report to EPA on the amount of costs incurred by the CAR, borrowers or subrecipients at brownfields sites.
  - b. At least 50% of the funds must be used by the CAR to provide loans for the cleanup of eligible brownfields sites and for eligible programmatic costs for managing the RLF. Up to 50% can be used for subawards to clean up eligible brownfield sites under the RLF and for eligible programmatic costs for managing subaward(s). (Note: cleanup subawards are limited to \$200,000 per site). (Note: The CAR may request a waiver to the 50% cap on subaward funds. Please consult with your Regional Project Officer for the waiver process.)
  - c. To determine whether a cleanup subaward is appropriate, the CAR must consider the following as required by CERCLA § 104(k)(3)(B)(c):
    - i. The extent the subaward will facilitate the creation of, preservation of, or addition to a park, greenway, undeveloped property, recreational property, or other property

used for nonprofit purposes;

- ii. The extent the subaward will meet the needs of a community that has the inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community;
- iii. The extent the subaward will facilitate the use or reuse of existing infrastructure; and
- iv. The benefit of promoting the long-term availability of funds from a revolving loan fund for brownfield remediation.

**The CAR must maintain sufficient records to support and document these determinations.**

- 2. The CAR may use cooperative agreement funds to capitalize a revolving loan fund to be used for loans or subawards for cleanup and for eligible programmatic expenses. Eligible programmatic expenses may include direct costs for:
  - a. Determining whether RLF cleanup activities at a particular site are authorized by CERCLA § 104(k).
  - b. Ensuring that a RLF cleanup complies with applicable requirements under federal and state laws, as required by CERCLA § 104(k).
  - c. Limited site characterization including confirming the effectiveness of the proposed cleanup design or the effectiveness of a cleanup once an action has been completed.
  - d. Preparing an analysis of brownfields cleanup alternatives which will include information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup. The evaluation of alternatives must include effectiveness, implementability, and the cost of the response proposed. The evaluation of alternatives must also consider the resilience of the remedial options in light of reasonably foreseeable changing climate conditions (e.g., sea level rise, increased frequency and intensity of flooding and/or extreme weather events, etc.). The alternatives may additionally consider the degree to which they reduce greenhouse gas discharges, reduce energy use or employ alternative energy sources, reduce volume of wastewater generated/disposed, reduce volume of materials taken to landfills, and recycle and re-use materials generated during the cleanup process to the maximum extent practicable. The evaluation will include an analysis of reasonable alternatives including no action. The cleanup method chosen must be based on this analysis.
  - e. Ensuring that public participation requirements are met. This includes preparing a community relations plan which will include reasonable notice, opportunity for public involvement and comment on the proposed cleanup, and response to comments.

- f. Establishing an administrative record for each site.
- g. Developing a Quality Assurance Project Plan (QAPP) as required by 2 CFR 1500.11. The specific requirement for a QAPP is outlined in U.S. EPA Order 53601.1, April 1984, as amended on May 5, 2000.
- h. Ensuring the adequacy of each RLF cleanup as it is implemented, including overseeing the borrowers and/or subrecipients activities to ensure compliance with applicable federal and state environmental requirements.
- i. Ensuring that the site is secure if a borrower or subrecipient is unable or unwilling to complete a brownfields cleanup.
- j. Using a portion of a loan or subaward to purchase environmental insurance for the site. The loan or subaward may not be used to purchase insurance intended to provide coverage for any of the Ineligible Uses under Section C.
- k. Any other eligible programmatic costs including costs incurred by the recipient in making and managing a loan; obtaining financial management services; quarterly reporting to EPA; awarding and managing subawards; and carrying out outreach pertaining to the loan and subaward program to potential borrowers and subrecipients.
- l. Subrecipient progress reporting to the CAR is an eligible programmatic cost.

***CAN CHANGE - Local Governments only.***

3. No more than 10% of the funds awarded by this agreement may be used by the CAR itself as a programmatic cost for brownfield program development and implementation (including monitoring of health and institutional controls) as described in Task \_\_\_\_ of the EPA approved workplan. The CAR must maintain records on funds that will be used to carry out Task \_\_\_\_ of its EPA approved workplan to ensure that no more than 10% of its funds are used for brownfield program development and implementation (including monitoring of health and institutional controls).
4. If the CAR makes a subaward to a local government that includes an amount (not to exceed 10% of the subaward) for brownfields program development and implementation, the terms and conditions of that agreement must include a provision that ensures that the local government subrecipient maintains records adequate to ensure compliance with the limits on the amount of subaward funds that may be expended for this purpose.

**C. Ineligible uses of the Funds for the Cooperative Agreement Recipient, Borrower, and/or Subrecipients**

1. Cooperative agreement funds shall not be used by the CAR, borrower and/or subrecipient for any of the following activities:
  - a. Environmental assessment activities, including Phase I and Phase II Environmental Site Assessments.

- b. Monitoring and data collection necessary to apply for, or comply with, environmental permits under other federal and state laws, unless such a permit is required as a component of the cleanup action.
  - c. Construction, demolition, and development activities that are not integral to the cleanup actions, and addressing public or private drinking water supplies that have deteriorated through ordinary use.
  - d. Job training unrelated to performing a specific cleanup at a site covered by a loan or subaward.
  - e. To pay for a penalty or fine.
  - f. To pay a federal cost share requirement (for example, a cost-share required by another federal grant) unless there is specific statutory authority.
  - g. To pay for a response cost at a brownfields site for which the recipient of the grant or loan is potentially liable under CERCLA § 107.
  - h. To pay a cost of compliance with any federal law, excluding the cost of compliance with laws applicable to the cleanup.
  - i. Unallowable costs (e.g., lobbying and fund raising) under 2 CFR Parts 200 and 1500.
2. Under CERCLA § 104(k)(4)(B), administrative costs are prohibited costs under this agreement. Prohibited administrative costs include all indirect costs incurred by the CAR and subrecipients under 2 CFR 200 Subpart E.
- a. Ineligible administrative costs include costs incurred in the form of salaries, benefits, contractual costs, supplies, and data processing charges, incurred to comply with most provisions of the *Uniform Administrative Requirement for Cost Principles and Audit Requirements for Federal Awards* at 2 CFR 200 and 1500. Direct costs for grant and subaward administration, with the exception of costs specifically identified as eligible programmatic costs, are ineligible even if the grantee or subrecipient is required to carry out the activity under the grant agreement. Costs incurred to report quarterly performance to EPA under the grant are eligible.
  - b. Ineligible grant or subaward administration costs include direct costs for:
    - i. Preparation of applications for Brownfields grants and subawards;
    - ii. Record retention required under 2 CFR Parts 200.333-337 and 1500.6;
    - iii. Record-keeping associated with equipment purchases required under 2 CFR 200.313;
    - iv. Preparing revisions and changes in the budgets, scopes of work, program plans and other activities required under 2 CFR 200.308 and 2 CFR 1500.8;

- v. Maintaining and operating financial management systems required under 2 CFR 200.302;
- vi. Preparing payment requests and handling payments under 2 CFR 200.305
- vii. Non-federal audits required under 2 CFR 200 Subpart F; and
- viii. Close out under 2 CFR 200.343.

Borrowers are subject to the CERCLA § 104(k)(4)(B) administrative cost prohibition requirements. The CAR must ensure that loan agreements prohibit borrowers and subrecipients from using loans financed with cooperative agreement funds for administrative costs.

- c. Prohibited administrative costs for the borrower (including those in the form of salaries, benefits, contractual costs, supplies, and data processing charges) are those incurred for loan administration and overhead costs.
- d. Direct costs for loan administration are ineligible even if the borrower is required to carry out the activity under the loan agreement. Ineligible loan administration costs include expenses for:
  - i. Preparation of applications for loans and loan agreements;
  - ii. Preparing revisions and changes in the budget, workplans, and other documents required under the loan agreement;
  - iii. Maintaining and operating financial management and personnel systems;
  - iv. Preparing payment requests and handling payments; and
  - v. Audits.
- e. Overhead costs by the borrower that do not directly clean up brownfields site contamination or comply with laws applicable to the cleanup are ineligible administrative costs. Examples of overhead costs that would be ineligible in loans include expenses for:
  - i. Salaries, benefits and other compensation for persons who are not directly engaged in the cleanup of the site (e.g., marketing and human resource personnel);
  - ii. Facility costs such as depreciation, utilities, and rent on the borrower's administrative offices; and
  - iii. Supplies and equipment not used directly for cleanup at the site.

Costs incurred by the borrower for procurement are eligible only if the procurement contract is for services or products that are direct costs for performing the cleanup, for insurance costs, or for maintenance of institutional controls.

Direct costs by the borrower for progress reporting to the lender are eligible programmatic costs.

4. Cooperative agreement funds may not be used for any of the following properties:
  - a. Facilities listed, or proposed for listing, on the National Priorities List (NPL);
  - b. Facilities subject to unilateral administrative orders, court orders, administrative orders on consent or judicial consent decree issued to or entered by parties under CERCLA;
  - c. Facilities that are subject to the jurisdiction, custody or control of the United States government except land held in trust by the United States government for an Indian tribe; or
  - d. A site excluded from the definition of a brownfields site for which EPA has not made a property-specific funding determination.

#### **D. Use of Program Income**

1. In accordance with 2 CFR 200.307 and 2 CFR 1500.7, the CAR is authorized to add program income to the funds awarded by the EPA and use the program income under the same terms and conditions of this agreement. In accordance with 2 CFR 1500.7(c), to continue the mission of the Brownfields Revolving Loan fund, recipients may use grant funding prior to using program income funds generated by the revolving loan fund. Program income for the RLF shall be defined as the gross income received by the recipient, directly generated by the cooperative agreement award or earned during the period of the award. Program income shall include principal repayments, interest earned on outstanding loan principal, interest earned on accounts holding RLF program income not needed for immediate lending, all loan fees and loan-related charges received from borrowers and other income generated from RLF operations including proceeds from the sale, collection, or liquidations of assets acquired through defaults of loans.

#### ***OPTIONAL - for Transitioned RLFs only!***

2. In accordance with Section 104(d)(3)(D), when a CAR transitions to a 104(k) cooperative agreement, any program income (e.g. fees, interest or principal repayments) generated prior to transition will be added to the 104(k) agreement and must be used in a manner consistent with Section 104(k)(3) and with the terms and conditions, contained herein.
3. The CAR may use program income from fees, interest payments from loans, and other forms of eligible program income to meet its cost-share. The CAR shall not use repayments of principal of loans to meet the CAR's cost-share requirement. Repayments of principal must be returned to the CAR's Brownfields cleanup revolving fund.



4. The CAR that elects to use program income to cover all or part of an RLF's programmatic costs shall maintain adequate accounting records and source documentation to substantiate the amount and percent of program income expended for eligible RLF programmatic costs, and comply with applicable OMB cost principles when charging costs against program income. For any cost determined by the EPA to have been an ineligible use of program income, the recipient shall reimburse the RLF or the EPA. EPA will notify the recipient of the time period allowed for reimbursement.
5. Loans or subawards made with a combination of program income and direct funding from EPA are subject to the same terms and conditions as those applicable to this agreement. Loans and subawards made with direct funding from EPA in combination with non-federal sources of funds are also subject to the same terms and conditions of this agreement.
6. The CAR must obtain EPA approval of the substantive terms of loans and subawards made entirely with program income.

**E. Closeout Agreement and Use of Post Cooperative Agreement Program Income**

As provided at 2 CFR 200.307(f) and 2 CFR 1500.7(c) after the end of the award period, the CAR may keep and use program income at the end of the assistance agreement and use program income earned after the award period in accordance with the following close out agreement unless the CAR and EPA's Award Official agree to modify the terms.

1. Recipients shall use program income to continue to operate the revolving loan fund or some other brownfield purpose as outlined in the terms of this closeout agreement.
2. In accordance with 2 CFR 200.333(e), the CAR shall maintain appropriate records to document compliance with the requirements of the close out agreement (i.e., records relating to the use of accrued and post-award program income). EPA may request access to these records to verify that accrued and post-award program income has been used in accordance with the terms and conditions of this close out agreement.
3. EPA prefers the primary use of retained program income be for providing loans for Brownfields cleanups. In addition to Brownfields cleanup loans program income may also be used to fund the following Brownfields activities:
  - a. Cleanup Subawards
  - b. Phase I Environmental Site Assessments at Brownfield sites performed in accordance with EPA All Appropriate Inquiries Final Rule or ASTM E1527-13 (or the most current version),
  - c. Phase II Environmental Site Assessments and cleanup planning activities at Brownfield sites, and

- d. Programmatic costs to manage and oversee the work being performed.
4. The CAR must ensure that any site specific use of program income takes place only on a property that is a Brownfield site as defined at CERCLA 101(39) in accordance with section IV C. 4, Ineligible uses of the Funds for the Cooperative Agreement Recipient, Borrower, and/or Subrecipients, unless otherwise noted as an eligible use of post closeout program income in the terms and conditions.
  5. All assessment and cleanup work funded with program income must continue to be performed in accordance with state environmental rules and regulations and be protective of human health and the environment. If the CAR chooses not to have borrowers or subrecipients conduct assessments or cleanups through State or Tribal response program, then the CAR is required to consult with EPA to ensure the proposed assessment/cleanup is protective of human health and the environment.
  6. Retained program income shall not be used for site inventory work.
  7. When possible, RLF grantees should solicit input from local communities, especially potential environmental justice communities, communities with a health risk related to exposure to hazardous waste or other public health concerns, economically disadvantaged or remote areas, regarding the need for site specific assessments, loans and subawards.
  8. Program income may not be used to assess or cleanup a site at which the CAR, the borrower, or the subrecipient is potentially liable under CERCLA 107 unless they qualify for a limitation or defense to liability under CERCLA. The CAR and borrower or subrecipient must make and retain a certification to that effect as part of the records for this closeout agreement. If asserting a limitation or defense to liability, the borrower or subrecipient must state the basis for that assertion. When program income for petroleum-contaminated brownfields sites, the CAR, borrower or subrecipient shall certify that they are not a viable responsible party or potentially liable for the petroleum contamination at the site and retain a certification to that effect as part of the records for this closeout agreement. The CAR may refer to the most recent issue of EPA's *Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund and Cleanup Grants* for a discussion of these terms. The CAR may consult with EPA for assistance with this matter.
  9. The CAR shall submit Annual Reports for the first 5 years following the effective date of this closeout agreement. The annual report shall include the following information:
    - a. A cover page indicating the grant recipient's organization, grant number, annual report number (i.e., 1, 2 or 3), dates for the reporting period, persons/organizations preparing and submitting the report, and the date of the report submission.
    - b. A summary of the activities conducted during the reporting period, a list of reports and documents generated during the reporting period, and a budget summary table

reflecting the expensed incurred and program income received.

- c. Site data consistent with information requested in current Property Profile Forms as required by the section III E, Property Profile Submission, of the CA or a list of sites created and/or updated in the ACRES database.
10. The grant recipient must maintain adequate accounting records for how retained program income is managed and spent as well as all other appropriate records and documents related to the activities conducted using retained program income.
11. Termination of this closeout agreement occurs when all program income has been expended. The CAR shall notify EPA's Award Official in writing when this occurs and certify that all funds have been expended in accordance with the terms and conditions of this closeout agreement. The notification should provide the relevant grant information specified in Section 8 a. of this closeout agreement. The Agency has 90 days from receipt of this notification to submit any objections to the termination of this closeout agreement. If the Agency does not object within that time period, then this closeout agreement will terminate with no further action.
12. All records and documents must be retained for a period of three (3) years following termination of this closeout agreement.
13. EPA and the grant recipient must agree to any modifications to this closeout agreement. Agreed-upon modifications must be in writing. Oral or unilateral modifications shall not be effective or binding.
14. If the grant recipient expends retained program income in a manner inconsistent with this Closeout Agreement, the Agency may take actions authorized under 2 CFR Part 200, Remedies for Noncompliance.
15. If any provisions of this Closeout Agreement are invalidated by a court of law, the parties shall remain bound to comply with the provisions of this Closeout Agreement that have not been invalidated.
16. No other Federal requirements apply to the use of program income under the terms of this close out agreement.

#### **F. Interest-Bearing Accounts**

1. The CAR must deposit advances of grant funds and program income (e.g., fees, interest payments, repayment of principal) in an interest bearing account.
2. Interest earned on advances, CARs and subrecipients are subject to the provisions of 2 CFR 200.305(b)(7)(ii) relating to remitting interest on advances to EPA on a quarterly basis.
3. Interest earned on program income is considered additional program income.

## **V. RLF ENVIRONMENTAL REQUIREMENTS**

## **A. Authorized RLF Cleanup Activities**

1. The CAR shall prepare an analysis of brownfields cleanup alternatives which will include information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup. The evaluation of alternatives must include effectiveness, implementability, and the cost of the response proposed. The evaluation of alternatives must also consider the resilience of the remedial options in light of reasonably foreseeable changing climate conditions (e.g., sea level rise, increased frequency and intensity of flooding and/or extreme weather events, etc.). The alternatives may additionally consider the degree to which they reduce greenhouse gas discharges, reduce energy use or employ alternative energy sources, reduce volume of wastewater generated/disposed, reduce volume of materials taken to landfills, and recycle and re-use materials generated during the cleanup process to the maximum extent practicable. The evaluation will include an analysis of reasonable alternatives including no action. The cleanup method chosen must be based on this analysis.
2. Prior to conducting or engaging in any on-site activity with the potential to impact historic properties (such as invasive sampling or cleanup), the grantee shall consult with EPA regarding potential applicability of the National Historic Preservation Act and, if applicable, shall assist EPA in complying with any requirements of the Act and implementing regulations.

## **B. Quality Assurance (QA) Requirements**

1. If environmental data are to be collected as part of the brownfields cleanup (e.g., cleanup verification sampling, post-cleanup confirmation sampling), the CAR shall comply with 2 CFR 1500.11 requirements to develop and implement quality assurance practices sufficient to produce data adequate to meet project objectives and to minimize data loss. State law may impose additional QA requirements.

## **C. Community Relations and Public Involvement in RLF Cleanup Activities**

1. All RLF loan and subaward cleanup activities require a site-specific community relations plan that includes providing reasonable notice, and the opportunity for public involvement and comment on the proposed cleanup options under consideration for the site.
2. The CAR agrees to clearly reference EPA investments in the project during all phases of community outreach outlined in the EPA-approved work plan, which may include the development of any post-project summary or success materials that highlight achievements to which this project contributed. Specifically:
  - a. If any document, fact sheet, and/or web material are developed as part of this cooperative agreement, then they shall include the following statement: "Though this project has been funded, wholly or in part, by EPA, the contents of this document do not necessarily reflect the views and policies of the EPA."
  - b. If a sign is developed, as part of a project funded by this cooperative agreement, then

the sign shall include either a statement (e.g., this project has been funded, wholly or in part, by EPA) and/or EPA's logo acknowledging that EPA is a source of funding for the project. The EPA logo may be used on project signage when the sign can be placed in a visible location with direct linkage to site activities. Use of the EPA logo must follow the sign specifications available at: <http://www.epa.gov/ogd/tc.htm>.

#### **D. Administrative Record**

1. The CAR shall establish an administrative record that contains the documents that form the basis for the selection of a cleanup plan. Documents in the administrative record shall include the analysis of brownfield cleanup alternatives; site investigation reports; the cleanup plan; cleanup standards used; responses to public comments; and verification that shows that cleanups are complete. The CAR shall keep the administrative record available at a location convenient to the public and make it available for inspection.

#### **E. Implementation of RLF Cleanup Activities**

1. The CAR shall ensure the adequacy of each RLF cleanup in protecting human health and the environment as it is implemented. Each loan and subaward agreement shall contain terms and conditions, subject to any required approvals by the regulatory oversight authority, that allow the CAR to change cleanup activities as necessary based on comments from the public or any new information acquired.
2. If the borrower or subrecipient is unable or unwilling to complete the RLF cleanup, the CAR shall ensure that the site is secure. The CAR shall notify the appropriate state agency and the U.S. EPA to ensure an orderly transition should additional activities become necessary.

#### **F. Completion of RLF Cleanup Activities**

1. The CAR shall ensure that the successful completion of an RLF cleanup is properly documented. This must be done through a final report or letter from a qualified environmental professional, or other documentation provided by a State or Tribe that shows cleanups are complete. This documentation needs to be included as part of the administrative record.

## **VI. REVOLVING LOAN FUND REQUIREMENTS**

#### **A. Prudent Lending and Subaward Practices**

1. The CAR is expected to establish economically sound structures and day-to-day management and processing procedures to maintain the RLF and meet long-term brownfield cleanup lending/subawarding objectives. These include establishing: underwriting principles that can include the establishment of interest rates, repayment terms, fee structure, and collateral requirements; and, lending/subawarding practices that can include loan/subaward processing, documentation, approval, servicing, administrative procedures, collection, and recovery actions.

***CAN CHANGE - Here we have written with the “R9 model” of workplan negotiation, where the RLF recipient submits a broad, general RLF workplan and follows up with a specific and detailed RLF implementation plan. Regions may adapt this to reflect their preferred method of negotiating RLF’s.***

2. The CAR shall not incur costs under this cooperative agreement for loans, subawards or other eligible costs until an RLF grant workplan (***OPTIONAL: “and RLF implementation plan”***) has been submitted to and approved by U.S. EPA. *Though the workplan must identify tasks and milestones for establishing and operating the RLF, more detailed information may be submitted in supplemental documents, e.g., an “implementation plan.”* The CAR shall ensure that the objectives of the workplan are met through its or the fund manager’s selection and structuring of individual loans/subawards and lending/subawarding practices. These activities shall include, but not be limited to the following:
  - a. Considering awarding subawards on a competitive basis. If the CAR decides not to award any subawards competitively, it must document the basis for that decision and inform EPA.
  - b. Establishing appropriate project selection criteria consistent with Federal and state requirements, the intent of the RLF program, and the cooperative agreement entered into with EPA.
  - c. Establishing threshold eligibility requirements whereby only eligible borrowers or subrecipients receive RLF financing.
  - d. Developing a formal protocol for potential borrowers or subrecipients to demonstrate eligibility, based on the procedures described in the initial RLF application proposal and cooperative agreement application. Such a protocol shall include descriptions of projects that will be funded, how loan monies will be used, and qualifications of the borrower or subrecipient to make legitimate use of the funds. Additionally, CARs shall ask borrowers or subrecipients for an explanation of how a project, if selected, would be consistent with RLF program objectives, statutory requirements and limitations, and protect human health and the environment.
  - e. Requiring that borrowers or subrecipients submit information describing the borrower’s or subrecipient’s environmental compliance history. The CAR shall consider this history in an analysis of the borrower or subaward recipient as a cleanup and business risk.
  - f. Establishing procedures for handling the day-to-day management and processing of loans and repayments.
  - g. Establishing standardized procedures for the disbursement of funds to the borrower or subrecipient.

## **B. Inclusion of Special Terms and Conditions in RLF Loan and Subaward Documents**

1. The CAR shall ensure that the borrower or subrecipient meets the cleanup and other program

requirements of the RLF grants by including the following special terms and conditions in RLF loan agreements and subawards:

- a. Borrowers or subrecipients shall use funds only for eligible activities and in compliance with the requirements of CERCLA § 104(k) and applicable Federal and State laws and regulations. See Section I.A.2.
- b. Borrowers or subrecipients shall ensure that the cleanup protects human health and the environment.
- c. Borrowers or subrecipients shall document how funds are used. If a loan or subaward includes cleanup of a petroleum-contaminated brownfields site(s), the CAR shall include a term and condition requiring that the borrower or subrecipient maintain separate records for costs incurred at that site(s).
- d. Borrowers or subrecipients shall maintain records for a minimum of three years following completion of the cleanup financed all or in part with RLF funds. Borrowers or subrecipients shall obtain written approval from the CAR prior to disposing of records. Cooperative agreement recipients shall also require that the borrower or subrecipient provide access to records relating to loans and subawards supported with RLF funds to authorized representatives of the Federal Government.
- e. Borrowers or subrecipients shall certify that they are not currently, nor have they been, subject to any penalties resulting from environmental non-compliance at the site subject to the loan.
- f. Borrowers or subrecipients shall certify that they are not potentially liable under § 107 of CERCLA for the site or that, if they are, they qualify for a limitation or defense to liability under CERCLA. If asserting a limitation or defense to liability, the borrower or subrecipient must state the basis for that assertion. When using grant funds for petroleum-contaminated brownfields sites, borrowers or subrecipients shall certify that they are not a viable responsible party or potentially liable for the petroleum contamination at the site. Refer to the most recent issue of EPA's *Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund and Cleanup Grants* for a discussion of these terms. The CAR may consult with EPA for assistance with this matter.
- g. Borrowers or subrecipients shall conduct cleanup activities as required by the CAR.
- h. Subrecipients shall comply with applicable EPA assistance regulations (2 CFR Parts 200 and 1500). All procurements conducted with subaward funds must comply with Procurement Standards of 2 CFR 200.317 through 200.326, as applicable.
- i. A term and condition or other legally binding provision shall be included in all loans and subawards entered into with the funds under this agreement, or when funds awarded under this agreement are used in combination with non-federal sources of funds, to ensure that borrowers and subrecipients comply with all applicable federal and state laws and requirements. In addition to CERCLA § 104(k), federal applicable

laws and requirements include: 2 CFR Parts 200 and 1500.

- j. The CAR must comply with Davis-Bacon Act prevailing wages for all construction, alteration and repair contracts and subcontracts awarded with EPA grant funds. For more detailed information on complying with Davis-Bacon, please see the Davis-Bacon Addendum to these terms and conditions. *(EPA Project Officer to attach appropriate Davis-Bacon term and condition to this particular grant.)*
- k. Federal cross-cutting requirements include, but are not limited to, DBE requirements found at 40 CFR 33; OSHA Worker Health & Safety Standard 29 CFR 1910.120; the Uniform Relocation Act; National Historic Preservation Act; Endangered Species Act; and Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333) the Anti Kickback Act (40 USC 276c) and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250.

### **C. Default**

- 1. In the event of a loan default, the CAR shall make reasonable efforts to enforce the terms of the loan agreement including proceeding against the assets pledged as collateral to cover losses to the loan. If the cleanup is not complete at the time of default, the CAR is responsible for: (1) documenting the nexus between the amount paid to the borrower (bank or other financial institution) and the cleanup that took place prior to the default; and (2) securing the site (e.g., ensuring public safety) and informing the EPA Project Officer and the State.

### **D. Conflict of Interest**

- 1. The CAR shall establish and enforce conflict of interest provisions that prevent the award of subawards that create real or apparent personal conflicts of interest, or the CAR's appearance of lack of impartiality. Such situations include, but are not limited to, situations in which an employee, official, consultant, contractor, or other individual associated with the CAR (affected party) approves or administers a grant or subaward to a subaward recipient in which the affected party has a financial or other interest. Such a conflict of interest or appearance of lack of impartiality may arise when:
  - a. The affected party,
  - b. Any member of his immediate family,
  - c. His or her partner, or
  - d. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the subrecipient.

Affected employees will neither solicit nor accept gratuities, favors, or anything of monetary value from subrecipients. Recipients may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by affected



parties.

## **VII. DISBURSEMENT, PAYMENT AND CLOSEOUT**

For the purposes of these terms and conditions, the following definitions apply: “payment” is the U.S. EPA’s transfer of funds to the CAR; the CAR incurs an “obligation” when it enters into a loan agreement with the borrower or subrecipient; “disbursement” is the transfer of funds from the CAR to the borrower or subrecipient. “Close out” refers to the process that the U.S. EPA follows to both ensure that all administrative actions and work required under the cooperative agreement have been completed, and, to establish a closeout agreement to govern the use of program income.

### **A. Methods of Disbursement**

1. The CAR may choose to disburse funds to the borrower by means of ‘actual expense’ or ‘schedule.’ If the schedule method is used, the recipient must ensure that the schedule is designed to reasonably approximate the borrower’s incurred costs.
  - a. An ‘actual expense’ disbursement approach requires the borrower to submit documentation of the borrower’s expenditures (e.g., invoices) to the CAR prior to requesting payment from EPA.
  - b. A ‘schedule’ disbursement is one in which all, or an agreed upon portion, of the obligated funds are disbursed to the borrower or subrecipients on the basis of an agreed upon schedule (e.g., progress payments) provided the schedule minimizes the time elapsing between disbursement by the CAR and the borrower or subrecipient’s payment of costs incurred in carrying out the loan/subaward. In unusual circumstances, disbursement may occur upon execution of the loan or subaward. The CAR shall submit documentation of disbursement schedules to EPA.
  - c. If the disbursement schedule of the loan/subaward agreement calls for disbursement of the entire amount of the loan/subaward upon execution, the CAR shall demonstrate to the U.S. EPA Project Officer that this method of disbursement is necessary for purposes of cleaning up the site covered by the loan/subaward. Further, the CAR shall include an appropriate provision in the loan/subaward agreement which ensures that the borrower/recipient uses funds promptly for costs incurred in connection with the cleanup and that interest accumulated on schedule disbursements is applied to the cleanup.
  - d. Subaward funds must be disbursed to the subrecipient in accordance with 2 CFR 200.305, as applicable.

### **B. Schedule for Closeout**

1. There are two fundamental criteria for closeout:
  - a. Final payment of funds from EPA to the CAR following expiration of the terms of the agreement or expenditure of the funds awarded; and

- b. Completion of all cleanup activities funded by the amount of the award.
- 2. The first criterion of cooperative agreement closeout is met when the CAR receives all payments from EPA. The second closeout criterion is met when all cleanup activities funded by the initial amount of the award are complete.
- 3. The CAR must negotiate a closeout agreement with EPA to govern the use of program income after closeout. Eligible uses include continuing to operate an RLF for brownfields cleanup and/or other brownfields activities.
- 4. The closeout agreement terms outlined in Section IV.E require that any assessments or cleanups financed with program income be consistent with the CERCLA § 107 prohibitions and site eligibility limitations.

### **C. Compliance with Closeout Schedule**

- 1. If a CAR fails to comply with the closeout schedule, any cooperative agreement funds not obligated under loan agreement to a borrower or subrecipient may be subject to federal recovery, and the cooperative agreement award may be amended to reflect the reduced amount of the cooperative agreement.

### **D. Final Requirements**

- 1. The CAR, within 90 days after the expiration or termination of the grant, must submit all financial, performance, and other reports required as a condition of the grant.
  - a. The CAR must submit the following documentation:
    - 1. The Final Report as described in III.F.
    - 2. A Final Federal Financial Report (FFR - SF425). Submitted to:  
  
US EPA, Las Vegas Finance Center  
4220 S. Maryland Pkwy, Bld C, Rm 503  
Las Vegas, NV 89119  
<https://www.epa.gov/financial/grants>
    - 3. A Final MBE/WBE Report (EPA Form 5700-52A). Submitted to the regional office.
  - b. The CAR must ensure that all appropriate data has been entered into ACRES or all Property Profile Forms are submitted to the Region.

### **E. Recovery of RLF Assets**

- 1. In case of termination for cause or convenience, the CAR shall return to EPA its fair share of the value of the RLF assets consisting of cash, receivables, personal and real property, and

notes or other financial instruments developed through use of the funds. EPA's fair share is the amount computed by applying the percentage of EPA participation in the total capitalization of the RLF to the current fair market value of the assets thereof. EPA also has remedies under Remedies for Noncompliance at 2 CFR 200.338 through 200.342 and CERCLA § 104(k) when the Agency determines that the value of such assets has been reduced by improper/illegal use of cooperative agreement funding. In such instances, the CAR may be required to compensate EPA over and above the Agency's share of the current fair market value of the assets. Nothing in this agreement limits EPA's authorities under CERCLA to recover response costs from a potentially responsible party.

***OPTIONAL - for the cooperative agreements that will do loan guarantees***

**F. Loan Guarantees**

1. If the CAR chooses to use the RLF funds to support a loan guarantee approach, the following terms and conditions apply:
  - a. The CAR shall:
    - i. document the relationship between the expenditure of CERCLA § 104(k) funds and cleanup activities;
    - ii. maintain an escrow account expressly for the purpose of guaranteeing loans, by following the payment requirement described under the Escrow Requirements term and condition below; and
    - iii. ensure that cleanup activities guaranteed by RLF funds are carried out in accordance with CERCLA § 104(k) and applicable federal and state laws and will protect human health and the environment.
  - b. Payment of funds to a CAR shall not be made until a guaranteed loan has been issued by a participating financial institution. Loans guaranteed with RLF funds shall be made available as needed for specified cleanup activities on an "actual expense" or "schedule" basis to the borrower or subrecipient (See Section on Methods of Disbursement). The CAR's escrow arrangement shall be structured to ensure that the CERCLA § 104(k) funds are properly "disbursed" by the recipient for the purposes of the assistance agreement as required by 2 CFR 200.305. If the funds are not properly disbursed, the CERCLA § 104(k) funds that the recipient places in an escrow account will be subject to the interest recovery provisions of 2 CFR 200.305.
  - c. To ensure that funds transferred to the CAR are disbursements of assisted funds, the escrow account shall be structured to ensure that:
    - i. the recipient cannot retain the funds;
    - ii. the recipient does not have access to the escrow funds on demand;

- iii. the funds remain in escrow unless there is a default of a guaranteed loan;
- iv. the organization holding the escrow (i.e., the escrow agency), shall be a bank or similar financial institution that is independent of the recipient; and
- v. there must be an agreement with financial institutions participating in the guaranteed loan program which documents that the financial institution has made a guaranteed loan to clean up a brownfields site in exchange for access to funds held in escrow in the event of a default by the borrower or subrecipient.

d. Federal Obligation to the Loan Guarantee Program

- i. Any obligations that the CAR incurs for loan guarantees in excess of the amount awarded under the cooperative agreement are the CAR's responsibility. This limitation on the extent of the Federal Government's financial commitment to the CAR's loan guarantee program shall be communicated to all participating banks and borrower or subrecipient.

e. Repayment of Guaranteed Loans

- i. Upon repayment of a guaranteed loan and release of the escrow amount by the participating financial institution, the CAR shall return the cooperative agreement funds placed in escrow to the U.S. EPA. Alternatively, the CAR may, with EPA approval,
  - 1) guarantee additional loans under the terms and conditions of the agreement or,
  - 2) amend the terms and conditions of the agreement to provide for another disposition of funds that will redirect the funds for other brownfields related activities.

# Exhibit B

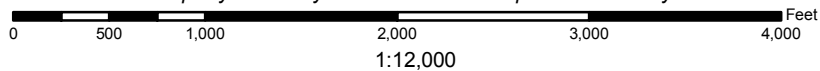
Site Map



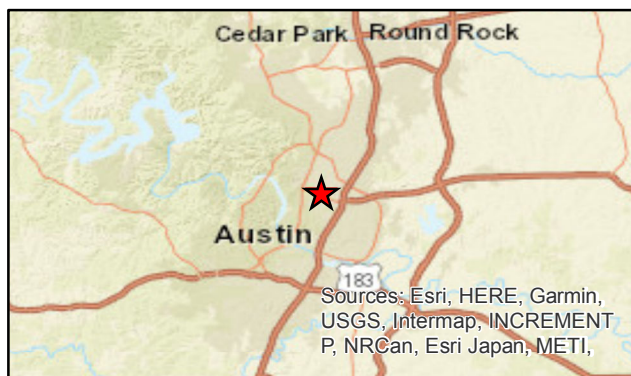
Source: USGS NHL, ESRI

Property boundary and locations are representative only.

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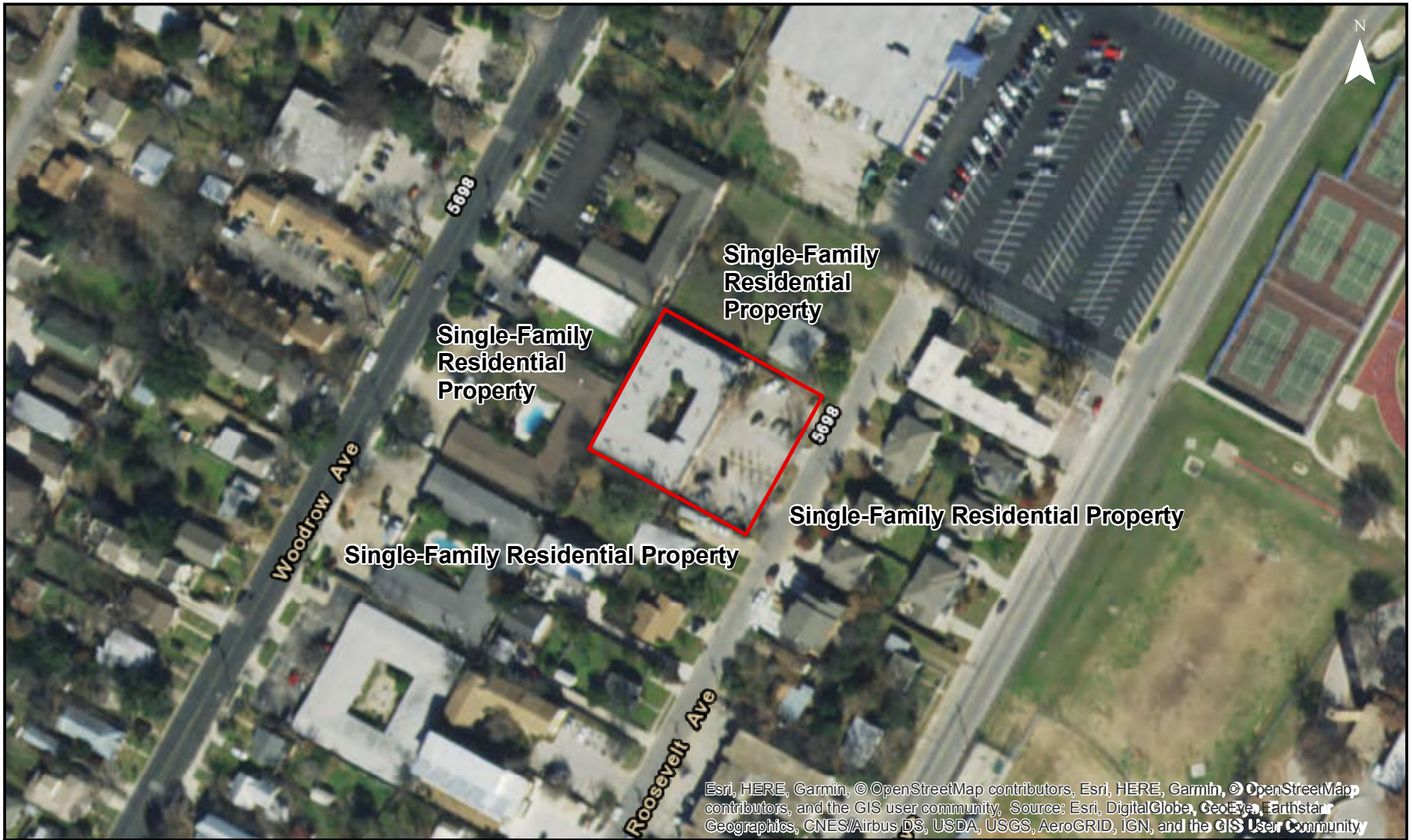


## Location Map



**Location: 5606 Roosevelt Avenue  
Austin, TX 78756  
Travis County**





Source: GoogleEarth Pro

Note: Property location and boundary are representative only.

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## SITE SKETCH

Subject Property

**Location: 5606 Roosevelt Avenue  
Austin, TX 78756  
Travis County**

# Exhibit C

Project Manual for Abatement of Asbestos  
Materials





**Baer Engineering**  
*and Environmental Consulting, Inc.*

Texas Department of State Health Services Asbestos Consultant Agency 100002

January 15, 2020

Austin Resource Recovery  
Brownfields Program - City of Austin  
2514 Business Center Drive  
Austin, TX 78744

Sent via e-mail to: [Christine.Whitney@AustinTexas.gov](mailto:Christine.Whitney@AustinTexas.gov)

Attention: Ms. Christine Whitney, LEED AP, EDFP  
**Reference: PROJECT MANUAL FOR ABATEMENT OF ASBESTOS MATERIALS:  
Roosevelt Gardens**  
5606 Roosevelt Avenue, Austin, Texas 78756 (Site)  
**Baer Engineering Document No. 172039-8e.380**

Dear Ms. Whitney:

Baer Engineering and Environmental Consulting, Inc. (Baer Engineering) is pleased to submit the attached asbestos abatement project manual for the removal of asbestos-containing material at the Roosevelt Gardens, located at 5606 Roosevelt Avenue, Austin, Texas (Site). The scope of asbestos abatement included in the project manual is based on Baer Engineering's Site asbestos intrusive asbestos investigation performed in December 2019, and Phase Engineering's limited asbestos survey performed in February 2019.

Respectfully submitted,  
**BAER ENGINEERING AND ENVIRONMENTAL CONSULTING, INC.**

Ahmad Nasser  
TDSHS Asbestos Consultant License Number 105837, expires on April 10, 2020

Attachment:  
Project Manual for Abatement of Asbestos Materials, dated January 15, 2020

**PROJECT MANUAL FOR  
ABATEMENT OF ASBESTOS MATERIALS**

**PROJECT MANUAL FOR ABATEMENT OF ASBESTOS MATERIALS:**

**ROOSEVELT GARDENS  
5606 Roosevelt Avenue, Austin, Texas 78756**



Prepared By:



**Baer Engineering**  
*and Environmental Consulting, Inc.*

7756 Northcross Drive, Suite 211 • Austin, Texas, U.S.A. 78757  
Toll Free: 1-800-926-9242 Facsimile: (512) 453-3316  
[www.BaerEng.com](http://www.BaerEng.com)

Baer Engineering Document Number: 172039-8e.380

Ahmad Nasser

TDSHS Asbestos Consultant License Number 105837, expires on April 10, 2020

January 15, 2020

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**CERTIFICATION PAGE**  
**SECTION 02 8203**

ALL INFORMATION INCLUDED IN THIS PROJECT MANUAL WAS PREPARED BY BAER ENGINEERING AND ENVIRONMENTAL CONSULTING, INC. (BAER ENGINEERING). ALL INFORMATION CONTAINED IN OR DISCLOSED BY THIS DOCUMENT IS CONSIDERED CONFIDENTIAL AND PROPRIETARY INFORMATION BY BAER ENGINEERING AND SHALL NOT BE REPRODUCED IN WHOLE OR IN PART WITHOUT WRITTEN PERMISSION FROM BAER ENGINEERING.

  
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**PROJECT DIRECTORY**  
**SECTION 02 8204**

Function	Representative/Company	Telephone/e-mail
Owner	Project Transitions Madge Whistler	
Owner's Representative	Mitch Weynand	Mobile: 512.496.7135 <a href="mailto:mitchweynand@yahoo.com">mitchweynand@yahoo.com</a>
City of Austin Brownfields Program Manager	Christine Whitney	Office : 512.974.6085 <a href="mailto:Christine.Whitney@austintexas.gov">Christine.Whitney@austintexas.gov</a>
City of Austin Brownfields Program Coordinator	Roslyn Kygar	Office: 512-974-3533 <a href="mailto:Roslyn.Kygar@austintexas.gov">Roslyn.Kygar@austintexas.gov</a>
Abatement Contractor	TBD	
Abatement Design Consultant	Baer Engineering and Environmental Consulting, Inc. 7756 Northcross Drive, Suite #211, Austin, Texas 78757  Mr. Ahmad Nasser, AIC	Mobile: 936.715.8286 Office: 512.453.3733  <a href="mailto:anasser@baereng.com">anasser@baereng.com</a>

  
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**ASBESTOS ABATEMENT SPECIFICATIONS**  
**SECTION 02 8205**



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## PART 1. GENERAL

### 1.01. DESCRIPTION

- A. Perform all planning, administration, execution, and cleaning necessary to safely remove and dispose of ACMs listed in Part 3 of these Specifications.
- B. Consider any other concealed materials suspected to contain asbestos encountered during the project work as ACMs and abate in accordance with these Specifications where disturbance is required to accomplish the project work.
- C. Approval by Owner of various construction activities or methods proposed by Contractor does not constitute an assumption of liability either by the Abatement Consultant or Owner for inadequacy or adverse consequences of said activities or methods.
- D. Coordinate acceptable times for work related to disturbance of asbestos materials with Owner and General Contractor.

### 1.02. WORK INCLUDED

- A. The asbestos materials removal is identified in Part 3 of this section.
- B. Coordinate and schedule all work with the project general construction contractor to avoid disruption to other construction and building operational activities.
- C. All work is required to comply with applicable regulatory requirements, even if not specifically stated or identified in the scope of work.
- D. Provide OSHA-compliant personal protection and monitoring for all workers in accordance with 29 CFR 1926.1101 Asbestos Industry Standard.

### 1.03. WORK NOT INCLUDED

- A. Installation of replacement materials where removed by asbestos abatement, unless indicated otherwise in Part 3.
- B. Third-party air monitoring to comply with TACPR §295.58(i). Air monitoring will be performed by the Testing Laboratory and will include:
  - Baseline Air Samples – collected prior to the start of abatement;
  - Ambient Air Samples – collected daily inside and outside the containments;
  - Clearance Air Samples – collected at the completion of work in each containment.

Air samples will be analyzed by Phase-Contrast Microscopy (PCM).

### 1.04. DEFINITIONS

The following definitions pertain to the Work of these Specifications:

- 1. **Abatement** – procedures to decrease or eliminate fiber release from precast, spray- or trowel-applied asbestos-containing building materials including encapsulation, enclosure, and removal.
- 2. **ACM** – asbestos-containing material.



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3. **Adequately Wet** – sufficiently mixed or penetrated with liquid to prevent the release of particulates. If visible emissions are observed coming from ACM, then that material has not been adequately wetted.
4. **Airlock** – system for permitting ingress or egress of personnel without permitting air movement between a contaminated area and an uncontaminated area, typically consisting of two curtained doorways at least 3 feet apart.
5. **Air Monitoring** – the process of measuring the fiber content of a specific volume of air during a stated period of time.
6. **Amended Water** – water to which a surfactant has been added.
7. **ANSI** – American National Standards Institute.
8. **Asbestos Project Manager** – Owner's on-site representative for monitoring abatement Contractor's work for compliance with abatement specifications.
9. **ASTM** – American Society for Testing and Materials.
10. **Class I Asbestos Work** – activities involving the removal of TSI and surfacing ACM and PACM.
11. **Class II Asbestos Work** – activities involving the removal of ACM that is not thermal system insulation or surfacing material, including, but not limited to, removal of asbestos-containing wallboard, floor tile and sheeting, roofing and siding shingles, and construction mastics.
12. **Clean Room** – an uncontaminated area or room which is part of the worker decontamination enclosure system, with provisions for storage of workers' street clothes and protective equipment; also known as the "Change Room".
13. **Containment** – A portion of the regulated area that has been sealed and placed under negative air pressure with air machines using high-efficiency particulate air (HEPA) filters.
14. **Critical Barrier** – seal applied to openings connecting the abatement area with adjacent spaces that will not be included in the containment. Critical barriers shall not be exposed to the gross removal environment. Examples of openings requiring critical barriers include but are not limited to: HVAC vents and diffusers; doorways; windows; floor, wall, and ceiling penetrations; and air plenums.
15. **Curtained Doorway** – a device to allow ingress or egress from one room to another while minimizing air movement between the rooms. Two curtained doorways spaced a minimum of 3 feet apart form an airlock.
16. **Decontamination Enclosure System** – a series of connected rooms, with curtained doorways between any two adjacent rooms, for the decontamination of workers or of materials and equipment. A worker decontamination enclosure system always contains at least five airlocks (chambers). An equipment decontamination system always contains at least three airlocks.
17. **Demolition** – means the wrecking or removal of any load-supporting structural member of a public building or facility together with any related handling operations or the intentional burning of any facility.
18. **DSHS** – Texas Department of State Health Services.
19. **Encapsulation** – A method of control of asbestos fibers in which the surface of asbestos-containing material is penetrated by or covered with a liquid coating prepared for that purpose.
20. **Enclosure** – procedures necessary to completely enclose material containing asbestos behind airtight, impermeable, permanent barriers.
21. **EPA** – United States Environmental Protection Agency.




22. **Equipment Decontamination Enclosure System** – A decontamination enclosure system for materials and equipment, typically consisting of an airlock, a washroom, and a holding area.
23. **Equipment Room** – a contaminated area or room which is part of the worker decontamination enclosure system, with provisions for storage of contaminated clothing and equipment.
24. **Fixed Object (Immoveable Object)** – a unit of equipment or furniture in the Work Area which cannot be removed from the Work Area.
25. **Glove-Bag** – a 6- to 12-mil plastic bag fitted with long-sleeved gloves, a tool pouch, and an opening for amended water and sealant application.
26. **HEPA Filter** – a High Efficiency Particulate Air (HEPA) filter capable of trapping and retaining 99.97 percent of asbestos fibers greater than 0.3 microns in length.
27. **HEPA Vacuum Equipment** – vacuuming equipment equipped with a HEPA-filtration system.
28. **Holding Area** – a chamber between the washroom and uncontaminated area in the equipment decontamination enclosure system. The holding area comprises an airlock.
29. **HVAC** – Heating Ventilation and Air Conditioning.
30. **Landfill** – a Texas state-approved and licensed disposal site for permanent disposal of asbestos and asbestos-containing materials.
31. **Leak-tight** – solids and liquids cannot escape or spill out. It also means dust-tight.
32. **Moveable Object** – a unit of equipment or furniture in the Work Area that can be removed from the Work Area.
33. **MSHA** – Mine Safety and Health Administration.
34. **NEC** – National Electrical Code.
35. **NESHAP** – National Emission Standards for Hazardous Air Pollutants.
36. **NIOSH** - National Institute for Occupational Safety and Health.
37. **OSHA** – Occupational Safety and Health Administration.
38. **Plastic Sheetting** – plastic sheet material of specified thickness used for protection of walls, floors, etc., and used to seal openings into the Work Area.
39. **Regulated area** – The demarcated area in which asbestos abatement activity takes place, and in which the possibility of exceeding the permissible exposure limits for the concentrations of airborne asbestos exists.
40. **Removal** – the act of removing asbestos-containing or contaminated materials from the structure under properly controlled conditions to a suitable disposal site.
41. **RFCI** – Resilient Floor Covering Institute.
42. **SDS** – Safety Data Sheet.
43. **Shower Room** - a room constituting an airlock, between the clean room and the equipment room in the worker decontamination enclosure system, with hot and cold or warm running water suitably arranged for complete showering during decontamination.
44. **Surfactant** – a chemical wetting agent added to water to improve penetrating ability, thus reducing the quantity of water required to saturate asbestos-containing materials.
45. **TAHPR** – Texas Asbestos Health Protection Rules.
46. **Testing Laboratory** – Company licensed by the DSHS as an Asbestos Laboratory for analysis of air samples.
47. **TCEQ** – Texas Commission on Environmental Quality
48. **TSI** – Thermal system insulation means ACM applied to pipes, fittings, boilers, breeching, tanks, ducts or other structural components to prevent heat loss or gain.

49. **Washroom** – a room between the Work Area and the bagged waste holding area in the equipment decontamination enclosure system. The washroom comprises an air lock.
50. **Wet Cleaning** – the process of eliminating asbestos contamination from building surfaces and objects by using cloths, mops, or other cleaning tools that have been dampened with amended water, disposing of these cleaning tools as asbestos-contaminated waste.
51. **Work Area** – area or areas of Project which undergo abatement or are contaminated.
52. **Worker Decontamination Enclosure System** – a decontamination enclosure system for workers, typically consisting of a clean room, an airlock, a shower room, an airlock, and an equipment room.
53. **Visible Emissions** – any emissions that are visually detectable without the aid of instruments, coming from asbestos-waste material or construction debris.

#### 1.05. QUALIFICATIONS FOR PERFORMANCE OF WORK

- A. Contractor (or subcontractor) shall be appropriately trained in accordance with DSHS, EPA, and OSHA requirements.
- B. Contractor and worker qualifications for work outside the building are regulated by NESHAP; qualifications for work inside the building are regulated by TAHPR. DSHS enforces both regulations in Texas. TAHPR defines inside Work Areas to include exterior hallways connecting buildings, porticos, and mechanical systems used to condition interior space.
  1. For asbestos abatement work outside the building (regulated under NESHAP). On-site Project Supervision shall be provided by a minimum of one Job Supervisor, to be approved by Owner prior to the start of work. The Job Supervisor(s) shall not be changed without prior approval of Owner. The Job Supervisor shall have completed a 40-hour asbestos competent person supervisor course, in accordance with Occupational Exposure to Asbestos Final Rule, for Class I asbestos work. All abatement workers shall have completed a 32-hr asbestos abatement worker training course for Class I work in accordance with Occupational Exposure to Asbestos Final Rule. All other workers on site but not involved in asbestos abatement shall receive a 2-hr asbestos awareness training (OSHA Class IV) course.
  2. For asbestos abatement work inside the building (regulated under TAHPR). Full-time, on-site Project Supervision shall be provided by a minimum of one Job Supervisor, to be approved by Owner prior to the start of work. The Job Supervisor(s) shall not be changed without prior approval of Owner. The Job Supervisor, Job Foremen, Abatement Workers, and Abatement Company shall be appropriately licensed by the DSHS for removal work. All other workers on site but not involved in asbestos abatement shall receive a 2-hr asbestos awareness training (OSHA Class IV) course.
- C. Work Area supervision shall be provided by a minimum of one experienced Job Foreman for every ten asbestos abatement workers or portion thereof used on this project. Job Foreman shall remain in the Work Area at all times that work is in progress.


  
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## 1.06. REFERENCE STANDARDS

- A. Acknowledge, by execution of the Contract, awareness and familiarity with the contents and requirements of the following regulations, codes, standards, and guidance documents. Assume responsibility for the performance of the Work in strict compliance with these documents and for every instance of failure to comply with these documents. The current issue of each document shall govern. Where conflict exists between these documents and the Contract Documents, the more stringent requirements shall apply.
1. EPA Regulations for Asbestos (40 CFR §61.140 – 40 CFR §61.157 and 40 CFR 763).
  2. OSHA Asbestos Regulations (29 CFR 1910 and 29 CFR 1926).
  3. EPA Office of Pesticide and Toxic Substances Guidance Document, "Guidance for Controlling Friable Asbestos-Containing Materials in Buildings", EPA 560/5-85-024, June 1985.
  4. The Texas Asbestos Health Protection Rules, February 2006.
  5. All federal, state, county, and city codes and ordinances as applicable. Make available for review at the site one copy of EPA, OSHA, and applicable state, county and city regulations governing the Work.
  6. Resilient Floor Covering Institute's (RFCI) "Recommended Work Practices for Removal of Resilient Floor Coverings", issued January 2018.

## 1.07. WORKSITE CONDITIONS

- A. Worker and Visitor Procedures: Contractor is hereby advised that asbestos has been determined by the U.S. Government to be a CANCER-CAUSING AGENT. Provide workers with respirators (which, as a minimum, meet the requirements of OSHA 29 CFR §1926.1101) and protective clothing during all phases of the work and until Final Air Clearance tests are accepted by Asbestos Project Manager.
- B. Visible Emissions (for exterior work under NESHAP): At no time shall visible emissions be allowed during the removal of ACM. If visible emissions are created, work is to stop immediately, and all ACM and construction debris are to be thoroughly wetted until emissions are no longer visible.
- C. Airborne Fiber Concentration (for interior work under TAHPR): Inside the Regulated Work Area, Asbestos Project Manager (Testing Laboratory) shall conduct daily air monitoring to monitor the effectiveness of Contractor's work practices during removal activities. The Testing Laboratory shall document daily air sample results. The following fiber concentrations shall be based on environmental air samples obtained in the Work Area:
1. Maintain an average airborne fiber concentration inside the Regulated Area (i.e., Containment) of less than 0.1 fibers per cubic centimeter (f/cc). If the average daily fiber counts obtained from the Containment rise above this figure, Contractor shall revise work procedures to lower the fiber counts to less than 0.1 f/cc.

  
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2. Upon notification by the Testing Laboratory that the average airborne fiber concentrations are greater than 0.01 f/cc for any period of time in areas outside adjacent to the Work Area containment or Regulated Work Area, Contractor shall cease work and commence cleaning of the Regulated Work Area. Work activities may not resume until Testing Laboratory performs testing to obtain a fiber concentration of less than or equal to 0.01 f/cc.
- D. Interior Building Spaces – All areas of interior space adjacent to the Work Area shall be unoccupied and sealed off from the Work Area and shall remain unoccupied and sealed off until all ACM has been removed and transported off site to a state-licensed landfill.

#### **1.08. PERSONNEL PROTECTION**


- A. Prior to commencement of work, instruct all workers in the appropriate procedures for personnel protection and asbestos removal. Ensure that workers are knowledgeable in these procedures.
- B. Acknowledge and agree to sole responsibility for enforcing worker protection requirements at least equal to those specified in this Section.
- C. Provide workers with personally issued and marked respiratory protection equipment approved by NIOSH for the type of work being performed.
- D. Provide sufficient replacement filters where respirators with disposable filters are used, as necessary.
- E. Provide respiratory protection at all times that is in compliance with OSHA requirements. The minimum acceptable respiratory protection used for this project shall be half-face, air purifying respirators.
- F. Be solely responsible for scheduling necessary air sampling by an independent testing laboratory for compliance monitoring of Abatement Worker respiratory protection with OSHA regulations. Pay for all costs associated with such testing.
- G. Except for governmental inspectors having jurisdiction, permit no visitors in the Work Area after commencement of asbestos disturbance or removal.
- H. Provide workers with sufficient sets of protective disposable clothing, consisting of full-body coveralls, head covers, gloves, and foot covers of sizes to properly fit individual workers.

#### **1.09. SUBMITTALS**

- A. Pre-Job Submittals.

These items shall be available on site and a copy shall be presented to the Asbestos Project Manager in a hard copy and digital format (i.e., flash drive) prior to the start of work. Abatement Workers will not be allowed to work inside the Regulated Area without these Pre-Job Submittals.

  1. DSHS Asbestos Abatement Contractor License.
  2. DSHS Asbestos Transporter License.
  3. DSHS Asbestos Supervisor/Worker licenses, written physician's medical opinions, worker release forms, asbestos training documentation, and

  
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respirator training documentation, for each employee who works on the Project.

4. DSHS 10-working day notification.

B. Daily Job Submittals.

1. A copy of the Sign In/Out Log showing the following: date, name, Social Security Number (last 4 digits), entering and leaving time, company or agency represented, and reason for entry for all persons entering the Work Area.
2. For all additional abatement workers, DSHS license, written physician's medical opinions, worker release forms, asbestos training documentation, respirator training documentation.
3. Written report listing all accidents, reportable and/or lost time, which occurred during the Work, identifying personnel and specific details of accident.
4. Properly completed generator's copy of the Uniform Hazardous Waste Manifest (EPA form 8700 (rev. 3-5)).


C. Post-Job Submittals.

1. Certificate of Completion Form issued by Contractor submitted for the building or facility designated as a portion of the project.
2. An alphabetical listing of each employee and Social Security Number used on the Project and the exact dates on which they were present in the Work Area.
3. A copy of employee air monitoring results relative to OSHA respiratory protection level compliance for employees, subcontractors, and visitors.
4. If no accidents occurred, then submit a letter to that effect. In addition, submit copy of safety meeting minutes.
5. A copy of all manufacturer's literature and SDSs, procedures, and submittal information presented during the project and reviewed and returned to the Contractor by Asbestos Project Manager, including submittal review results.
6. Fully executed copies of the Uniform Hazardous Waste Manifest (EPA form 8700 (rev. 3-5)) with the appropriate information completed from the landfill, documenting the disposal of the asbestos-containing/contaminated waste material.
7. Landfill tipping fee receipt (signed by landfill representative).
8. Documentation of all completed asbestos abatement activity. This documentation shall include diagrams identifying all areas where asbestos was removed and the approximate quantity, and areas where asbestos was left in place. Include a written justification for not removing materials included in the scope of work.
9. All documentation must be submitted and received by Asbestos Project Manager within five working days of job completion.

## PART 2 – PRODUCTS

### 2.01. MATERIALS

- A. **Glove-Bag** – must be greater than or equal to 6-mil in thickness. Size must be sufficient to allow airtight seal around pipe. Separate tool pouch and openings for

  
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amended water or sealant. HEPA-vacuum shall be used to collapse bag and control fiber release.

- B. **Impermeable Containers** – suitable to receive and retain asbestos-containing or contaminated materials until disposal at a landfill licensed to receive asbestos. Containers must be labeled in accordance with OSHA Regulation 29 CFR §1926.1101(k)(8). Containers shall be both airtight and watertight.
- C. **Mastic Remover** – manufactured by a reputable, established manufacturer of mastic (adhesive) remover materials and approved specifically for use in asbestos-contaminated environments. Provide product compatibility for usage in confined areas. Flash Point shall be greater than 140 degrees Fahrenheit as determined by ASTM D 92. Product waste shall not meet the definition of hazardous waste under the EPA hazardous waste regulations 40 CFR 261.
- D. **Plastic Sheet** – thicknesses as specified, in sizes to minimize the frequency of joints. Use of "spray-on poly" is not permitted without submittal review and Owner concurrence.
- E. **Sealant (encapsulant)** – manufactured by reputable, established manufacturer of encapsulant/sealant materials and approved specifically for use in asbestos-contaminated environments. Determine compatibility of the sealant with the materials and conditions.
- F. **Surfactant (wetting agent)** – mixture of Penewet RTU #6450 (Fiberlock Technologies), or equivalent.
- G. **Tape** – glass fiber or other type capable of sealing joints of adjacent sheets of plastic and for attachment of plastic sheet to finished or unfinished surfaces under both dry and wet conditions.
- H. **Warning Labels and Signs** – as required by OSHA 29 CFR §1926.1101(k)(8).
- I. **Other Materials** – provide all other materials, such as lumber, nails, and hardware, which may be required to construct and dismantle the decontamination system and the barriers that isolate the Work Area.

## 2.02 TOOLS AND EQUIPMENT

- A. Provide suitable tools for ACM removal.
  - 1. **Air Purifying Equipment** – HEPA Filtration Systems. Verify that no internal air movement system or purification equipment exhausts contaminated air from inside the Work Area into uncontaminated areas.
  - 2. **Glove-Bag** – suitable for removal of pipe insulation.
  - 3. **Half-Face Respirator Equipment** – negative pressure, half-face P100 air purifying respirators approved by NIOSH and MSHA for asbestos removal work.
  - 4. **Powered Air Purifying Respirator (PAPR)** – approved by NIOSH for asbestos removal work.
  - 5. **Scaffolding** – as required to accomplish the specified work and meet all applicable safety regulations.
  - 6. **Transportation** – as required for loading, temporary storage, transit, and unloading of contaminated waste without exposure to persons or property. Use only enclosed or covered trucks to haul waste containers to prevent loss or damage of containers in route to the landfill. Any temporarily stored waste must be properly secured.
  - 7. **Water Sprayer** – use airless sprayer for amended water application.

  
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8. **HEPA Vacuum** – As defined in Section 1.04 of this abatement plan.

B. The following tools are not suitable for ACM removal operations and are prohibited from the Work Area:

1. Brooms;
2. Electric powered grinders; and
3. Air blowers.

## **PART 3 – EXECUTION**

### **3.01. GENERAL PREPARATION**

A. Coordinate sequence of Work Area preparation in areas adjacent to the occupied areas with the Owner, General Contractor, and other trades to properly segregate Work Area from other construction activities being performed. The following Work Area preparation requirements apply to all Work Areas. The on-site Asbestos Project Manager may modify these minimum Work Area isolation requirements to accommodate specific Work Area conditions.


1. Secure Work Area with adequate barriers to prevent unauthorized entry to abatement Work Areas.
2. All Work Areas within buildings shall be segregated from non-Work Areas with a minimum of two layers of 6-mil plastic sheeting. Install critical barriers (including over construction barrier walls) and seal all HVAC duct openings, pipe and conduit penetrations, wall and floor openings, windows, doors, and equipment within the Work Area with a minimum of two layers of 6-mil plastic sheeting.
3. Install plywood barriers in windows or doorways used for diminished air exhaust, if required for the specific Work Area requirements. Remove upon completion of work.
4. Flammable materials shall not be stored in the Work Area.
5. Maintain emergency wayfinding and fire exits from the Work Areas, or establish alternative exits satisfactory to fire officials. Provide fire extinguishers inside and outside the Work Area.
6. Provide temporary power and lighting as necessary to maintain a safe work environment.

B. **Preparation of Work Area Enclosures for Removal of Asbestos-Containing Baseboard Adhesive, Floor Tile and Floor Tile Mastic**

1. Segregate the Work Areas as described in 3.01A above. Notify Asbestos Project Manager for observation of the critical barriers prior to pre-cleaning Work Area.
2. Remove movable objects from the Work Area as necessary to access asbestos-containing materials and dispose of as asbestos-contaminated waste.
3. HEPA-vacuum and then wet clean all objects that will remain in the Work Area.
4. Notify the Asbestos Project Manager for observation to determine completeness of cleaning prior to applying plastic sheeting.

5. Seal all objects remaining in the Work Area with a minimum of one layer of 6-mil plastic sheeting after cleaning.
6. Install one layer of 6-mil plastic sheeting over walls, except for wall materials that will be removed as ACM. If other ACM is to be removed within the Work Area, which requires removal under a full containment, then the wall sheeting must extend to the ceiling. If, however, the floor tile/mastic removal is performed independently, the wall sheeting may be a "splash guard" which extends at least four feet up from the floor. Seal plastic sheeting to the bottoms of walls and to the walls at the tops of the splash guards securely with duct tape.
7. Install one layer of 6-mil plastic sheeting over all porous ceiling materials, such as ceiling tile, and seal securely with duct tape. Hard surface ceiling materials such as plaster and drywall that are in good condition and can be wiped down do not require plastic sheeting under the ceiling.
8. Install a decontamination unit with an airlock to allow controlled ingress and egress to the Work Area.
9. Maintain a Sign In/Out Log in the immediate area of the entrance to the Work Area to be used by every person, each time upon entering and leaving the Work Area.
10. Provide worker and equipment decontamination units in compliance with EPA guidelines concerning number, size, and placement of airlocks, etc. Provide one decontamination unit for every 10 workers inside the Work Area. Shower in worker decontamination unit to open into airlock on both contaminated and uncontaminated sides. Decontamination units are to be constructed of appropriate materials (including plastic sheeting) to provide airtight barriers and allow constant negative pressure to be maintained in Work Areas. Post OSHA decontamination procedures in Change Room for duration of Project. Trap shower wastewater using filters having a maximum pore size of 5 micron and drain into a sanitary sewer. Replace contaminated filters when they become clogged but not less than every third working day. Dispose of filters as contaminated waste.
11. Place each Work Area under constant negative air pressure using HEPA filtration systems that comply with ANSI Z9.2-2018, local exhaust ventilation. Allow no air movement system or air filtering equipment to discharge unfiltered air outside the Work Area. Maintain a constant negative pressure in the Work Area continuously (24 hours per day) from the start of removal or disturbance of asbestos-containing material until the area is decontaminated and determined as such by the required air testing. Ensure that the air within the Work Area is changed at least once every 15 minutes. Submit the proposed route of exhaust to Asbestos Project Manager prior to initiating its use.
12. Install a recording manometer to monitor differential pressure inside the Work Area. Maintain a minimum differential pressure of 0.02 inches of water inside the Work Area with respect to outside the Work Area.
13. Notify the Asbestos Project Manager for observation of the completion of Work Area preparation prior to disturbing asbestos-containing material.

**C. Preparation of Work Area for Removal of Asbestos-Containing Floor Tile and Floor Tile Mastic (RFCI Method).**

  
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1. Prepare Work Area in accordance with the Resilient Floor Coverings Institute (RFCI) Recommended Work Practices for Removal of Resilient Floor Coverings, January 2018.
2. Notify the Asbestos Project Manager for observation of the completion of Work Area preparation prior to disturbing asbestos-containing material.

**D. Preparation of Work Area Enclosures for Removal of Asbestos-Containing Sprayed-On Texture, and/or Drywall and Joint Compound.**

1. Segregate the Work Areas as described in 3.01A above. Notify Asbestos Project Manager for observation of the critical barriers prior to pre-cleaning Work Area.
2. Remove movable objects from the Work Area as necessary to access asbestos-containing materials and dispose of as asbestos-contaminated waste.
3. HEPA-vacuum and then wet clean all objects that will remain in the Work Area.
4. Notify the Asbestos Project Manager for observation to determine completeness of cleaning prior to applying plastic sheeting.
5. Seal all objects remaining in the Work Area with a minimum of one layer of 6-mil plastic sheeting after cleaning.
6. Over walls that are to remain in place, install two layers of 4 mil plastic sheeting that extends to the ceiling. Seal plastic sheeting securely with duct tape.
7. Install one layer of 6-mil plastic sheeting over all porous ceiling materials that are to remain in place, such as ceiling tile, and seal securely with duct tape. Hard surface ceiling materials such as plaster and drywall that are in good condition and can be wiped down do not require plastic sheeting under the ceiling.
8. Install a decontamination unit with an airlock to allow controlled ingress and egress to the Work Area.
9. Maintain a Sign In/Out Log in the immediate area of the entrance to the Work Area to be used by every person, each time upon entering and leaving the Work Area.
10. Provide worker and equipment decontamination units in compliance with EPA guidelines concerning number, size, and placement of airlocks, etc. Provide one decontamination unit for every 10 workers inside the Work Area. Shower in worker decontamination unit to open into airlock on both contaminated and uncontaminated sides. Decontamination units are to be constructed of appropriate materials (including plastic sheeting) to provide airtight barriers and allow constant negative pressure to be maintained in Work Areas. Post OSHA decontamination procedures in Change Room for duration of Project. Trap shower wastewater using filters having a maximum pore size of 5 micron and drain into a sanitary sewer. Replace contaminated filters when they become clogged but not less than every third working day. Dispose of filters as contaminated waste.
11. Place each Work Area under constant negative air pressure using HEPA filtration systems which comply with ANSI Z9.2-2018, local exhaust ventilation. Allow no air movement system or air filtering equipment to

discharge unfiltered air outside the Work Area. Maintain a constant negative pressure in the Work Area continuously (24 hours per day) from the start of removal or disturbance of asbestos-containing material until the area is decontaminated and determined as such by the required air testing. Ensure that the air within the workspace is changed at least once every 15 minutes. Submit the proposed route of exhaust to Asbestos Project Manager prior to initiating its use.

12. Install a recording manometer to monitor differential pressure inside the Work Area. Maintain a minimum differential pressure of 0.02 inches of water inside the Work Area with respect to outside the Work Area.
13. Notify the Asbestos Project Manager for observation of the completion of Work Area preparation prior to disturbing asbestos-containing material.

### **3.02. REMOVAL OF ASBESTOS-CONTAINING MATERIAL**

- A. Remove and properly dispose of all ACM scheduled for removal in these Specifications in accordance with the methods and procedures outlined in OSHA 29 CFR §1926.1101, EPA 40 CFR 61, and as more stringently specified herein.

- B. **Removal of Asbestos-Containing Baseboard Adhesive, Floor Tile and Floor Tile Mastic.**

1. Prepare Work Area as previously specified.
2. Spray asbestos-containing material as it is removed with amended water using spray equipment capable of providing a "mist" application to reduce the release of fibers. Spray the asbestos-containing material repeatedly during work process to maintain wet condition but do not use excessive amounts of water. Minimize breakage of floor tile during removal. Place removed floor tile and baseboard in sealable plastic bags of 6 mil minimum thickness, or approved drums. Place sealed asbestos debris in second 6 mil plastic bag, appropriately labeled, and remove from Work Area.
3. Once the floor tile has been removed, apply floor tile mastic remover to remove the remaining asbestos-containing mastic on the floor. Use the mastic remover in accordance with the manufacturer's recommendations.
4. Perform cleaning of mastic by hand around penetrations through the floor.
5. After removal of mastic material, HEPA-vacuum and wet clean all surfaces in the Work Area to remove residual accumulated material. Continue wet cleaning until surfaces are visibly free of material.
6. Notify the Asbestos Project Manager for observation of the completion of cleaning. Surfaces will be considered clean when free from dust, dirt, residue, film, or discoloration resulting from abatement operations or other activities subordinate to these operations.

- C. **Removal of Asbestos-Containing Floor Tile and Floor Tile Mastic (RFCI Method).**

Perform work in accordance with the Resilient Floor Coverings Institute (RFCI) Recommended Work Practices for Removal of Resilient Floor Coverings, January 2018.

**K. Removal of Asbestos-Containing Sprayed-On Texture, and/or Drywall, and Joint Compound.**

1. Prepare Work Area as previously specified.
2. Spray areas of asbestos-containing material with amended water using spray equipment capable of providing a "mist" application to reduce the release of fibers. Spray the asbestos-containing material repeatedly during work process to maintain wet condition but do not use excessive amounts of water.
3. Remove ACM in manageable sections and place in sealable plastic bags of 6 mil minimum thickness. Place sealed asbestos debris in second 6 mil plastic bag, appropriately labeled, and remove from Work Area. At no time will the removed debris be allowed to accumulate on the floor.
4. After removal of asbestos-containing material, HEPA vacuum and wet clean all surfaces in the Work Area to remove residual accumulated material. Continue wet cleaning until surfaces are visibly free of material.
5. Notify Asbestos Project Manager for observation of the completion of cleaning. Surfaces will be considered clean when free from dust, dirt, residue, film, or discoloration resulting from abatement operations or other activities subordinate to these operations.

**3.03. CLEAN-UP**

- A. Provide general clean-up of Work Area, concurrent with the removal of all ACM. Dispose of debris from removal operation, used cleaning materials, unsalvageable materials, and any other materials remaining in the Work Area. Consider the materials to be contaminated and dispose of accordingly.
- B. Clean all equipment and materials used in the Work Area and remove from Work Area. Surfaces shall be considered clean when free from dust, dirt, residue, film, or discoloration resulting from abatement operations or other activities subordinate to these operations.

**3.04. DISPOSAL OF CONTAMINATED WASTE**

- A. Wet clean the outside of disposal bag surfaces to remove all suspect contamination as bags are moved out of the Work Area.
- B. Transportation to landfill shall be performed in accordance with all federal, state, and local laws and regulations.
  1. Place bags in the enclosed waste disposal container, which has been lined with a minimum of one layer of 6-mil plastic sheeting.
  2. Transport containerized waste using a transporter licensed by the DSHS to transport asbestos waste.
  3. Provide a properly completed Uniform Hazardous Waste Manifest (EPA Form 8700-22 (Rev. 3-05)) for transportation of all ACM waste to landfill.

4. Dispose of treated, packaged, labeled, asbestos-containing waste material in accordance with EPA 40 CFR §61.150.
5. Allow only sealed plastic bags or impermeable containers to be deposited in landfill.
6. Ensure that there are no visible emissions to the outside air from site where materials and waste are deposited.
7. Submit *legible* copies of tipping fee receipts from authorized representative of landfill operator for each delivery of waste material. Provide a fully executed copy of the Uniform Hazardous Waste Manifest (EPA Form 8700-22 (Rev. 3-05)) for transportation of all ACM waste transported to landfill.

### 3.05. SCOPE OF ASBESTOS ABATEMENT WORK

A. General Asbestos Abatement Note:


Drawings are attached which show the locations of asbestos-containing materials to be removed. The Contractor is responsible to visit the Work Areas and verify the quantity and extent of work related to the removal of the asbestos materials.

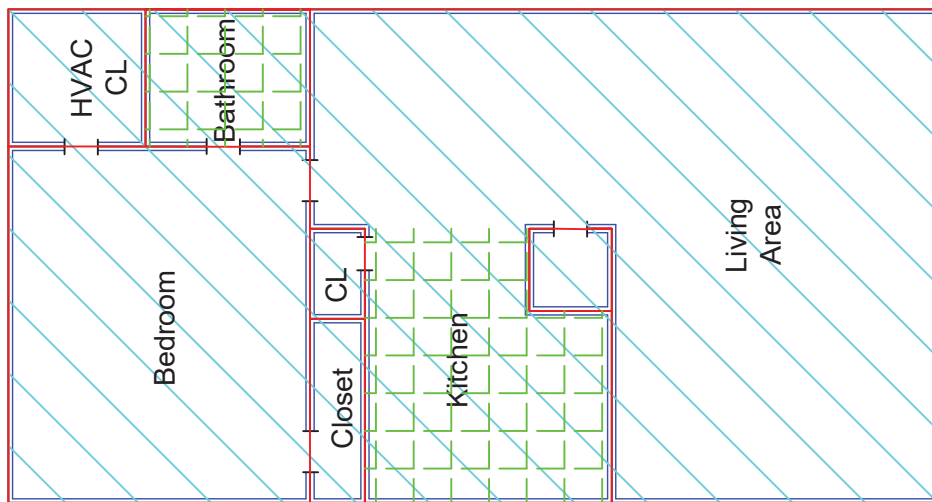
B. Lead-Containing Paint might be present throughout the Site. It is the Contractor's responsibility to provide training and personnel protection for all workers to comply with the OSHA lead standard 29 CFR §1926.62.

C. Summary of ACM to be removed:

Material No.	Material	Functional Space	Type	Friable/ Non-Friable	Sampled/ Assumed	Estimated Quantity	Result
07	Beige Baseboard Adhesive	Throughout Units	Misc.	Non-Friable	Sampled	250 ft <sup>2</sup>	2% Chrysotile
12	Beige 12"x12" Floor Tile with Adhesive – Second Layer	Laundry Unit	Misc.	Non-Friable	Sampled	100 ft <sup>2</sup>	3% Chrysotile (Floor Tile)
29	Texture, Drywall Wall, and Joint Compound	Throughout Units and Office except Office Bathroom 2	Surf.	Non-Friable	Sampled	27,000 ft <sup>2</sup>	5.75% Chrysotile
30	"Popcorn" Texture, Drywall Ceiling, and Joint Compound	Throughout Units and Office except Office Bathroom 2	Surf.	Friable	Sampled	21,000 ft <sup>2</sup>	7.5% Chrysotile
	Black Mastic under 12"x12" Floor Tile (Sampled by Phase Engineering)	Kitchens and Bathrooms – Throughout Units and Office	Misc.	Non-Friable	Sampled by Phase Engineering	4,000 ft <sup>2</sup>	5% Chrysotile

Misc. = Miscellaneous. Surf. = Surfacing. ft<sup>2</sup> = square feet

  
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**LEGEND**

	BEIGE BASEBOARD ADHESIVE
	TEXTURE, DRYWALL WALL, AND JOINT COMPOUND
	"POPCORN" TEXTURE, DRYWALL CEILING, AND JOINT COMPOUND
	BLACK MASTIC UNDER 12" X 12" FLOOR TILE

*Nasser*  
AIC #105837, EXP 04/10/2020



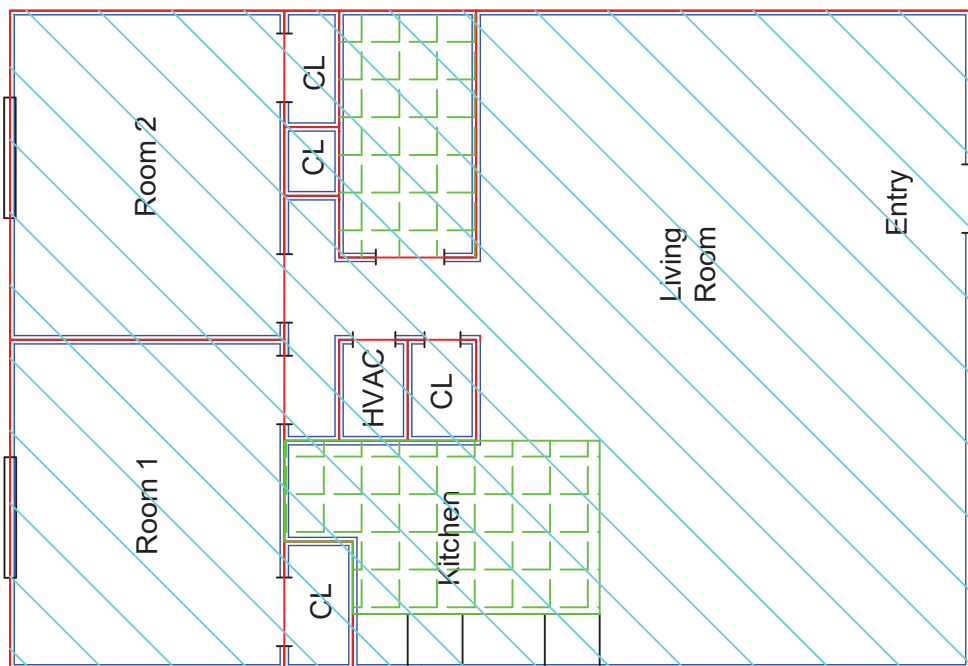
**Baer Engineering**  
and Environmental Consulting, Inc.

7756 Northcross Drive, Suite 211, Austin, Texas 78757  
Phone: (512) 453-3733 Fax: (512) 453-3318 Toll Free: (800) 926-0242  
www.baereng.com info@baereng.com  
Texas DSHS Asbestos Consulting Agency License Number 10-0002

DRAWN BY: J.M.C.	CHECKED BY: A. NASSER
APPROVED BY: A. NASSER	DATE: JANUARY 2020
SCALE: NOT SPECIFIED	DRAWING NO: 172039.38

### Asbestos Abatement Locations - One Bedroom Unit

5606 Roosevelt Avenue  
Austin, TX 78756



**LEGEND**

	BEIGE BASEBOARD ADHESIVE
	TEXTURE, DRYWALL WALL, AND JOINT COMPOUND
	"POPCORN" TEXTURE, DRYWALL CEILING, AND JOINT COMPOUND
	BLACK MASTIC UNDER 12" X 12" FLOOR TILE

*A. Nasser*  
AIC #105837, EXP 04/10/2020



**Baer Engineering**  
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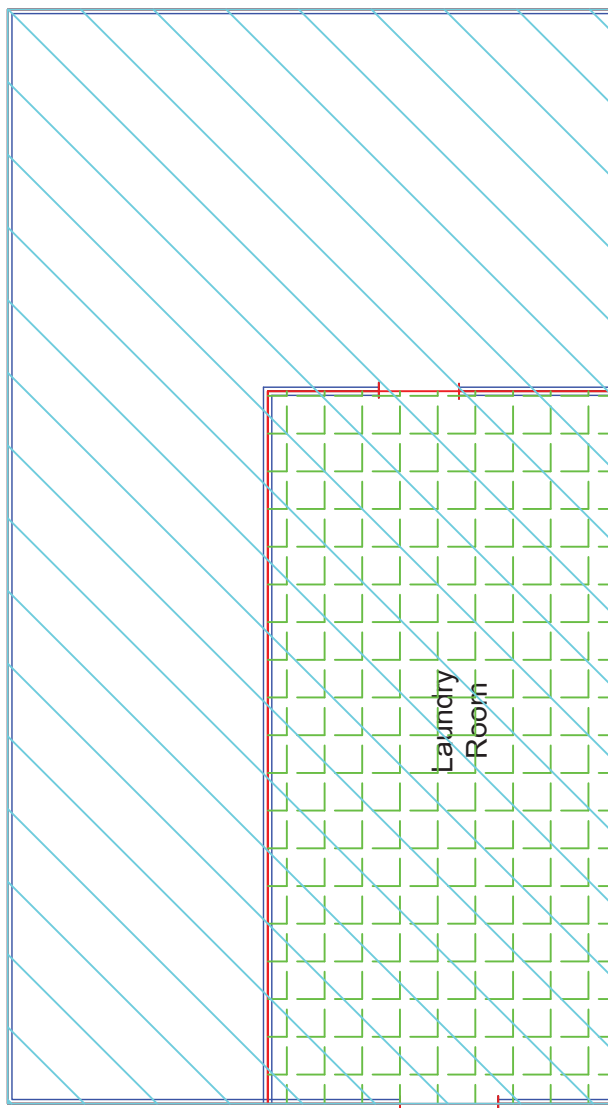
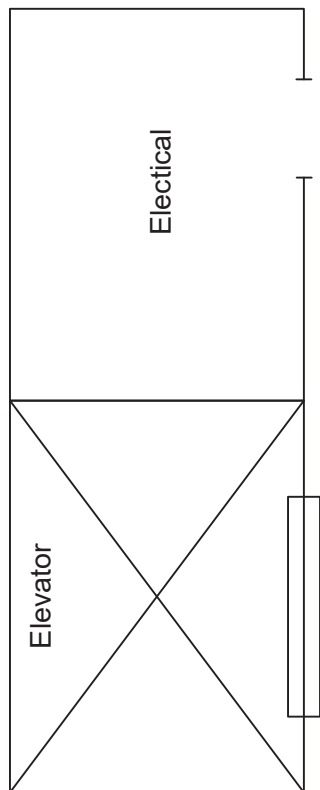
**Asbestos Abatement Locations -  
Two Bedroom Unit**

5606 Roosevelt Avenue  
Austin, TX 78756  
2 of 4



*A. Nasser*

AIC #105837, EXP 04/10/2020



**LEGEND**

-  BEIGE BASEBOARD ADHESIVE
-  TEXTURE, DRYWALL WALL, AND JOINT COMPOUND
-  "POPCORN" TEXTURE, DRYWALL CEILING, AND JOINT COMPOUND
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www.baereng.com info@baereng.com

Texas DSHS Asbestos Consulting Agency License Number 10-0002

DRAWN BY:  
J.M.C.

APPROVED BY:  
A. NASSER

SCALE:  
NOT SPECIFIED

CHECKED BY:  
A. NASSER

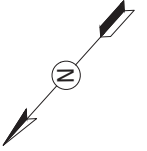
DATE:  
JANUARY 2020

DRAWING NO:  
172039.38

**Asbestos Abatement Locations -  
Laundry and Elevator**

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Austin, TX 78756

3 of 4

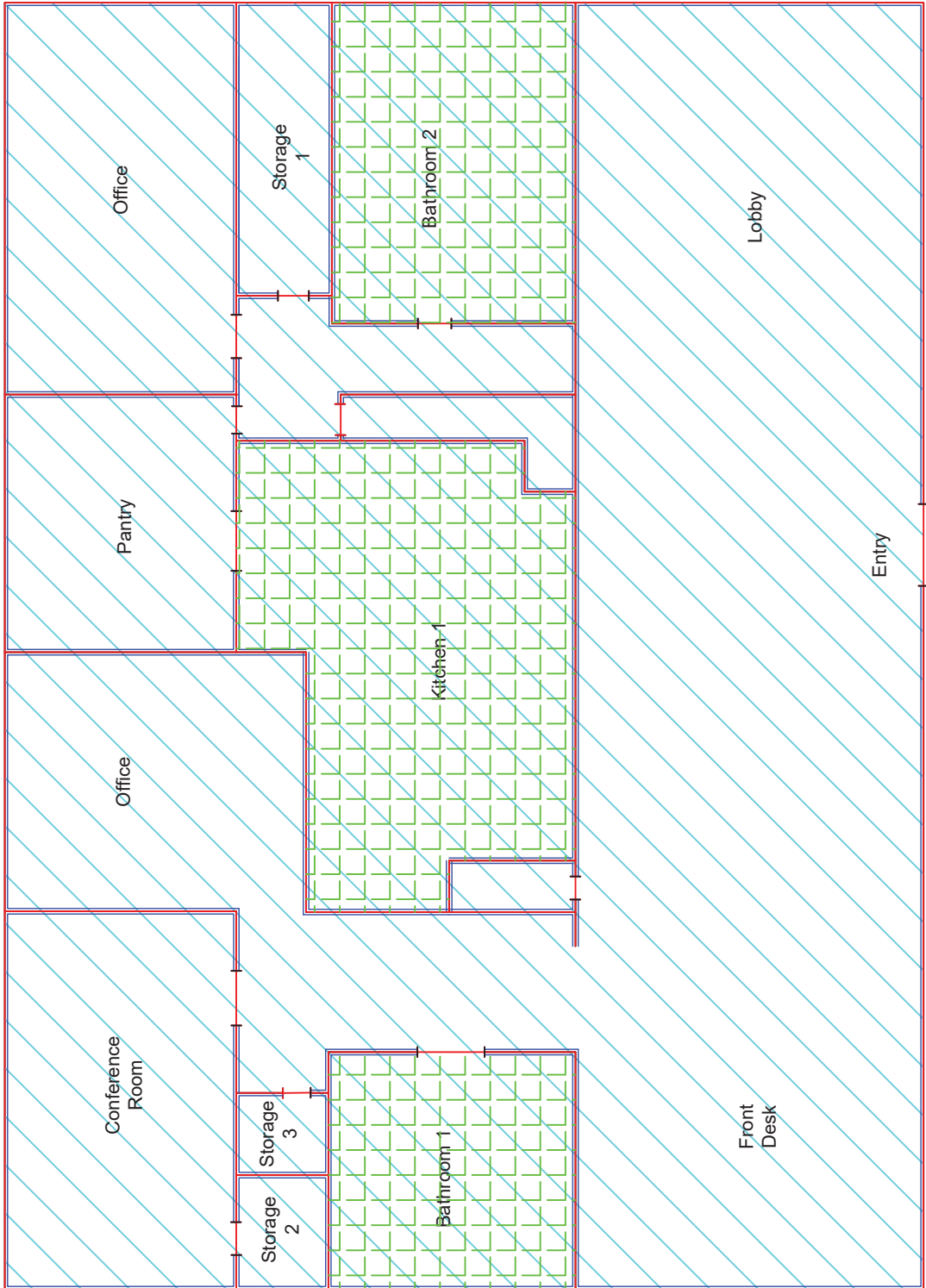


*A. Nasser*

AIC #105837, EXP 04/10/2020

**LEGEND**

	BEIGE BASEBOARD ADHESIVE
	TEXTURE, DRYWALL WALL, AND JOINT COMPOUND
	"POPCORN" TEXTURE, DRYWALL CEILING, AND JOINT COMPOUND
	BLACK MASTIC UNDER 12" X 12" FLOOR TILE



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DRAWN BY: J.M.C.	CHECKED BY: A. NASSER
APPROVED BY: A. NASSER	DATE: JANUARY 2020
SCALE: NOT SPECIFIED	DRAWING NO: 172039.38

**Asbestos Abatement Locations -  
Offices**

5606 Roosevelt Avenue  
Austin, TX 78756  
4 of 4



# Exhibit D

## Insurance Requirements

## **EXHIBIT D – Insurance Requirements**

**Section 1** Grantee, for the duration of the Agreement, shall carry insurance in the following types and amounts:

- 1.1 Commercial General Liability Coverage with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverages A & B. The policy shall contain the following provisions and the following endorsements in favor of the City:
  - A. Contractual liability coverage for liability assumed under this contract;
  - B. Personal and Advertising injury coverage;
  - C. Additional Insured endorsement (Form CG 2010) or equivalent coverage;
  - D. Waiver of Subrogation endorsement (Form CG 2404) or equivalent coverage; and
  - E. 30-Day Notice Cancellation endorsement (Form CG 0205) or equivalent coverage.

**Section 2** Grantee shall cause any Contractor or Subcontractor of Grantee performing Cleanup work on the Site, for the duration of the work, to carry insurance in the following types and amounts:

- 2.1 Employers Liability and Workers' Compensation Insurance. Minimum policy limits for Employers' Liability shall be \$500,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$500,000 bodily injury by disease each employee. Workers' Compensation coverage shall be consistent with statutory benefits described in the Texas Workers' Compensation Act, section 401. Coverage shall apply to the State of Texas. The policy shall contain the following endorsements in favor of the City and Grantee:
  - A. Waiver of Subrogation (Form WC 420304); and
  - B. 30-Day Notice of Cancellation (Form WC 420601)
- 2.2 Commercial General Liability Coverage with a minimum bodily injury and property damage per occurrence limit of \$1,000,000 for coverages A & B. The policy shall contain the following provisions and the following endorsements in favor of the City and Grantee:
  - A. Blanket Contractual liability coverage for liability assumed under this contract;
  - B. Products and completed operations coverage;
  - C. Coverage for Explosion, Collapse, and Underground work (XCU)
  - D. Independent contractors coverage;
  - E. Additional Insured endorsement (Form CG 2010) or equivalent coverage;
  - F. Waiver of Subrogation endorsement (Form CG 2404) or equivalent coverage; and
  - G. 30-Day Notice Cancellation endorsement (Form CG 0205) or equivalent coverage.
- 2.3 Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements in favor of the City and Grantee:
  - A. Waiver of Subrogation endorsement (Form CA 0444) or equivalent coverage; and
  - B. 30 day Notice of Cancellation endorsement (Form CA 0244) or equivalent coverage; and
  - C. Additional Insured endorsement (Form CA 2048) or equivalent coverage.
- 2.4 Professional Liability Insurance with a minimum limit of \$1,000,000 per claim and in aggregate to pay on behalf of the assured all sums which the assured shall become legally obligated to pay as damages by reason of any negligent act, error, or omission committed or alleged to have been committed with respect to professional services provided under this contract. If coverage is written on a claims-made basis, the retroactive date shall be prior to or coincident with the date of the Contract and the certificate of insurance shall state that the coverage is claims-made and indicate the retroactive date. This coverage shall be continuous and will be

provided for 24 months following the completion of the contract. The policy shall provide for 30 day notice of cancellation in favor of the City and Grantee.

- 2.5 Pollution Liability Insurance with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate. This policy shall not exclude asbestos, hazardous materials or pollution, and shall provide "occurrence" coverage without a sunset clause. The policy shall provide 30 day Notice of Cancellation and Waiver of Subrogation endorsements in favor of City and Grantee.
- A. Contractor or Subcontractor responsible for transporting any asbestos or hazardous materials shall provide the following pollution coverage. Federal law requires interstate or intrastate transporters of asbestos or hazardous materials to provide an MCS 90 endorsement with a \$5,000,000 limit when transporting asbestos or hazardous materials in bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more. Interstate transporters of asbestos or hazardous materials in non-bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more must provide an MCS 90 endorsement with a \$1,000,000 limit. The terms "conveyance" and "bulk" are defined by Title 49 CFR 171.8. All other transporters of asbestos or hazardous material shall provide either an MCS 90 endorsement with minimum limits of \$1,000,000 or an endorsement to their Commercial General Liability Insurance policy which provides coverage for bodily injury and property damage arising out of the transportation of asbestos or hazardous materials. The endorsement shall, at a minimum, provide a \$1,000,000 limit of liability and cover events arising from fire, wind, hail, lightning, overturn of conveyance, collision with other vehicles or objects, and loading and unloading of conveyances.
- 2.6 Performance and Payment Bond shall be provided at an amount of 100% of the construction contract amount as security for the faithful performance of all contractor's obligations under the contract documents. These bonds shall be issued by a solvent surety company authorized to do business in the State of Texas.

**Section 3** If insurance policies are written for less than the amounts specified in Section 1 and Section 2 of this Insurance Requirement, Grantee, or Grantee's Contractor or Subcontractor as the case may be, shall carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.

**Section 4** Grantee shall provide City at least thirty calendar days written notice of erosion of the aggregate limit below the minimum required combined single limit of coverage.

**Section 5** Grantee shall not commence work under the Agreement until it has obtained all required insurance and until the City has reviewed such insurance coverage.

**Section 6** All endorsements, naming the City as additional insured, waivers, notices of cancellation, notices of non-renewal or any other endorsements as well as the Certificate of Insurance shall indicate:

City of Austin – Brownfield Revitalization Office  
P.O. Box 1088  
Austin, Texas 78767  
Attention: Christine Whitney

**Section 7** The "other" insurance clause shall not apply to the City where the City is an additional insured shown on the policy. It is intended that the policies required in the Agreement, covering both the City and Grantee, shall be considered primary coverage as applicable.

- Section 8** Grantee shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Agreement or the twenty-four month period following completion, in the case of a claims-made policy.
- Section 9** The City reserves the right to review this Insurance Requirement during the effective period of the Agreement and to make reasonable adjustments to insurance coverages, and their limits, when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, or the claims history of the industry or financial condition of the insurance company, as well as that of Grantee.
- Section 10** The City shall be entitled, upon request, and without expense to the City, to receive copies of the requisite insurance policies and all endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions. (Except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter on any of such policies).
- Section 11** Actual losses, deductibles and self-insured retentions stated in policies, if any, which are not covered by insurance as required by this Insurance Requirement, are not allowable costs under the Agreement.

# Exhibit E

QAPP

# QUALITY ASSURANCE PROJECT PLAN

## ASBESTOS ABATEMENT

### PROJECT TRANSITIONS ROOSEVELT GARDENS ABATEMENT

5606 Roosevelt Ave., Austin, Texas 78756

#### PREPARED FOR:

City of Austin  
Austin Resource Recovery  
Brownfields Program  
P. O. Box 1088  
Austin, Texas 78767



#### PREPARED BY:



**Baer Engineering**  
*and Environmental Consulting, Inc.*


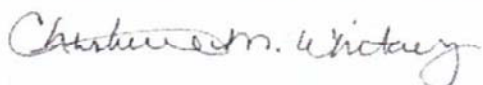
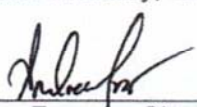
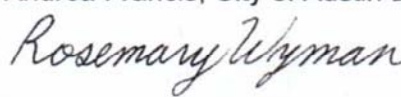
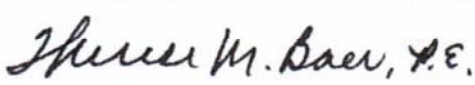
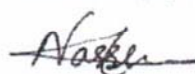
Baer Engineering and  
Environmental Consulting, Inc.  
7756 Northcross Drive, Suite 211  
Austin, Texas 78757

Texas DSHS Asbestos Consultant Agency 100002 & Lead Firm 2110103

JANUARY 16, 2020

Quality Assurance Project Plan  
Asbestos Abatement  
Project Transitions Roosevelt Gardens  
5606 Roosevelt Avenue  
Austin, Texas 78756

Prepared by:  
Baer Engineering and Environmental Consulting, Inc.

	3/2/2020	
Camisha Scott, Project Officer, US-EPA Region 6	Date	
		February 6, 2020
Christine Whitney, City of Austin Brownfields Program Manager	Date	
	02-07-2020	
Andrea Francis, City of Austin Brownfields Quality Assurance Manager	Date	
		January 16, 2020
Rosemary Wyman, Baer Engineering Quality Assurance Manager	Date	
		January 16, 2020
Therese Baer, Baer Engineering Senior Technical Expert	Date	
		January 16, 2020
Ahmad Nasser, Asbestos and Lead (Pb) Technical Expert	Date	

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<b>APPENDIX D</b>	Training/Certification Documentation

## 1.0 PROJECT MANAGEMENT

### 1.1 Distribution List

The following individuals will receive a copy of the approved Quality Assurance Project Plan (QAPP), either in hard copy or electronic format, as well as any subsequent revisions:

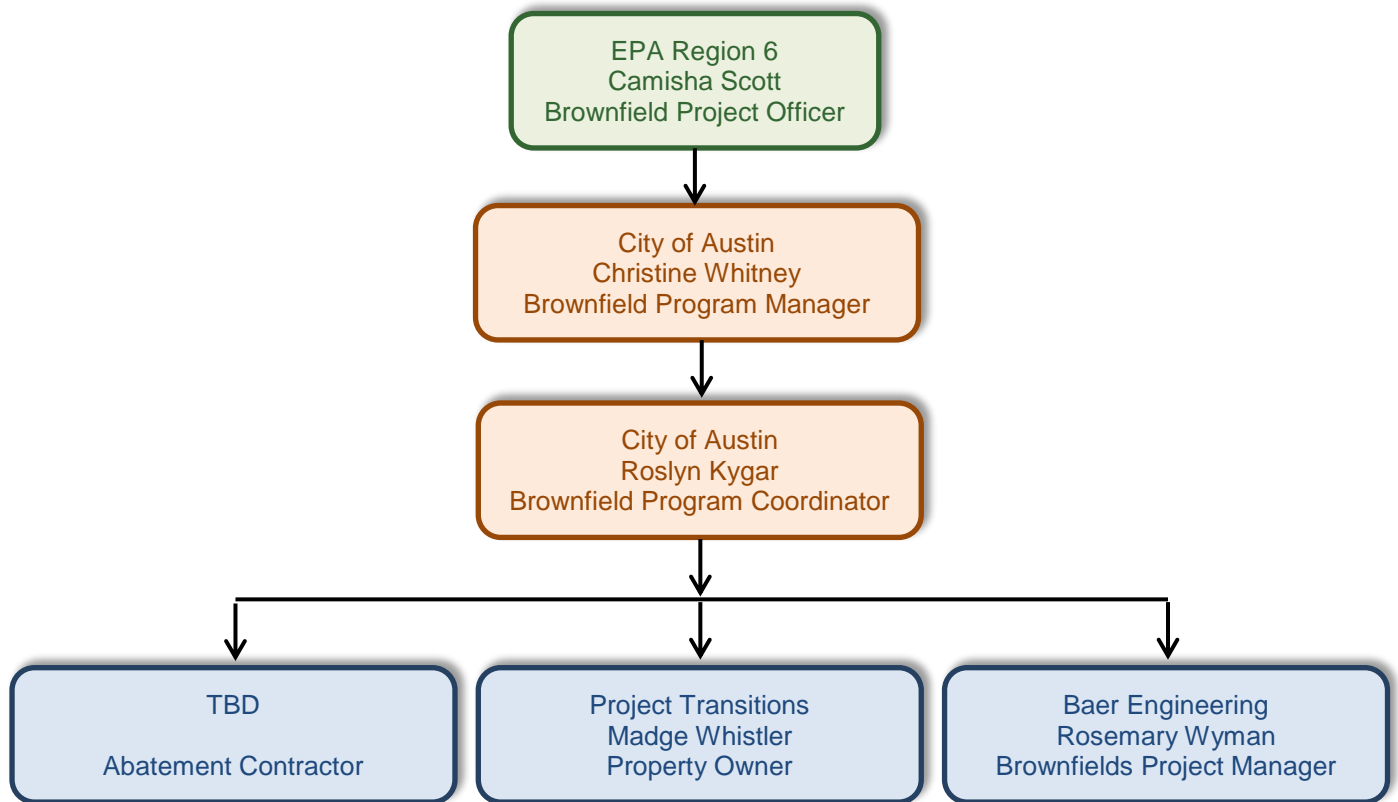
Camisha Scott	Project Officer, US-EPA Region 6	214.665.6755
Christine Whitney	City of Austin Brownfields Program Manager	512.974.6085
Roslyn Kygar	City of Austin Brownfields Program Coordinator	512.974.3533
Rosemary Wyman	Baer Engineering Quality Assurance Manager	512.453.3733
Therese Baer	Baer Engineering Senior Technical Expert	512.453.3733
Ahmad Nasser	Asbestos and Lead (Pb) Technical Expert	512.453.3733

### 1.2 Project/Task Organization

The successful completion of the proposed asbestos abatement will rely upon the efforts of the following personnel/companies (see Figure 1-1 – Organizational Chart below):

Camisha Scott	Project Officer US-EPA Region 6	Ms. Scott will provide final approval of the QAPP.
Christine Whitney	City of Austin Brownfields Program Manager	Ms. Whitney will be the primary liaison between EPA and COA.
Roslyn Kygar	City of Austin Brownfields Program Coordinator	Ms. Kygar will provide oversight for the Program.
Madge Whistler	Project Transitions	Ms. Whistler is the owner of the property and the recipient of the final document.
Mitch Weynand	Project Transitions' Representative	Mr. Weynand manages the project for the owner, Project Transitions.
Rosemary Wyman	Baer Engineering Quality Assurance Manager	Ms. Wyman will prepare the draft QAPP and be responsible for following the approved final QAPP. She will review and submit the drafts and final reports to the user.
Therese Baer	Baer Engineering Senior Technical Expert	Ms. Baer will be responsible for reviewing contractor submittals for technical content and accuracy.
Ahmad Nasser	Baer Engineering Asbestos and Lead (Pb) Technical Expert	Mr. Nasser will prepare the project design and perform required field oversight activities during abatement of asbestos-containing material (ACM).
TBD	Abatement Contractor	TBD Contractor will provide notification to TDSHS of the abatement project, and successfully abate and dispose of ACM from the structure.

FIGURE 1 – ORGANIZATIONAL CHART



### 1.3 Subject Property Background

The subject property is in a mixed residential and commercial area, located at 5606 Roosevelt Avenue in Austin, Texas. It is bounded to the north and west by a residential property; to the east and south by Roosevelt Avenue and residential homes.

Currently, the property is occupied and being used as a residential apartment building. The Site is a multi-family apartment complex that comprises of 12 one-bedroom, and 10 two-bedroom apartments for a total of 22 units, a laundry room, an elevator and electrical room, and a management office, that is approximately 25,000 square feet. The existing building will be demolished and a new structure will be built.

The existing building will be demolished to make way for the new facility. The asbestos in the older building must be abated prior to demolition.



**FIGURE 2 – SUBJECT PROPERTY AND SURROUNDING AREA**

Project Transitions applied for a Brownfields Cleanup grant from the COA Revolving Loan Fund for abatement of the asbestos-containing material (ACM) at the demolition site. This remediation project will facilitate implementation of the new building, as well as support the goals of the COA and the EPA Brownfield Programs.

#### **1.4 Site Assessment**

An asbestos survey of the building was requested due to the age of the building. Samples collected during the assessment confirmed the presence of asbestos. Abatement of asbestos and appropriate handling of asbestos-containing material (ACM) are required prior to demolition or renovation of the property.

The asbestos inspection was conducted at the subject property in accordance with Texas Department of State Health Services (TDSHS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements. Federal and state regulatory agencies define ACM as any building material that contains greater than 1% asbestos.

The asbestos investigation performed by Baer Engineering identified a total of 31 homogeneous materials. A total of 79 bulk samples were collected of suspect ACM. According to the laboratory analyses, five of the homogeneous materials were found to contain asbestos.

Those areas will need to be removed prior to demolition. The areas are summarized in Table 1-1 below:

**TABLE 1 – SUMMARY OF ASBESTOS SAMPLES**

Sample No.	Material	Sample Locations	Friable/ Non-Friable	Asbestos Content	Analysis Method
01A	Beige Kitchen Countertop Caulk	Unit 102	Non-Friable	NAD	PLM
01B	Beige Kitchen Countertop Caulk	Unit 206	Non-Friable	NAD	PLM
01C	Beige Kitchen Countertop Caulk	Unit 206	Non-Friable	NAD	PLM
02A	Yellow Sink Undercoating	Unit 102	Non-Friable	NAD	PLM
02B	Yellow Sink Undercoating	Unit 102	Non-Friable	NAD	PLM
02C	Yellow Sink Undercoating	Unit 102	Non-Friable	NAD	PLM
03A	White Sink Undercoating	Unit 102	Non-Friable	NAD	PLM
03B	White Sink Undercoating	Unit 102	Non-Friable	NAD	PLM
03C	White Sink Undercoating	Unit 102	Non-Friable	NAD	PLM
04A	Tan/Yellow Adhesive behind Kitchen Cabinets and Countertops	Unit 102	Non-Friable	NAD	PLM
04B	Tan/Yellow Adhesive behind Kitchen Cabinets and Countertops	Unit 206	Non-Friable	NAD	PLM
04C	Tan/Yellow Adhesive behind Kitchen Cabinets and Countertops	Unit 206	Non-Friable	NAD	PLM
05A	Felt Paper with Fiberglass Insulation behind Drywall Walls and Ceilings	Unit 102	Non-Friable	NAD	PLM
05B	Felt Paper with Fiberglass Insulation behind Drywall Walls and Ceilings	Laundry	Non-Friable	NAD	PLM
05C	Felt Paper with Fiberglass Insulation behind Drywall Walls and Ceilings	Unit 204	Non-Friable	NAD	PLM

Sample No.	Material	Sample Locations	Friable/ Non-Friable	Asbestos Content	Analysis Method
06A	Particle Board with Black Felt Layer (on both sides of the board)	Unit 102	Non-Friable	NAD	PLM
06B	Particle Board with Black Felt Layer (on both sides of the board)	Laundry	Non-Friable	NAD	PLM
06C	Particle Board with Black Felt Layer (on both sides of the board)	Unit 204	Non-Friable	NAD	PLM
<b>07A</b>	<b>Beige Baseboard Adhesive</b>	<b>Unit 102</b>	<b>Non-Friable</b>	<b>2% Chrysotile</b>	<b>PLM</b>
<b>07B</b>	<b>Beige Baseboard Adhesive</b>	<b>Unit 204</b>	<b>Non-Friable</b>	<b>2% Chrysotile</b>	<b>PLM</b>
<b>07C</b>	<b>Beige Baseboard Adhesive</b>	<b>Unit 206</b>	<b>Non-Friable</b>	<b>2% Chrysotile</b>	<b>PLM</b>
08A	White Window Caulk	Unit 102	Non-Friable	NAD	PLM
08B	White Window Caulk	Unit 204	Non-Friable	NAD	PLM
08C	White Window Caulk	Unit 206	Non-Friable	NAD	PLM
09A	Window Glazing	Unit 102	Non-Friable	NAD	PLM
09B	Window Glazing	Office Exterior	Non-Friable	NAD	PLM
09C	Window Glazing	Office Exterior	Non-Friable	NAD	PLM
10A	Beige 12"x12" Floor Tile with Brown/Yellow Adhesive	Elevator	Non-Friable	NAD	PLM
10B	Beige 12"x12" Floor Tile with Brown/Yellow Adhesive	Elevator	Non-Friable	NAD	PLM
10C	Beige 12"x12" Floor Tile with Brown/Yellow Adhesive	Elevator	Non-Friable	NAD	PLM
11A	Beige 12"x12" Floor Tile with Adhesive – Top Layer	Laundry	Non-Friable	NAD	PLM
11B	Beige 12"x12" Floor Tile with Adhesive – Top Layer	Laundry	Non-Friable	NAD	PLM



Sample No.	Material	Sample Locations	Friable/ Non-Friable	Asbestos Content	Analysis Method
11C	Beige 12"x12" Floor Tile with Adhesive – Top Layer	Laundry	Non-Friable	NAD	PLM
12A	Beige 12"x12" Floor Tile with Adhesive – Bottom Layer	Laundry	Non-Friable	3% Chrysotile (Floor Tile)	PLM
12B	Beige 12"x12" Floor Tile with Adhesive – Bottom Layer	Laundry	Non-Friable	3% Chrysotile (Floor Tile)	PLM
12C	Beige 12"x12" Floor Tile with Adhesive – Bottom Layer	Laundry	Non-Friable	3% Chrysotile (Floor Tile)	PLM
13A	Textured Plaster on Walls	Electrical Exterior	Non-Friable	NAD	PLM
13B	Textured Plaster on Walls	Electrical Exterior	Non-Friable	NAD	PLM
13C	Textured Plaster on Walls	Electrical Exterior	Non-Friable	NAD	PLM
14A	Countertop Caulk	Unit 204	Non-Friable	NAD	PLM
14B	Countertop Caulk	Unit 204	Non-Friable	NAD	PLM
14C	Countertop Caulk	Unit 206	Non-Friable	NAD	PLM
15A	Thick Vapor Barrier	Unit 204	Non-Friable	NAD	PLM
15B	Thick Vapor Barrier	Unit 204	Non-Friable	NAD	PLM
15C	Thick Vapor Barrier	Unit 206	Non-Friable	NAD	PLM
16A	Tan 12"x12" Floor Tile with Brown/Yellow Adhesive	Unit 206	Non-Friable	NAD	PLM
16B	Tan 12"x12" Floor Tile with Brown/Yellow Adhesive	Unit 206	Non-Friable	NAD	PLM
16C	Tan 12"x12" Floor Tile with Brown/Yellow Adhesive	Unit 206	Non-Friable	NAD	PLM
17A	Smooth Texture, Drywall, and Joint Compound	Office – Bathroom 2	Non-Friable	NAD	PLM

Sample No.	Material	Sample Locations	Friable/ Non-Friable	Asbestos Content	Analysis Method
17B	Smooth Texture, Drywall, and Joint Compound	Office – Bathroom 2	Non-Friable	NAD	PLM
17C	Smooth Texture, Drywall, and Joint Compound	Office – Bathroom 2	Non-Friable	NAD	PLM
18A	Patterned 12"x12" Floor Tile with Brown/Yellow Adhesive	Office – Storage 3	Non-Friable	NAD	PLM
18B	Patterned 12"x12" Floor Tile with Brown/Yellow Adhesive	Office – Storage 3	Non-Friable	NAD	PLM
18C	Patterned 12"x12" Floor Tile with Brown/Yellow Adhesive	Office – Storage 3	Non-Friable	NAD	PLM
19A	Roof Core - 1st Layer – Asphalt and Black Tar	Roof	Non-Friable	NAD	PLM
20A	Roof Core - 2nd Layer – Yellow Foam Insulation with Paper Layer	Roof	Non-Friable	NAD	PLM
21A	Roof Core - 3rd Layer – Paper Layer with black Tar	Roof	Non-Friable	NAD	PLM
22A	Black Caulk on Roofing Equipment	Roof	Non-Friable	NAD	PLM
23A	Black Mastic on Roof Pipes and Equipment	Roof	Non-Friable	NAD	PLM
24A	Gray Roof Caulk	Roof	Non-Friable	NAD	PLM
25A	Friable Black Sink Undercoating	Unit 104	Friable	NAD	PLM
25B	Friable Black Sink Undercoating	Unit 205	Friable	NAD	PLM
25C	Friable Black Sink Undercoating	Unit 207	Friable	NAD	PLM
26A	Thick Black Sink Undercoating Layer	Unit 106	Non-Friable	NAD	PLM
26B	Thick Black Sink Undercoating Layer	Unit 112	Non-Friable	NAD	PLM
26C	Thick Black Sink Undercoating Layer	Unit 210	Non-Friable	NAD	PLM
27A	Treated Concrete Flooring Material	Unit 111	Non-Friable	NAD	PLM



Sample No.	Material	Sample Locations	Friable/ Non-Friable	Asbestos Content	Analysis Method
27B	Treated Concrete Flooring Material	Unit 111	Non-Friable	NAD	PLM
27C	Treated Concrete Flooring Material	Unit 111	Non-Friable	NAD	PLM
28A	Yellow Penetration Caulk	Electrical	Non-Friable	NAD	PLM
28B	Yellow Penetration Caulk	Electrical	Non-Friable	NAD	PLM
28C	Yellow Penetration Caulk	Electrical	Non-Friable	NAD	PLM
29A	Texture, Drywall Wall, and Joint Compound	Unit 102	Non-Friable	5.75% Chrysotile	Point Count
29B	Texture, Drywall Wall, and Joint Compound	Unit 204	Non-Friable	Not Analyzed – First Sample Positive Stop (5.75% Chrysotile)	
29C	Texture, Drywall Wall, and Joint Compound	Unit 206	Non-Friable		
30A	“Popcorn” Texture, Drywall Ceiling, and Joint Compound	Unit 102	Friable	7.5% Chrysotile	Point Count
30B	“Popcorn” Texture, Drywall Ceiling, and Joint Compound	Unit 204	Friable	Not Analyzed – First Sample Positive Stop (7.5% Chrysotile)	
30C	“Popcorn” Texture, Drywall Ceiling, and Joint Compound	Unit 206	Friable		
31A	Roof Shingles Felt	Roof	Non-Friable	NAD	PLM
Black Mastic under 12"x12" Floor Tile (sampled by Phase Engineering)		Kitchens and Bathrooms – Throughout Units and Office	Non-Friable	5% Chrysotile	PLM

N/A = Not applicable. NAD = No Asbestos Detected. PLM = Polarized Light Microscopy.

Specific procedures regarding asbestos abatement are included in the Asbestos Abatement Project Design attached as **APPENDIX C** of this QAPP.

### **1.5 Quality Objectives and Criteria**

Because this is an asbestos abatement project, and sampling has already been conducted, the parameters for demolition have been established. Should additional suspect ACM be discovered during abatement, additional samples will be collected and the work plan will be modified as needed. Suspect ACM samples will be collected in general accordance with the sampling protocol outlined in TAHPR and NESHAP. Samples will be analyzed for asbestos by Polarized Light Microscopy (PLM) (EPA method 600/R/R-93/116) by Omni Environmental, Inc., Round Rock, Texas.

If additional sampling is required, quality assurance samples will be collected for blind analysis by the laboratory. Samples will be labelled in a manner where the lab cannot differentiate the duplicated sample (i.e., QA-1). Oversight of abatement activities will be conducted throughout the abatement period. Activities will be monitored to ensure compliance with OSHA, USEPA, and TDSHS rules and regulations.

### **1.6 Training and Certifications**

Training and certifications required for the abatement contractor and workers will be documented and verified by Baer Engineering prior to any work commencing at the site. Documents will be included in the final report.

### **1.7 Stop-Work Authority**

Safe completion of the project is a top priority. All workers and entities involved in the project have the responsibility and authority to stop work when an unsafe condition or act could result in an undesirable event, such as death, injury, property damage, or environmental impact. No negative retribution shall occur as a result of stopping work.

### **1.8 Documents and Records**

Once abatement is complete, an abatement project report will be prepared. Once complete, the draft version of the report will be provided to the client contact, Ms. Christine Whitney. The package will include the report, laboratory data, field notes, contractor documentation, and license information in PDF format. Subsequent iterations of the report will also be provided in PDF format, and a revision number will be clearly indicated. Laboratory data in Microsoft Excel format will be available upon request.

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## **2.0 DATA GENERATION AND ACQUISITION**

### **2.1 Sampling Process Design**

Should additional ACM sample collection be required, Baer Engineering will perform additional sampling in accordance with TAHPR and NESHAP. Homogeneous areas will be identified based on date of installation or renovation and functional use. Suspect materials within each area will be categorized as surfacing, thermal system insulation, and miscellaneous. Each material will be sampled based on type of material and size of homogeneous area. Homogeneous materials are those building materials that, by visual and manual inspection, are similar in texture, color, composition, and use in the building. The condition of each suspect material will be assessed in the field by the inspector, and classified as good, damaged and significantly damaged. The abatement project design, along with training certifications for the individuals involved in the abatement design and monitoring, is included in **APPENDIX C** of this QAPP.

### **2.2 Sampling Methods**

Should additional sample collection be required, samples will be removed with an appropriate cutting device and placed in zipper-lock plastic baggies.

### **2.3 Sample Handling and Custody**

Additional asbestos samples, if required, will be placed in appropriate containers, labeled, logged on a chain-of-custody, and preserved appropriately in laboratory-provided containers. The asbestos samples will be delivered to Omni Environmental, Inc., Round Rock, Texas, under appropriate chain-of-custody protocols.

### **2.4 Analytical Methods**

Additional asbestos samples, if required, will be analyzed via EPA 600/R-93/116 Method via PLM at Omni Environmental, Inc.

### **2.5 Quality Control**

If additional sampling is required, multiple samples of each suspect ACM will be collected in accordance with applicable rules and regulations.

### **2.6 Instrument/Equipment Testing, Inspection, and Maintenance**

No field sampling equipment which would require testing, inspection or maintenance will be used for any additional sampling. Laboratory equipment will be appropriately maintained by the selected laboratory as documented by their certification.

### **2.7 Instrument/Equipment Calibration and Frequency**

Any air monitoring equipment utilized during asbestos abatement activities will be calibrated daily prior to use and as required by manufacturer's specifications.

### **2.8 Inspection/Acceptance of Supplies and Consumables**

Only new manufacturer-certified supplies and sample containers will be used. Sampling supplies and containers will be inspected prior to sampling activities for any obvious defects before use.

## **2.9 Non-Direct Measurements**

No outside data will be used from other external sources for this project.

## **2.10 Data Management**

### **2.10.1 FIELD LOGBOOK COMPLETION**

Data collection procedures and instructions in this QAPP provide the guidance necessary to record information and data in field logbooks and chain-of-custody forms involved with data collection activities. Upon completion, field data and analytical sampling paperwork are reviewed for accuracy, completeness and legibility. Technical personnel will document and review their own work and are accountable for its correctness. Review is to ensure that all forms are complete and legible. The Field Project Manager will ensure that the following has been done:

- All forms will be completed using a ball point pen. All sample labels will be completed with an indelible marker.
- If an error is made on any form, it will be struck with a single line, the correct information will be written above or beside the error, and the correction will be initialed and dated. The incorrect information will not be written over or obliterated in any way.
- If any sample documentation errors occur, they will be documented in the field logbook. In addition, the Field Project Manager or designated reviewer will also ensure that:
  - The correct sample numbers will be used.
  - Chain-of-custody forms will be relinquished by the sampler with the correct date and time noted.

### **2.10.2 ELECTRONIC DATA MANAGEMENT**

A systematic approach to data management that saves time, reduces transcription errors, and decreases hard copy analytical data to a more manageable level will be used. Analytical data will be provided to the users of the data before actual hard copies are produced.

### **2.10.3 ERROR DETECTION AND CORRECTION**

The Field Project Manager or designee will review all field logbooks and forms. If any document completion errors are found during the review, the incorrect form will be sent to the individual best suited to make corrections. After the form has been corrected, it will become the final version of the document, suitable for report usage.

## **3.0 ASSESSMENT AND OVERSIGHT**

### **3.1 Assessments and Response Actions**

This section defines requirements and responsibilities for identifying quality-related deficiencies and non-conformances and for generating corrective action to prevent their recurrence. These requirements apply to deficiencies regardless of fault or cause and to procedural non-

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conformances identified through assessments, audits or any other means. The following performance systems audits will be used:

### **3.1.1 FIELD AUDITS**

If a systems audit is needed to assess field activities during this project, the Quality Manager may visit the site to evaluate the performance of field personnel and general field operations and progress. The audit will review sampling methodology and sample chain-of-custody forms, field data and reporting. The Senior Project Manager will observe the performance of the field operations personnel during each kind of activity.

Field audits include examination of field sampling records, sample collection, handling and packaging in compliance with the established procedures, maintenance of QA procedures and chain-of-custody procedures. Follow-up audits may be conducted to correct deficiencies, and to verify that QA procedures are maintained throughout the project. Field audits involve review of field measurement records, instrumentation calibration records and sample documentation.

### **3.1.2 LABORATORY AUDITS**

Due to the limited nature of this project, laboratory audits are not planned.

### **3.1.3 CORRECTIVE ACTION**

Corrective action is the process of identifying, recommending, approving, and implementing measures to counter unacceptable procedures or out-of-quality control performance which can affect data quality. Corrective action can occur during field activities, sample analysis and data assessment.

### **3.1.4 SAMPLE COLLECTION/FIELD MEASUREMENTS**

Corrective action may be needed in the field when the sample network is changed (i.e., more/fewer samples, sample locations other than those specified, etc.) or when sampling procedures and/or field analytical procedures require modification due to unexpected conditions. The Field Project Manager will be responsible for reporting all suspected technical or QA non-conformances or deficiencies to the Senior Project Manager. The Senior Project Manager will be responsible for assessing the suspected problems with the Client based on the potential for the situation to impact the quality of the data. If it is determined that the situation warrants a reportable non-conformance requiring corrective action, a non-conformance report will be initiated by the Senior Project Manager.

The Quality Assurance Manager will be responsible for ensuring that corrective action for non-conformances are initiated by:

- Evaluating all reported non-conformances.
  - Controlling additional work on non-conforming items.
  - Determining disposition or action to be taken.
  - Maintaining a log of non-conformances.
  - Reviewing non-conformance reports and corrective actions taken.
  - Ensuring non-conformance reports are included in the final project documentation files.
-

Corrective action resulting from field audits will be implemented immediately if data may be adversely affected due to unapproved or improper use of approved methods. The Senior Project Manager will identify deficiencies and recommend corrective action to the Client. Corrective actions will be implemented by the Senior Project Manager, the Client and field team. Corrective actions will be implemented and documented in the field logbook.

### 3.1.5 LABORATORY CORRECTIVE ACTIONS

Corrective action in the laboratory may occur prior to, during or after initial analyses. A number of conditions such as broken sample containers, multiple phases, or potentially high concentration samples may be identified during sample log-in or just prior to analysis. Following consultation with laboratory analysts and laboratory managers, it may be necessary for the laboratory Quality Control Coordinator to approve the implementation of corrective action. The analytical methods and/or laboratory's standard operating procedures specify some conditions during or after analysis that may automatically trigger corrective action or optional procedures. These conditions may include dilution of samples, additional sample extraction or automatic rejection/reanalysis when certain quality control criteria are not met. Laboratory personnel are alerted that corrective actions may be necessary if:

- QC data are outside the warning or acceptable windows for precision and accuracy.
- Blanks contain target analytes above acceptable levels.
- Undesirable trends are detected in spike recoveries or RPD between duplicates.
- There are unusual changes in detection limits.
- Deficiencies are detected by QA personnel during internal or external audits or from the results of performance evaluation samples.
- Inquiries concerning data quality are received.

Corrective action procedures are often handled at the bench level by the analyst, who reviews the preparation or extraction procedure for possible errors, checks the instrument calibration, spike and calibration mixes, instrument sensitivity, etc.

If the problem persists or can't be identified, the matter is referred to the laboratory supervisor and/or QA personnel for further investigation. Once resolved, full documentation of corrective action procedures is required.

These corrective actions are generally performed prior to release of data from the laboratory. The corrective actions are documented by the laboratory, and the data were affected, they should be identified in the laboratory narrative accompanying the data report. If corrective action does not rectify the situation, the laboratory will contact the Field Project Manager who will inform the Senior Project Manager.

The Senior Project Manager may request corrective action for any contractual non-conformance identified during data review. Corrective action may include:

- Reanalyzing samples, if holding times permit.
  - Re-sampling and analyzing.
  - Evaluating and amending sampling procedures.
  - Evaluating and amending analytical procedures.
  - Accepting the data and acknowledging the level of uncertainty.
-

The Senior Project Manager will be responsible for approving implementation of corrective action involving re-sampling or amending analytical procedures.

### **3.2 Reports to Management**

A final report will be completed by the abatement contractor that summarizes all analytical data, remedial actions taken, confirmation sampling and deviations from original plans and procedures for the work. In addition, the final report will include the following items:

1. Current insurance certifications.
2. Copies of any correspondence with authorities and permits.
3. Daily project logs and supervisor reports.
4. All laboratory analytical data for the project.
5. Sign in/Sign out Sheets

Upon receipt, Baer Engineering will review the final report for completeness and accuracy, and provide a written summary of the final report.

## **4.0 DATA VALIDATION AND USABILITY**

### **4.1 Data Review, Verification, and Validation**

Additional data obtained, if necessary, will be reviewed in-house (as appropriate by the laboratory's quality control procedures) prior to submittal to Baer Engineering. This will include checking for appropriate data entry, along with transcription, calculation, reduction, and transformation errors. The analytical laboratories will provide reports of the analytical data, which will include copies of the chain-of custody prepared in the field. The chain-of custody will include a complete list of sample information available, such as sample dates, sample times, sample matrixes, blanks, duplicates, shipping dates, preservatives, and holding times, etc.

### **4.2 Verification and Validation Methods**

If required, Ms. Rosemary Wyman, P.G. (TX751) will review analytical data upon receipt from the analytical laboratory. The data will be tabulated into Microsoft Excel for the report. The tables will then be compared to each analytical report to verify proper transcription. Baer Engineering will also review the data for completeness to determine if there are any deficiencies, such as data missing or lost integrity.

Data validation will also be conducted to determine the quality of the data set relative to the end use. It will focus on the project's specifications or needs and is designed to meet the needs of the decision makers/data users. The data validation will note potentially unacceptable departures from the QA Project Plan. The potential effects of the deviation will be evaluated during the data quality assessment.

### **4.3 Reconciliation with User Requirements**

In general, the primary Data Quality Objectives (DQO) for this investigation include collection of sufficient data to assure that all ACM has been removed from building prior to demolition. Quality criteria are set herein to assure suitability for intended use of the data. The following sections discuss data quality assurance criteria specific to this project and its goals.

#### **4.3.1 PRECISION**

Precision is a measure or estimate of the reproducibility of measurements and methods. It is defined for quantitative data as the variability of a group of values compared with their average value. Duplication of activities is generally the method by which precision is assessed. For purposes of assessing precision of the measurement systems (sampling events and analysis) to be used in this project, blind (i.e., sampling location not disclosed) duplicate samples and matrix spike/matrix spike duplicate (MS/MSD) samples will be obtained and analyzed along with the primary investigative samples as necessary. Precision will be calculated as relative percent difference (RPD) in analytical outcome between a given sample and corresponding duplicate samples.

#### **4.3.2 ACCURACY**

Accuracy is the degree of agreement of a measurement or the average of several measurements with an accepted reference or true value; it measures bias in a system. Accuracy in the field is assessed through the use of field, rinsate, and trip blanks and through the adherence to all sample

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handling/preservation procedures and holding times. Field blanks and rinsate blanks are not feasible for this investigation. The abatement contractor will determine if duplicate air monitoring samples are necessary based on the number to be collected.

Laboratory accuracy is assessed through the analysis of matrix spikes or standard reference materials and the determination of percent recoveries. This is normally expressed as the difference between measured and reference (true) value or the difference as a percentage of the reference or true value. If recoveries do not meet the required criteria, the analytical data are considered to be potentially inaccurate. However, accuracy will vary from analysis to analysis because of individual sample and matrix effects. In an individual analysis, accuracy can be measured and expressed in terms of the recovery of surrogate compounds. This gives an indication of expressed recovery for analytes tending to behave chemically like the spiked or surrogate compounds.

#### **4.3.3 REPRESENTATIVENESS**

Representativeness expresses the degree to which data accurately and precisely represents a characteristic of a population, parameter variations at a sampling point, a process condition, or an environmental condition. Representativeness is a qualitative parameter, which is dependent upon the proper design of the sampling program and proper laboratory protocol. The sampling approach was designed to provide data representative of the site conditions. During development of this approach, consideration was given to current and past site activities, existing data, and physical setting. Representativeness will be satisfied by ensuring that the QAPP is followed, proper sampling techniques are used, proper analytical procedures are followed, and holding times of the samples are not exceeded.

#### **4.3.4 COMPLETENESS**

Completeness is a measure of the amount of valid data obtained from a measurement system compared to the amount expected to be obtained under normal conditions. The completeness of field measurements must be greater than 90 percent. Laboratory analysis for this project will have a completeness goal of greater than 95 percent. Completeness will be calculated by dividing the number of valid results by the number of possible individual analyte results, expressed as a percentage.

#### **4.3.5 COMPARABILITY**

Comparability is the degree to which one data set can be compared to another. The objective of this QAPP is to produce a high level of comparability between data sets. The number of samples to be collected during this project will likely eliminate comparability as a quality objective. However, the use of standard methods for sampling and analysis (EPA protocols), reporting data in standard units, and using standard and comprehensive reporting formats will optimize the potential for high levels of data comparability.

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# Exhibit F

Form WH 347 and Form WH 347  
Instructions

# United States Department of Labor

## Wage and Hour Division

### Wage and Hour Division (WHD)

#### Instructions For Completing Payroll Form, WH-347

- [WH-347](#) (PDF)  
OMB Control No. 1235-0008, Expires 02/28/2018.

**General:** Form WH-347 has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls. Properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 C.F.R., Subtitle A), as to payrolls submitted in connection with contracts subject to the Davis-Bacon and related Acts.

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) requires contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) Regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Under the Davis-Bacon and related Acts, the contractor is required to pay not less than prevailing wage, including fringe benefits, as predetermined by the Department of Labor. The contractor's obligation to pay fringe benefits may be met either by payment of the fringe benefits to bona fide benefit plans, funds or programs or by making payments to the covered workers (laborers and mechanics) as cash in lieu of fringe benefits.

This payroll provides for the contractor to show on the face of the payroll all monies to each worker, whether as basic rates or as cash in lieu of fringe benefits, and provides for the contractor's representation in the statement of compliance on the payroll (as shown on page 2) that he/she is paying for fringe benefits required by the contract and not paid as cash in lieu of fringe benefits. Detailed instructions concerning the preparation of the payroll follow:

**Contractor or Subcontractor:** Fill in your firm's name and check appropriate box.

**Address:** Fill in your firm's address.

**Payroll No.:** Beginning with the number "1", list the payroll number for the submission.

**For Week Ending:** List the workweek ending date.

**Project and Location:** Self-explanatory.

**Project or Contract No.:** Self-explanatory.

**Column 1 - Name and Individual Identifying Number of Worker:** Enter each worker's full name and an individual identifying number (e.g., last four digits of worker's social security number) on each weekly payroll submitted.

**Column 2 - No. of Withholding Exemptions:** This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Part 3 and 5.

**Column 3 - Work Classifications:** List classification descriptive of work actually performed by each laborer or mechanic. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative. An individual may be shown as having worked in more than one classification provided an accurate breakdown or hours worked in each classification is maintained and shown on the submitted payroll by use of separate entries.

**Column 4 - Hours worked:** List the day and date and straight time and overtime hours worked in the applicable boxes. On all contracts subject to the Contract Work Hours Standard Act, enter hours worked in excess of 40 hours a week as "overtime".

**Column 5 - Total:** Self-explanatory

**Column 6 - Rate of Pay (Including Fringe Benefits):** In the "straight time" box for each worker, list the actual hourly rate paid for straight time worked, plus cash paid in lieu of fringe benefits paid. When recording the straight time hourly rate, any cash paid in lieu of fringe benefits may be shown separately from the basic rate. For example, "\$12.25/.40" would reflect a \$12.25 base hourly rate plus \$0.40 for fringe benefits. This is of assistance in correctly computing overtime. See "Fringe Benefits" below. When overtime is worked, show the overtime hourly rate paid plus any cash in lieu of fringe benefits paid in the "overtime" box for each worker; otherwise, you may skip this box. See "Fringe Benefits" below. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1962 if the prime contract exceeds \$100,000. In addition to paying no less than the predetermined rate for the classification which an individual works, the contractor must pay amounts predetermined as fringe benefits in the wage decision made part of the contract to approved fringe benefit plans, funds or programs or shall pay as cash in lieu of fringe benefits. See "FRINGE BENEFITS" below.

**Column 7 - Gross Amount Earned:** Enter gross amount earned on this project. If part of a worker's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally assisted project and then the gross amount earned during the week on all projects, thus "\$163.00/\$420.00" would reflect the earnings of a worker who earned \$163.00 on a Federally assisted construction project during a week in which \$420.00 was earned on all work.

**Column 8 - Deductions:** Five columns are provided for showing deductions made. If more than five deduction are involved, use the first four columns and show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll describe the deduction(s) contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 C.F.R., Part 3. If an individual worked on other jobs in addition to this project, show actual deductions from his/her weekly gross wage, and indicate that deductions are based on his gross wages.

**Column 9 - Net Wages Paid for Week:** Self-explanatory.

**Totals** - Space has been left at the bottom of the columns so that totals may be shown if the contractor so desires.

**Statement Required by Regulations, Parts 3 and 5:** While the "statement of compliance" need not be notarized, the statement (on page 2 of the payroll form) is subject to the penalties provided by 18 U.S.C. § 1001, namely, a fine, possible imprisonment of not more than 5 years, or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

**Items 1 and 2:** Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "See Deductions column in this payroll." See "FRINGE BENEFITS" below for instructions concerning filling out paragraph 4 of the statement.

**Item 4 FRINGE BENEFITS - Contractors who pay all required fringe benefits:** If paying all fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, show the basic cash hourly rate and overtime rate paid to each worker on the face of the payroll and check paragraph 4(a) of the statement on page 2 of the WH-347 payroll form to indicate the payment. Note any exceptions in section 4(c).

**Contractors who pay no fringe benefits:** If not paying all fringe benefits to approved plans, funds, or programs in amounts of at least those that were determined in the applicable wage decision of the Secretary of Labor, pay any remaining fringe benefit amount to each laborer and mechanic and insert in the "straight time" of the "Rate of Pay" column of the payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the application wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringe benefits, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringe benefits at the straight time rate. In addition, check paragraph 4(b) of the statement on page 2 the payroll form to indicate the payment of fringe benefits in cash directly to the workers. Note any exceptions in section 4(c).

#### Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the covered worker as cash in lieu of fringe benefits. Enter any exceptions to section 4(a) or 4(b) in section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid each worker as cash in lieu of fringe benefits and the hourly amount paid to plans, funds, or programs as fringe benefits. The contractor must pay an amount not less than the predetermined rate plus cash in lieu of fringe benefits as shown in section 4(c) to each such individual for all hours worked (unless otherwise provided by applicable wage determination) on the Federal or Federally assisted project. Enter the rate paid and amount of cash paid in lieu of fringe benefits per hour in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

**Public Burden Statement:** We estimate that it will take an average of 55 minutes to complete this collection of information, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

**Note:** In order to view, fill out, and print PDF forms, you need Adobe® Acrobat® Reader® version 5 or later, which you may download for free at [www.adobe.com/products/acrobat/readstep2.html](http://www.adobe.com/products/acrobat/readstep2.html). To save the completed forms on your workstation, you need to use the "Save As" method to save the file. For example, move your mouse cursor over the PDF link and click on your "RIGHT" mouse button. This will cause a menu to be displayed, from which you will select the proper save option -- depending upon which browser you are using:

- For Microsoft IE users, select "Save Target As"
- For Netscape Navigator users, select "Save Link As"

Once you've selected the proper save option for your browser, and have saved the file to a location you specified, go to your program menu and start the Adobe Acrobat® Reader. Once open, locate the PDF file you saved and open it directly in Acrobat®.

>

NAME OF CONTRACTOR				OR SUBCONTRACTOR				ADDRESS																
PAYROLL NO.				FOR WEEK ENDING				PROJECT AND LOCATION										PROJECT OR CONTRACT NO.						
(1)		(2)	(3)	(4) DAY AND DATE								(5)	(6)	(7)	(8) DEDUCTIONS					(9)				
NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER		NO. OF WITHHOLDING EXEMPTIONS	WORK CLASSIFICATION	OT	OR	ST	HOURS WORKED EACH DAY								TOTAL HOURS	RATE OF PAY	GROSS AMOUNT EARNED	FICA	WITH- HOLDING TAX			OTHER	TOTAL DEDUCTIONS	NET WAGES PAID FOR WEEK
				O																				
				S																				
				O																				
				S																				
				O																				
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				S																				
				O																				
				S																				



Date \_\_\_\_\_

I, \_\_\_\_\_  
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by \_\_\_\_\_ on the \_\_\_\_\_  
(Contractor or Subcontractor)  
\_\_\_\_\_ ; that during the payroll period commencing on the \_\_\_\_\_  
(Building or Work)  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and ending the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
all persons employed on said project have been paid the full weekly wages earned, that no rebates have  
been or will be made either directly or indirectly to or on behalf of said  
\_\_\_\_\_ from the full  
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly  
from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part  
3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948,  
63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

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

(2) That any payrolls otherwise under this contract required to be submitted for the above period are  
correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the  
applicable wage rates contained in any wage determination incorporated into the contract; that the classifications  
set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship  
program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and  
Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered  
with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:  
(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

- in addition to the basic hourly wage rates paid to each laborer or mechanic listed in  
the above referenced payroll, payments of fringe benefits as listed in the contract  
have been or will be made to appropriate programs for the benefit of such employees,  
except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid,  
as indicated on the payroll, an amount not less than the sum of the applicable  
basic hourly wage rate plus the amount of the required fringe benefits as listed  
in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR  
SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE  
31 OF THE UNITED STATES CODE.

# Exhibit G

Employee Certification Forms (English and  
Spanish)

# Employee Certification – To Be Completed Prior to Beginning Work

City of Austin Project Name: \_\_\_\_\_ Solicit. #: \_\_\_\_\_

Contractor: \_\_\_\_\_ Subcontractor: \_\_\_\_\_

Employee: \_\_\_\_\_ Pay rate: \$ \_\_\_\_\_ Per Hr.

**Instructions:** Check the box next to each classification that you will be performing on this project. The wage rate listed next to each classification is the *minimum* hourly rate of pay that an employee must be compensated for performing that type of work.

**Note:** The prevailing wage rates listed below are applicable to this project ONLY.

## PREVAILING WAGE RATE DETERMINATION

RESIDENTIAL CONSTRUCTION PROJECTS (RES)

COUNTY NAME: TRAVIS

Wages based on DOL General Decision: TX130017 01/04/2013 TX17

CLASSIFICATION	RATE	FRINGES	TOTAL WAGE
Air Conditioning (HVAC) Mechanic	\$ 10.80	\$ -	\$ 15.00
Bricklayer	\$ 10.80	\$ -	\$ 15.00
Carpenter	\$ 10.80	\$ -	\$ 15.00
Cement Mason/Concrete Finisher	\$ 10.80	\$ -	\$ 15.00
Electrician **	\$ 10.80	\$ -	\$ 15.00
Floor Layer: Carpet (Soft) Floor	\$ 10.80	\$ -	\$ 15.00
Form Setter	\$ 10.80	\$ -	\$ 15.00
Insulation Installer	\$ 10.80	\$ -	\$ 15.00
Iron Worker	\$ 10.80	\$ -	\$ 15.00
Laborer	\$ 10.80	\$ -	\$ 15.00
Pipelayer	\$ 10.80	\$ -	\$ 15.00
Painter	\$ 10.80	\$ -	\$ 15.00
Plumber	\$ 10.80	\$ -	\$ 15.00
Power Equipment Operator - Backhoe	\$ 10.80	\$ -	\$ 15.00
Power Equipment Operator - Front End Loader	\$ 10.80	\$ -	\$ 15.00
Power Equipment Operator - Graders	\$ 10.80	\$ -	\$ 15.00
Power Equipment Operator - Rollers	\$ 10.80	\$ -	\$ 15.00
Roofer, Including Built-up, Composition and Single Ply Roofs	\$ 10.80	\$ -	\$ 15.00
Sheet Metal Worker	\$ 10.80	\$ -	\$ 15.00
Sheet Rocker	\$ 10.80	\$ -	\$ 15.00
Truck Driver	\$ 10.80	\$ -	\$ 15.00

My signature certifies that I agree with the information above. If my employer asks that I perform another trade that has not been specified here, they will pay me the applicable rate or higher for that classification. ***I understand my employer is to provide me a copy of the signed, witnessed form.*** Please contact Contract Management Department at 512-974-3642 if you have questions or if the Contractor does not comply with this requirement.

\_\_\_\_\_  
(Employee Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Witness Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Employee Phone)

\_\_\_\_\_  
(Witness Printed Name)



# Certificación del Empleado – Contestar Antes de Iniciar a trabajar

Proyecto de la ciudad de Austin: \_\_\_\_\_ Lisitación #: \_\_\_\_\_

Contratista: \_\_\_\_\_ Subcontratista: \_\_\_\_\_

Nombre del Empleado: \_\_\_\_\_ Salario: \$ \_\_\_\_\_ /hr.(efectivo)+ \_\_\_\_\_ /hr. (Insentivos)\_\_\_\_\_

. INSTRUCCIONES: MARQUE LA CASILLA ADJUNTO A LA CLASIFICACIÓN DEL TRABAJO QUE VA A REALIZAR EN ESTE PROYECTO. EL SALARIO QUE APARECE ADJUNTO A CADA CLASIFICACIÓN INDICA EL SALARIO MÍNIMA POR HORA CON QUE SE COMPENSARÁ AL EMPLEADO POR REALIZAR EL TRABAJO SEÑALADO EN LA CASILLA. NOTA: EL SALARIO SEÑALADO EN ESTA TABLA SE APLICA A ESTE PROYECTO SOLAMENTE.

## DETERMINACIÓN DE LA TASA SALARIAL

TIPO DE CONSTRUCCIÓN; RESIDENCIAL (RES)

NOMBRE DEL CONDADO: TRAVIS

Salarios basados en la decision general del DOL: TX20200009 01/03/2020 TX19 Y el estatuto de la ciudad de Austin #20160324-015

**La columna del salario señalado por el DOL es meramente información. El salario mínimo Total es el ajuste del salario requerido según el estatuto de la Ciudad de Austin, el salario puede ser combinado de pago en efectivo, más el pago de incentivos complementarios que no sean en efectivo, siempre y cuando el componente a pagar sea por lo menos de \$15.00 / hora.**

CLASSIFICATION	RATE	FRINGES	TOTAL WAGE
Air Conditioning (HVAC) Mechanic	\$ 10.80	\$ -	\$ 15.00
Bricklayer	\$ 10.80	\$ -	\$ 15.00
Carpenter	\$ 10.80	\$ -	\$ 15.00
Cement Mason/Concrete Finisher	\$ 10.80	\$ -	\$ 15.00
Electrician **	\$ 10.80	\$ -	\$ 15.00
Floor Layer: Carpet (Soft) Floor	\$ 10.80	\$ -	\$ 15.00
Form Setter	\$ 10.80	\$ -	\$ 15.00
Insulation Installer	\$ 10.80	\$ -	\$ 15.00
Iron Worker	\$ 10.80	\$ -	\$ 15.00
Laborer	\$ 10.80	\$ -	\$ 15.00
Pipelayer	\$ 10.80	\$ -	\$ 15.00
Painter	\$ 10.80	\$ -	\$ 15.00
Plumber	\$ 10.80	\$ -	\$ 15.00
Power Equipment Operator - Backhoe	\$ 10.80	\$ -	\$ 15.00
Power Equipment Operator - Front End Loader	\$ 10.80	\$ -	\$ 15.00
Power Equipment Operator - Graders	\$ 10.80	\$ -	\$ 15.00
Power Equipment Operator - Rollers	\$ 10.80	\$ -	\$ 15.00
Roofer, Including Built-up, Composition and Single Ply Roofs	\$ 10.80	\$ -	\$ 15.00
Sheet Metal Worker	\$ 10.80	\$ -	\$ 15.00
Sheet Rocker	\$ 10.80	\$ -	\$ 15.00
Truck Driver	\$ 10.80	\$ -	\$ 15.00

<http://www.wdol.gov/wdol/scafiles/davisbacon/tx.html>

## Leea los datos adjunto para su informacion sobre su salario

Mi firma certifica que estoy de acuerdo con la información anterior. Si mi empleador me pide que realice otro trabajo que no sea especificado en la tabla anterior, me pagarán la tasa más alta de la clasificación de mi trabajo. Entiendo que mi empleador deberá proporcionarme una copia de esta forma firmada y atestiguada. En caso de preguntas referente a al salario, o para averiguar si el contratista cumple con los requisitos del programa, comuníquese a la oficina de CCO al 512-974-7080 y alguien le atenderá.

Firma del empleado (Fecha) (Firma de testigo) (Fecha)

(Telefono del empleado) (Fecha) (Nombre impreso del testigo) (Fecha)

# Exhibit H

Residential Construction Wage Rates (English  
and Spanish)

**WAGE RATES AND PAYROLL REPORTING**

Section 00830

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**1. PAYMENT**

**1.1 Classification Definitions, Building and Heavy and Highway**

**1.1.1** Definitions for Building Construction and Heavy and Highway classifications shall conform to the current "Occupational Information Network (O\*NET)" as approved by the U.S. Department of Labor. For interpretive guidance, the Core Task list in O\*NET will be used to make prevailing wage determinations. Final classification of workers will be made by the OWNER.

**1.2 Minimum Wages**

**1.2.1** Workers on Project shall be paid not less than wage rates, including fringe benefits, as published by the Department of Labor (DOL) or the \$15.00 minimum wage required by City of Austin Ordinance No. 20160324-015, whichever is higher. The Total Minimum Wage required can be met using any combination of cash and non-cash qualified fringe benefits provided the cash component meets or exceeds the \$15.00 minimum wage required.

**1.2.2** Such wage rates shall be used throughout the Contract. If a classification is to be used, which is not listed in the attached wage rates, CONTRACTOR shall submit to OWNER rates and classification proposed for use, for approval, prior to performance of the Work.

**1.2.3** All laborers and mechanics working upon the Work for this Project shall be paid unconditionally and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by Secretary of Labor under the Copeland Act, Title 29 CFR, Part 3) full wages accrued and when due, computed at rates not less than wage rates bound herein pertaining to type of Work being performed. When Work is of such a nature that both Building and Heavy and Highway wage scales are incorporated into contract, CONTRACTOR shall pay wage rates to mechanics or laborers performing Work in more than one classification at the rate indicated for each classification for time actually worked as determined by area practice applicable to type (Site Construction Crafts or Building Construction Crafts) of Work being performed without regards to skill. Salaried specialists (project superintendent and administrative personnel only) in the permanent employment of CONTRACTOR do not fall under any Wage Classification. A supervisor/foreman who is not exempt under 29 CFR Part 541 and who spends more than a substantial amount of time (20 percent) in a given workweek as a laborer or mechanic must be paid the applicable Wage Rate for the classification of work performed for all hours engaged in such work as a laborer or mechanic.

**1.2.4** Wage rates shall be posted by CONTRACTOR at site(s) of Work in prominent, easily accessible places where they can be seen by all workers. The following shall also be posted by the CONTRACTOR: City of Austin wage contact posters (English and Spanish), City of Austin Equal Employment Opportunity posters (English and Spanish), Workers' Compensation Notice (English and Spanish), Texas Payday Law (English and Spanish), City Rest Break Ordinance

(English and Spanish), City of Austin Non-Discrimination Statement (related to Title VI of the Civil Rights Act), and Federal Notices, as appropriate.

### **1.3 Overtime Requirements**

**1.3.1** No CONTRACTOR, Subcontractor, or Sub-subcontractor contracting for any part of contract Work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such Work, to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times their basic rate of pay for all hours in excess of forty hours in such workweek.

**1.3.2** Overtime wages must be calculated using the Adjusted Wage Rate specified in the Wage Rate Determination or the actual basic rate of pay, whichever is higher.

## **2. APPRENTICES**

### **2.1 Locally and Federally Funded Projects**

**2.1.1** The terms journeyman and apprentice apply to both union and independent workers, and are not intended to imply that these positions are union workers only.

**2.1.2** Apprentices and Trainees will be permitted to work as such only when they are registered, individually, under a bonafide Apprenticeship or Trainee program registered with the Bureau of Apprenticeship and Training, United States Department of Labor. The allowable ratio of Apprentices or Trainees to journeymen in any craft classification shall not be greater than the ratio permitted to CONTRACTOR as stated in the registered apprenticeship program standards. Any employee listed on a payroll at an Apprentice or Trainee wage rate, who is not registered as above, shall be paid the wage rate provided in Contract for Work employee actually performed. CONTRACTOR, Subcontractor, or Subsubcontractor shall furnish to OWNER written evidence of registration of his program for Apprentices and Trainees as well as of the appropriate ratios and wage rates, for the area of construction prior to using any Apprentices or Trainees on this Contract.

## **3. WITHHOLDING PAYMENTS**

**3.1** OWNER may withhold or cause to be withheld from CONTRACTOR as much of the accrued payments as necessary to pay laborers and mechanics employed by CONTRACTOR, Subcontractors, or Sub-subcontractors the amount of wages required to comply with the Contract. In the event of nonpayment of wages to laborers or mechanics working on the site of the Work of this Contract, OWNER may, after Written Notice to CONTRACTOR, take such action as may be necessary to cause suspension of any further payments or advance of funds to CONTRACTOR until such violations have ceased and until restitution has been made. Payments may also be withheld if CONTRACTOR fails to maintain weekly payroll reports or fails to provide copies in a timely manner upon request of Owner.

## **4. PAYROLLS**

**4.1** CONTRACTOR shall keep records showing:

**4.1.1** The name, address and occupation of each worker employed by the CONTRACTOR or subcontractor(s) in the construction of the public work.

**4.1.2** The actual per diem wages paid to each worker

**4.1.3** Employee Certification. CONTRACTOR, all levels of Subcontractors shall identify in writing, the classification agreed to by all laborers and mechanics employed by them in the execution of the Contract, and pay not less than rates specified in the attached Wage Rate Determination(s). Contractor shall prepare a completed form for the signature of Employee and a witness shall sign the form in the presence of Employee. If work performed by worker is different than the trade classification agreed upon, the worker shall be paid for that work no less than the minimum prevailing wage for that specified trade.

**4.1.4** Payroll Deduction Authorization Form. CONTRACTOR, Subcontractor, and Sub subcontractor shall prepare for employee signature a payroll deduction authorization form to identify all payroll deductions excluding those required by statute, such as federal income taxes, Medicare and social security.

**4.2** The record shall be open at all reasonable hours to inspection by the officers and agents of the Owner as requested. CONTRACTOR will be responsible to provide copies of records as requested by the Owner within two (2) working days. Payrolls relating to this Work shall be maintained during term of Contract and preserved for a period of three (3) years thereafter by CONTRACTOR for all laborers and mechanics working on the Work.

**4.3** A Statement of Compliance, a letter signed and dated by party responsible for supervising the payment of persons employed by CONTRACTOR or subcontractor shall accompany payrolls required by Owner. The Statement of Compliance letter shall identify but is not limited to:

**4.3.1** Name of signatory party and title

**4.3.2** Name of project, payroll period and

**4.3.3** Name of CONTRACTOR or Subcontractor

**4.4** The signed letter attests that the payroll complies with 29CFR issued by the Secretary of Labor.

**4.5** Federal Funding. In the event that federal funding is used:

**4.5.1** Contractor and all levels of Subcontractors shall submit weekly certified payroll reports and signed wage compliance statements to the Owner's designated office no later than seven (7) calendar days after the scheduled payday.

**4.5.2** Contractors and all levels of Subcontractors shall pay all "mechanics and laborers" not less often than once per week, for work performed the previous week.

**4.5.3** Submit to the Owner's designated office Standard Form 1413, Statement and Acknowledgement, from each subcontractor prior to the subcontractor performing work on the project.

## **5. NONCOMPLIANCE**

**5.1** According to Chapter 2258 Texas Government Code Title 10A, a CONTRACTOR or subcontractor(s) who violates this section shall pay to the political subdivision on whose behalf the contract is made, \$60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract. A public body shall use any money collected under this section to offset the costs incurred in the administration of this chapter.

**5.2** Confirmed Disciplinary action taken by CONTRACTOR against employees who provide information during an interview or investigation by the Owner on wages received, may result in suspension or debarment from consideration of award of City contracts.

## **6. AREA PRACTICE**

**6.1** Heavy and Highway Construction Rates shall be used on this Project, unless the Project consists primarily of Building Construction and Building Construction Rates are to be used.

**6.1.1** Building Construction consists generally of all aspects of construction of buildings, which are sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies, including without limitation the installation of utilities and equipment, both above and below grade level, as well as incidental demolition, grading, utilities, paving and other site work. Buildings need not be "habitable" to be classified as Building Construction and the installation of heavy machinery and/or equipment will not generally change a Building Construction project's classification.

**6.1.2** The determination of Building Construction Wage Rates includes all construction trades and work necessary to complete a building, regardless of the number of contracts involved, so long as all such contracts are closely related in purpose, time and place.

**6.2** For projects that involve both Building Construction and Heavy and Highway trades, the following classifications shall be used:

**6.2.1** A multiple classification shall be used if Building Construction items are more than 20% of the Heavy and Highway project cost.

**6.2.2** A multiple classification shall be used if Heavy and Highway Construction items are more than 20% of the Building Construction Project cost.

**6.3** Split classifications/multiple wage rate schedules: When construction work requires that an employee perform work under multiple classifications or multiple wage scales, the employer must pay that worker (at least) the highest prevailing wage or the employer payroll records must accurately set forth the times spent performing the work of each classification and under each scale. For those projects that involve both Building Construction and Heavy and Highway trades, the Heavy and Highway wage rates may only be applied to workers when engaged in site work at least five (5) feet beyond the building.

## **7. TEXAS OPEN RECORDS ACT**

## **Bidding Requirements, Contract Forms and Conditions of the Contract**

**7.1** Unless covered by an exception to mandatory disclosure under the Texas Public Information Act, Chapter 552, Texas Government Code, any and all documents submitted to the City of Austin become Public Records and are, therefore, subject to public disclosure.

### **Wage Rates for This Project Are Attached**

**END**

**Bidding Requirements, Contract Forms Conditions of the Contract  
WAGE RATES AND PAYROLL REPORTING**

Section 00830Res

**WAGE RATE DETERMINATION**

**RESIDENTIAL CONSTRUCTION TYPE**

COUNTY NAME : TRAVIS

Wages based on DOL Prevailing Wage Rate General Decision:TX20200009 01/03/2020 TX20 and City of Austin Ordinance #20160324-015

***DOL Rate column is for information only. The Total Minimum Wage Rate is derived from the Adjusted Wage Rate Required pursuant to City Ordinance plus the DOL Fringes and can be met using any combination of cash and non-cash qualified fringe benefits, provided the cash component is at least \$15.00/hour.***

CLASSIFICATION	DOL RATE for info only	ADJUSTED WAGE RATE REQUIRED pursuant to City Ordinance	DOL FRINGES	TOTAL MINIMUM WAGE RATE REQUIRED
Air Conditioning Mechanic	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Bricklayer	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Carpenter	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Cement Mason/Concrete Finisher	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Electrician	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Floor Layer: Carpet (Soft) Floor	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Form Setter	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Insulation Installer	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Ironworker	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Laborers: Laborers	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Laborers: Pipelayers	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
*Lead Paint or Asbestos Abatement Worker	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Painter	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Plumber	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Power Equipment Operators: Backhoe	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Power Equipment Operators: Front End Loaders	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Power Equipment Operators: Graders	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Power Equipment Operators: Rollers	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Roofer, Including Built Up, Composition and Single Ply Roofs	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Sheet Metal Worker	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Sheet Rocker	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Truck Drivers	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.	\$ 10.80	\$ 15.00	\$ -	\$ 15.00

<http://www.wdol.gov/wdol/scafiles/davisbacon/tx.html>

Note: \*Lead Paint & Asbestos Abatement and Roofer, Metal Classifications have been added to this Prevailing Wage Rate Determination pursuant to a City of Austin Prevailing Wage Survey (trades absent from DOL).



## 1. Additional Trade information:

Electricians\*\* - Including low voltage wiring for computers, fire/smoke alarms.

Elevator Mechanics\*\*\* - also must be paid for 8 holidays - New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving Day, Christmas Day, and Veterans Day.

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

Unlisted classifications needed for work not included within the scope of the classifications listed may be added upon the advance approval of City of Austin Contract Administration. CONTRACTOR shall submit to City of Austin Contract Administration for review the classification, a bona fide definition of work to be performed and a proposed wage with sample payrolls conforming to area practice **prior** to the start of the job for that type of work.

## 2. Wages

The Total Wage may be met by any combination of cash wages and credible "bona fide" fringe benefits paid for by the employer. Overtime wages must be calculated using the Adjusted Wage Rate specified in the Wage Rate Determination or the actual basic rate of pay, whichever is higher.

City of Austin Ordinance No. 20160324-015 requires that construction workers are paid a Minimum Wage of at least \$15.00/hour. The cash portion of their compensation must meet or exceed this amount.

## 3. Crediting fringe benefit contributions to meet DBA/DBRA and City of Austin requirements:

The Davis-Bacon Act (and 29 CFR 5.23), list fringe benefits to be considered. Examples are:

- > Life Insurance
- > Health Insurance
- > Pension
- > Vacation
- > Holidays
- > Sick Leave

Note: The use of a truck is not a fringe benefit; a Thanksgiving turkey or Christmas bonus is not a fringe benefit.

No credit may be taken for any benefit required by federal, state, or local law such as: workers compensation, unemployment compensation; or social security contributions.

Contributions to fringe benefit plans must be made regularly, e.g. daily, weekly, etc. They must be more frequent than quarterly. (see 29 CFR 5.5 (a)(1)(I)) A periodic bonus may not be counted as a fringe benefit.

## 4. Annualization of Benefit Costs

If a firm provides an electrician with \$200 per month medical insurance, to calculate allowable fringe benefit credit contributions per hour, the formula ( [\$200 x 12 months] divided by 2080 hours = \$1.15 per hour ) should be used.

## 5. Proper Designation of Trade

A work classification on the wage decision for each worker must be made based on the actual type of work he/she performed and each worker must be paid no less than the wage rate on the wage decision for that classification **regardless** of his or her level of skill.

## 6. Split Classification

If a firm has employees that perform work in more than one classification, it can pay the wage rates specified for each classification ONLY if it maintains accurate time records showing the amount of time spent in each classification. If accurate time records are not maintained, these employees must be paid the highest wage rate of all the classifications of work performed by each worker. Accurate time records tracking how many hours a worker performed the work of one trade and then switched to another trade must be accounted for on a daily basis and reflected on Employer Certified Payroll accordingly.

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

Unlisted classifications needed for work not included within

the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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

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**WAGE DETERMINATION APPEALS PROCESS**

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

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

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

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

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

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

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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:

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

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**Bidding Requirements, Contract Forms Conditions of the Contract  
WAGE RATES AND PAYROLL REPORTING**

Section 00830Res

**DETERMINACIÓN DE LA TASA SALARIAL**

**TIPO DE CONSTRUCCIÓN; RESIDENTIAL**

NOMBRE DEL CONDADO : TRAVIS

Salarios basados en la decisión general del DOL: TX20200009 01/03/2020 TX19 y el estatuto de la ciudad de Austin #20160324-015

***La columna del salario señalado por el DOL es meramente información. El salario mínimo total es el ajuste del salario requerido según el estatuto de la ciudad de Austin, el salario puede ser combinado de pago en efectivo, más el pago de incentivos complementarios que no sean en efectivo, siempre y cuando el componente a pagar sea por lo menos de \$15.00/hora.***

Clasificación	DOL infor. de salario unicament e	Salario requerido conforme a la ciudad de Austin	Beneficios suplementario s	Total del salario mínimo requerido
Air Conditioning Mechanic	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Bricklayer	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Carpenter	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
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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.

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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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# Exhibit I

Federal and City Wage and Safety Bulletins  
(English and Spanish)

# NOTICE TO EMPLOYEES

The Texas Hazard Communication Act (revised 1993), codified as Chapter 502 of the Texas Health and Safety Code, requires public employers to provide employees with specific information on the hazards of chemicals to which employees may be exposed in the workplace. As required by law, your employer must provide you with certain information and training. A brief summary of the law follows.

## HAZARDOUS CHEMICALS

Hazardous chemicals are any products or materials that present any physical or health hazards when used, unless they are exempted under the law. Some examples of more commonly used hazardous chemicals are fuels, cleaning products, solvents, many types of oils, compressed gases, many types of paints, pesticides, herbicides, refrigerants, laboratory chemicals, cement, welding rods, etc.

## WORKPLACE CHEMICAL LIST

Employers must develop a list of hazardous chemicals used or stored in the workplace in excess of 55 gallons or 500 pounds. This list shall be updated by the employer as necessary, but at least annually, and be made readily available for employees and their representatives on request.

## EMPLOYEE EDUCATION PROGRAM

Employers shall provide training to newly assigned employees before the employees work in a work area containing a hazardous chemical. Covered employees shall receive training from the employer on the hazards of the chemicals and on measures they can take to protect themselves from those hazards. This training shall be repeated as needed, but at least whenever new hazards are introduced into the workplace or new information is received on the chemicals which are already present.

## MATERIAL SAFETY DATA SHEETS

Employees who may be exposed to hazardous chemicals shall be informed of the exposure by the employer and shall have ready access to the most current material safety data sheets (MSDSs), which detail physical and health hazards and other pertinent information on those chemicals.

## LABELS

Employees shall not be required to work with hazardous chemicals from unlabeled containers, except portable containers for immediate use, the contents of which are known to the user.

## EMPLOYEE RIGHTS

Employees have rights to:

- X access copies of MSDSs
- X information on their chemical exposures
- X receive training on chemical hazards
- X receive appropriate protective equipment
- X file complaints, assist inspectors, or testify against their employer

Employees may not be discharged or discriminated against in any manner for the exercise of any rights provided by this Act. A waiver of employee rights is void; an employer's request for such a waiver is a violation of the Act. Employees may file complaints with the Texas Department of State Health Services at the telephone number provided below.

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**EMPLOYERS MAY BE SUBJECT TO ADMINISTRATIVE PENALTIES AND CIVIL OR CRIMINAL FINES RANGING FROM \$50 TO \$100,000 FOR EACH VIOLATION OF THIS ACT**

Further information may be obtained from:

Texas Department of State Health Services  
Division for Regulatory Services  
Enforcement Unit  
1100 West 49th Street  
Austin, Texas 78756

**(512) 834-6665**  
**Fax: (512) 834-6606**



Texas Department of  
State Health Services  
Approved 5/05



# Job Safety and Health

## It's the law!



Occupational Safety  
and Health Administration  
U.S. Department of Labor

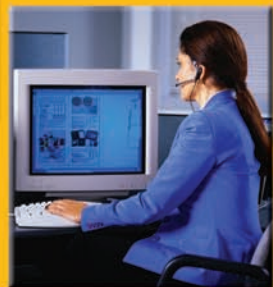
### EMPLOYEES:

- You have the right to notify your employer or OSHA about workplace hazards. You may ask OSHA to keep your name confidential.
- You have the right to request an OSHA inspection if you believe that there are unsafe and unhealthful conditions in your workplace. You or your representative may participate in that inspection.
- You can file a complaint with OSHA within 30 days of retaliation or discrimination by your employer for making safety and health complaints or for exercising your rights under the *OSH Act*.
- You have the right to see OSHA citations issued to your employer. Your employer must post the citations at or near the place of the alleged violations.
- Your employer must correct workplace hazards by the date indicated on the citation and must certify that these hazards have been reduced or eliminated.
- You have the right to copies of your medical records and records of your exposures to toxic and harmful substances or conditions.
- Your employer must post this notice in your workplace.
- You must comply with all occupational safety and health standards issued under the *OSH Act* that apply to your own actions and conduct on the job.

### EMPLOYERS:

- You must furnish your employees a place of employment free from recognized hazards.
- You must comply with the occupational safety and health standards issued under the *OSH Act*.

**This free poster available from OSHA –  
The Best Resource for Safety and Health**



Free assistance in identifying and correcting hazards or complying with standards is available to employers, without citation or penalty, through OSHA-supported consultation programs in each state.

**1-800-321-OSHA (6742)**

[www.osha.gov](http://www.osha.gov)

OSHA 3165-02 2012R





# Seguridad y Salud en el Trabajo

## ¡Es la Ley!



Administración de Seguridad y Salud Ocupacional

Departamento del Trabajo de los Estados Unidos

### EMPLEADOS:

- Usted tiene el derecho de notificar a su empleador o a la OSHA sobre peligros en el lugar de trabajo. Usted también puede pedir que la OSHA no revele su nombre.
- Usted tiene el derecho de pedir a la OSHA que realice una inspección si usted piensa que en su trabajo existen condiciones peligrosas o poco saludables. Usted o su representante pueden participar en esa inspección.
- Usted tiene 30 días para presentar una queja ante la OSHA si su empleador llega a tomar represalias o discriminar en su contra por haber denunciado la condición de seguridad o salud o por ejercer los derechos consagrados bajo la Ley OSH.
- Usted tiene el derecho de ver las citaciones enviadas por la OSHA a su empleador. Su empleador debe colocar las citaciones en el lugar donde se encontraron las supuestas infracciones o cerca del mismo.
- Su empleador debe corregir los peligros en el lugar de trabajo para la fecha indicada en la citación y debe certificar que dichos peligros se hayan reducido o desaparecido.
- Usted tiene derecho de recibir copias de su historial o registro médico y el registro de su exposición a sustancias o condiciones tóxicas o dañinas.
- Su empleador debe colocar este aviso en su lugar de trabajo.
- Usted debe cumplir con todas las normas de seguridad y salud ocupacionales expedidas conforme a la Ley OSH que sean aplicables a sus propias acciones y conducta en el trabajo.

### EMPLEADORES:

- Usted debe proporcionar a sus empleados un lugar de empleo libre de peligros conocidos.
- Usted debe cumplir con las normas de seguridad y salud ocupacionales expedidas conforme a la Ley OSH.



Los empleadores pueden obtener ayuda gratis para identificar y corregir las fuentes de peligro y para cumplir con las normas, sin citación ni multa, por medio de programas de consulta respaldados por la OSHA en cada estado del país.

**1-800-321-OSHA**

[www.osha.gov](http://www.osha.gov)

# EMPLOYEE RIGHTS

## UNDER THE FAIR LABOR STANDARDS ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

### FEDERAL MINIMUM WAGE

**\$7.25** PER HOUR

BEGINNING JULY 24, 2009

**OVERTIME PAY** At least 1½ times your regular rate of pay for all hours worked over 40 in a workweek.

**CHILD LABOR** An employee must be at least **16** years old to work in most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor.

Youths **14** and **15** years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs under the following conditions:

**No more than**

- **3** hours on a school day or **18** hours in a school week;
- **8** hours on a non-school day or **40** hours in a non-school week.

Also, work may not begin before **7 a.m.** or end after **7 p.m.**, except from June 1 through Labor Day, when evening hours are extended to **9 p.m.** Different rules apply in agricultural employment.

**TIP CREDIT** Employers of “tipped employees” must pay a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee’s tips combined with the employer’s cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference. Certain other conditions must also be met.

**ENFORCEMENT** The Department of Labor may recover back wages either administratively or through court action, for the employees that have been underpaid in violation of the law. Violations may result in civil or criminal action.

Employers may be assessed civil money penalties of up to \$1,100 for each willful or repeated violation of the minimum wage or overtime pay provisions of the law and up to \$11,000 for each employee who is the subject of a violation of the Act’s child labor provisions. In addition, a civil money penalty of up to \$50,000 may be assessed for each child labor violation that causes the death or serious injury of any minor employee, and such assessments may be doubled, up to \$100,000, when the violations are determined to be willful or repeated. The law also prohibits discriminating against or discharging workers who file a complaint or participate in any proceeding under the Act.

**ADDITIONAL INFORMATION**

- Certain occupations and establishments are exempt from the minimum wage and/or overtime pay provisions.
- Special provisions apply to workers in American Samoa and the Commonwealth of the Northern Mariana Islands.
- Some state laws provide greater employee protections; employers must comply with both.
- The law requires employers to display this poster where employees can readily see it.
- Employees under 20 years of age may be paid \$4.25 per hour during their first 90 consecutive calendar days of employment with an employer.
- Certain full-time students, student learners, apprentices, and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor.



For additional information:

**1-866-4-USWAGE**

(1-866-487-9243) TTY: 1-877-889-5627

**WWW.WAGEHOUR.DOL.GOV**



# DERECHOS DEL EMPLEADO

## BAJO LA LEY DE NORMAS JUSTAS DE TRABAJO

SECCIÓN DE HORAS Y SUELDOS DEL DEPARTAMENTO DE TRABAJO DE EEUU

### SALARIO MÍNIMO FEDERAL

# \$7.25

POR HORA

A PARTIR DEL 24 DE JULIO DE 2009

#### PAGO DE SOBRETIENTO

Por lo menos tiempo y medio (1½) de su tasa regular de pago por todas las horas trabajadas en exceso de 40 en una semana laboral.

#### EMPLEO DE MENORES DE EDAD

El empleado ha de tener por lo menos **16** años de edad para trabajar en la mayoría de los trabajos no agrícolas y por lo menos tener **18** años para trabajar en trabajos no agrícolas declarados arriesgados por el/la Secretario(a) de Trabajo.

Jóvenes de **14** y **15** años de edad pueden trabajar fuera de horas escolares en varios trabajos que no sean en fabricación, minería, o arriesgados, bajo las siguientes condiciones:

**No más de**

- **3** horas en un día escolar o **18** horas en una semana escolar;
- **8** horas en un día no escolar o **40** horas en una semana no escolar.

Además, el trabajo no puede empezar antes de las **7 de la mañana** o terminar después de las **7 de la tarde** salvo del primero de junio hasta el Día de Labor, cuando las horas de la tarde se extienden hasta las **9 de la noche**. Se aplican reglas distintas al empleo agrícola.

#### CRÉDITO POR PROPINAS

Empresarios de empleados que reciben propinas han de pagar un salario en efectivo de por lo menos \$2.13 por hora si declaran un crédito por propina contra sus obligaciones hacia el salario mínimo. Si las propinas del empleado combinadas con el salario en efectivo que paga el empresario de por lo menos \$2.13 por hora no equivalen al salario mínimo por hora, el empresario ha de suplir la diferencia. También se tiene que cumplir con otras condiciones.

#### CUMPLIMIENTO

El Departamento de Trabajo puede recuperar salarios atrasados administrativamente o mediante acción legal en los tribunales, para empleados a los cuales se les haya pagado por debajo y en violación de la ley.

A los empresarios se les puede imponer penas pecuniarias civiles de hasta \$1,100 por cada infracción intencional o repetida de las provisiones de la ley del pago del salario mínimo y del pago de sobretiempo y hasta \$11,000 por cada empleado que sea empleado en violación de las provisiones de la ley sobre el empleo de menores. Adicionalmente, se puede imponer una pena pecuniaria civil de hasta \$50,000 por cada infracción de las provisiones sobre el empleo de menores si causa la muerte o una lesión seria de un empleado menor de edad, y se pueden doblar dichas evaluaciones, hasta \$100,000, cuando se determinan que las infracciones son intencionales o repetidas. La ley también prohíbe la discriminación o el despido del trabajador por haber presentado una denuncia o por participar en cualquier procedimiento bajo la Ley.

#### INFORMACIÓN ADICIONAL

- Ciertas ocupaciones y ciertos establecimientos están exentos de las provisiones de pago de salario mínimo y de sobretiempo.
- Se aplican provisiones especiales a trabajadores de Samoa Americana y de la Comunidad de las Islas Marianas del Norte.
- Algunas leyes estatales proveen más protecciones al empleado; el empresario ha de cumplir con ambas.
- La ley exige que los empresarios pongan este cartel donde los empleados lo puedan ver fácilmente.
- A los empleados menores de 20 años de edad se les puede pagar menos de \$4.25 por hora durante los primeros 90 días civiles consecutivos de empleo con un empresario.
- Se les puede pagar menos del salario mínimo bajo ciertos certificados especiales emitidos por el Departamento de Trabajo a ciertos estudiantes de tiempo completo, estudiantes aprendices y a trabajadores con impedimentos.



Para información adicional:

# 1-866-4-USWAGE

(1-866-487-9243) TTY: 1-877-889-5627

# WWW.WAGEHOUR.DOL.GOV





# EMPLOYEE RIGHTS

## FOR WORKERS WITH DISABILITIES PAID AT SPECIAL MINIMUM WAGES

### THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

*This establishment has a certificate authorizing the payment of special minimum wages to workers who are disabled for the work they are performing. Authority to pay special minimum wages to workers with disabilities applies to work covered by the **Fair Labor Standards Act (FLSA)**, **McNamara-O'Hara Service Contract Act (SCA)**, and/or **Walsh-Healey Public Contracts Act (PCA)**. Such special minimum wages are referred to as “**commensurate wage rates**” and are less than the basic hourly rates stated in an SCA wage determination and less than the FLSA minimum wage of **\$7.25 per hour beginning July 24, 2009**. A “commensurate wage rate” is based on the worker’s individual productivity, no matter how limited, in proportion to the wage and productivity of experienced workers who do not have disabilities that impact their productivity when performing essentially the same type, quality, and quantity of work in the geographic area from which the labor force of the community is drawn.*

#### WORKERS WITH DISABILITIES

For purposes of payment of commensurate wage rates under a certificate, a worker with a disability is defined as:

- An individual whose earnings or productive capacity is impaired by a physical or mental disability, including those related to age or injury, for the work to be performed.
- Disabilities which may affect productive capacity include blindness, mental illness, mental retardation, cerebral palsy, alcoholism, and drug addiction. The following do not ordinarily affect productive capacity for purposes of paying commensurate wage rates: educational disabilities; chronic unemployment; receipt of welfare benefits; nonattendance at school; juvenile delinquency; and correctional parole or probation.

#### KEY ELEMENTS OF COMMENSURATE WAGE RATES

- **Nondisabled worker standard**—The objective gauge (usually a time study of the production of workers who do not have disabilities that impair their productivity for the job) against which the productivity of a worker with a disability is measured.
- **Prevailing wage rate**—The wage paid to experienced workers who do not have disabilities that impair their productivity for the same or similar work and who are performing such work in the area. Most SCA contracts include a wage determination specifying the prevailing wage rates to be paid for SCA-covered work.
- **Evaluation of the productivity of the worker with a disability**—Documented measurement of the production of the worker with a disability (in terms of quantity and quality).

The wages of all workers paid commensurate wages must be reviewed, and adjusted if appropriate, at periodic intervals. At a minimum, the productivity of hourly-paid workers must be reevaluated at least every six months and a new prevailing wage survey must be conducted at least once every twelve months. In addition, prevailing wages must be reviewed, and adjusted as appropriate, whenever the applicable state or federal minimum wage is increased.

#### OVERTIME

Generally, if you are performing work subject to the FLSA, SCA, and/or PCA, you must be paid at least 1½ times your regular rate of pay for all hours worked over 40 in a workweek.

#### CHILD LABOR

Minors younger than **18 years of age** must be employed in accordance with the child labor provisions of FLSA. No persons under 16 may be employed in manufacturing or on a PCA contract.

#### FRINGE BENEFITS

Neither the FLSA nor the PCA have provisions requiring vacation, holiday, or sick pay nor other fringe benefits such as health insurance or pension plans. SCA wage determinations may require such fringe benefit payments (or a cash equivalent). **Workers paid under a certificate authorizing commensurate wage rates must receive the full fringe benefits listed on the wage determination.**

#### WORKER NOTIFICATION

Each worker with a disability and, where appropriate, the parent or guardian of such worker, shall be informed orally and in writing by the employer of the terms of the certificate under which such worker is employed.

#### PETITION PROCESS

Workers with disabilities paid at special minimum wages may petition the Administrator of the Wage and Hour Division of the Department of Labor for a review of their wage rates by an Administrative Law Judge. No particular form of petition is required, except that it must be signed by the worker with a disability or his or her parent or guardian and should contain the name and address of the employer. Petitions should be mailed to: Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

*Employers shall display this poster where employees and the parents and guardians of workers with disabilities can readily see it.*



For additional information:

**1-866-4-USWAGE**

(1-866-487-9243)

TTY: 1-877-889-5627



**WWW.WAGEHOUR.DOL.GOV**

# DERECHOS DE LOS EMPLEADOS

## TRABAJADORES CON IMPEDIMENTOS A QUIENES SE LES PAGAN SUELDOS MÍNIMOS ESPECIALES

### DIVISIÓN DE HORAS Y SALARIOS DEL DEPARTAMENTO DE LABOR DE LOS ESTADOS UNIDOS

Este establecimiento posee un certificado que autoriza el pago de sueldos mínimos especiales a trabajadores con impedimentos para el trabajo que desempeñan. La autoridad para pagar ciertos salarios mínimos especiales a trabajadores con impedimentos aplica al trabajo comprendido en la **Ley de Normas Razonables de Trabajo (FLSA)**, la **Ley de Contratos por Servicios McNamara-O'Hara (SCA)** o aquel protegido por la **Ley de Contratos Públicos Walsh-Healey (PCA)**. A estos salarios mínimos especiales se les llama "**tasas de salarios conmensurables**" y son menos que el sueldo básico por hora establecidos por una determinación de sueldo bajo la determinación del SCA y menos que el sueldo mínimo establecido por la FLSA en **\$5.85 por hora a partir del 24 de julio de 2007, \$6.55 por hora a partir del 24 de julio de 2008, y \$7.25 por hora a partir del 24 de julio de 2009**. Las "**tasas de pago conmensurable**" se basan sobre la productividad individual del trabajador, sin tomar en cuenta cuán limitada sea ésta, en proporción al sueldo y a la productividad de trabajadores con experiencia, sin impedimentos, que desempeñan esencialmente el mismo tipo, calidad y cantidad de trabajo en la zona geográfica de donde proviene la fuerza laboral de la comunidad.

#### TRABAJADORES CON IMPEDIMENTOS

- A propósito del pago de tasas de pago conmensurables según un certificado, un trabajador se define como:
- Un individuo cuyos ingresos, o capacidad productiva, están deteriorados a causa de una incapacidad física o mental, inclusive aquellas relacionadas con la edad o con herida, para el desempeño del trabajo.
  - Los impedimentos que pueden afectar la capacidad productiva de alguien incluyen la ceguera, la enfermedad mental, el retraso mental, la parálisis cerebral, el alcoholismo y la drogadicción. Los siguientes impedimentos no afectan normalmente la capacidad productiva en cuanto al pago de tasas conmensurables se refiere: falta de educación; desempleo crónico; recibir beneficios de asistencia pública; ausencia injustificada de la escuela; delincuencia juvenil; y libertad condicional o libertad vigilada.

#### ELEMENTOS CLAVE SOBRE LAS TASAS DE PAGO CONMENSURABLE

- **Norma Para Trabajadores sin Impedimentos** – La medida objetiva (por lo general es un estudio del tiempo de la producción de los trabajadores sin impedimentos para desempeñar el trabajo) contra la cual se mide la productividad de un trabajador con un impedimento.
- **Tasa de Sueldo Prevaleciente** – El sueldo que se les paga a trabajadores con experiencia que no tienen impedimentos, por el mismo trabajo o por uno semejante y que desempeñan dicho trabajo en la zona. La mayoría de los contratos bajo la ley de SCA incluye una determinación de sueldo que especifica las tasas de sueldo prevalecientes que se pagan por el trabajo bajo la ley de SCA.
- **Evaluación de la productividad del trabajador incapacitado** – El sistema de medidas documentado de la producción del trabajador incapacitado (cantidad y calidad).

Periódicamente, se debe revisar y ajustar los salarios de todos los trabajadores que reciben las tasas de pago conmensurable si es apropiado. Como mínimo, se debe reevaluar la productividad de los trabajadores, a los cuales se les paga por hora, cada seis meses y se debe realizar un nuevo estudio de tasas de sueldos prevalecientes por lo menos cada año. Adicionalmente, los sueldos prevalecientes, deben ser revisado y ajustado si es apropiado, cuando el sueldo mínimo aplicable estatal o federal es aumentado.

#### PAGO DE HORAS ADICIONALES

Generalmente, si su trabajo está protegido por las siguientes leyes laborales: La Ley de Normas Razonables de Trabajo (FLSA), La Ley de Contratos por Servicios (SCA), y/o la Ley de Contratos Públicos (PCA), debe recibir, por lo menos, tiempo y medio (1 ½) de su pago regular por todas las horas que trabaje en exceso de 40 horas en una semana laboral.

#### TRABAJO DE MENORES

Los menores de **18 años** deben ser empleados de acuerdo con las provisiones para el empleo de menores de La Ley de Normas Razonables de Trabajo (FLSA). Ninguna persona menor de 16 años puede trabajar en la industria manufacturera o bajo la Ley de Contratos Públicos (PCA).

#### BENEFICIOS SUPLEMENTARIOS

La Ley de Normas Justas de Trabajo y la Ley de Contratos Públicos no contienen provisiones que exijan vacaciones, días feriados, pago por enfermedad o cualquier otro beneficio suplementario como seguro médico, seguro de vida, pensión u otros. La determinación de sueldos que requiere la Ley de Contratos por Servicios puede requerir el pago de beneficios suplementarios (o el equivalente en efectivo). **Los empleados que sean remunerados bajo certificados que autorizan tasas de pagos conmensurables deben recibir los beneficios plenos enumerados en la determinación de salarios.**

#### NOTIFICACIÓN AL TRABAJADOR

El empleador de trabajadores con impedimentos tiene el deber de informarles a estos trabajadores, o cuando sea apropiado, a sus padres o representantes, oralmente o por escrito, los términos del certificado bajo el cual trabajan.

#### PROCESO DE SOLICITUD

Los trabajadores con impedimentos que reciben un sueldo mínimo especial tienen el derecho de presentar una petición al Administrador de la División de Horas y Salarios para que un Juez de Ley Administrativa revise la tasa monetaria que reciben. No es necesario emplear un formulario especial, sin embargo, éste sí debe ser firmado por el trabajador con el impedimento, o por sus padres o representantes, y debe incluir el nombre y la dirección del empleador. Las solicitudes deben enviarse a: Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502/200 Constitution Avenue, N.W., Washington, D.C. 20210

*Los empleadores deben de exhibir este cartel en un lugar donde los empleados con impedimentos y sus padres o representantes lo puedan ver claramente.*

Para información adicional:



**1-866-4-USWAGE**

(1-866-487-9243)

TTY: 1-877-889-5627



**WWW.WAGEHOUR.DOL.GOV**

# EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

## FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

### PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

### OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

### ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

### APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

### PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.



For additional information:

**1-866-4-USWAGE**  
(1-866-487-9243) TTY: 1-877-889-5627



**WWW.WAGEHOUR.DOL.GOV**



# DERECHOS DEL EMPLEADO BAJO LA LEY DAVIS-BACON

## PARA OBREROS Y MECÁNICOS EMPLEADOS EN PROYECTOS DE CONSTRUCCIÓN FEDERAL O CON ASISTENCIA FEDERAL

LA SECCIÓN DE HORAS Y SUELDOS DEL DEPARTAMENTO DE TRABAJO DE EEUU

### **SALARIOS PREVALECIENTES**

No se le puede pagar menos de la tasa de pago indicada en la Decisión de Salarios Davis-Bacon fijada con este Aviso para el trabajo que Ud. desempeña.

### **SOBRETIEMPO**

Se le ha de pagar no menos de tiempo y medio de su tasa básica de pago por todas las horas trabajadas en exceso de 40 en una semana laboral. Existen pocas excepciones.

### **CUMPLIMIENTO**

Se pueden retener pagos por contratos para asegurarse que los obreros reciban los salarios y el pago de sobretiempo debidos, y se podría aplicar daños y perjuicios si no se cumple con las exigencias del pago de sobretiempo. Las cláusulas contractuales de Davis-Bacon permiten la terminación y exclusión de contratistas para efectuar futuros contratos federales hasta tres años. El contratista que falsifique los registros certificados de las nóminas de pago o induzca devoluciones de salarios puede ser sujeto a procesamiento civil o criminal, multas y/o encarcelamiento.

### **APRENDICES**

Las tasas de aprendices sólo se aplican a aprendices correctamente inscritos bajo programas federales o estatales aprobados.

### **PAGO APROPIADO**

Si Ud. no recibe el pago apropiado, o precisa de información adicional sobre los salarios aplicables, póngase en contacto con el Contratista Oficial que aparece abajo:

o póngase en contacto con la Sección de Horas y Sueldos del Departamento de Trabajo de EEUU.



Para obtener información adicional:

**1-866-4-USWAGE**  
(1-866-487-9243) TTY: 1-877-889-5627

**WWW.WAGEHOUR.DOL.GOV**



# EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

## Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

## Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

## Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

## Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

## Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

## Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

## Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

## Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

## Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

## Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

## Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

**FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.**



For additional information:  
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627  
**WWW.WAGEHOUR.DOL.GOV**





# **DERECHOS Y RESPONSABILIDADES DEL EMPLEADO**

## **BAJO LA LEY DE AUSENCIA FAMILIAR Y MÉDICA**

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### **Derechos Básicos de Ausencia**

La Ley de Ausencia Familiar y Médica (FMLA-en sus siglas en inglés) exige que todo empresario sujeto a la Ley provea a sus empleados elegibles hasta 12 semanas de ausencia del trabajo, no pagadas y con protección del puesto, por las siguientes razones:

- Por incapacidad causada por embarazo, atención médica prenatal o parto;
- Para atender a un hijo del empleado después de su nacimiento, o su colocación para adopción o crianza;
- Para atender a un cónyuge, hijo(a), o padres del/de la empleado(a), el/la cual padezca de una condición de salud seria; o
- A causa de una condición de salud seria que le impida al empleado desempeñar su puesto.

### **Derechos de Ausencia Para Familias Militares**

Empleados elegibles con un cónyuge, hijo, hija, o padre que esté en servicio activo o se le haya avisado de una llamada a estado de servicio activo en la Guardia Nacional o las Reservas para respaldar una operación contingente, pueden usar su derecho de ausencia de 12 semanas para atender ciertas exigencias calificadoras. Las exigencias calificadoras pueden incluir la asistencia a ciertos eventos militares, la fijación del cuidado alternativo de hijos, para atender ciertos arreglos financieros y legales, para asistir a ciertas consultas con consejeros, y para asistir a sesiones de instrucción posdespliegue de reintegración.

FMLA también incluye un derecho especial de ausencia que concede a empleados elegibles ausentarse del trabajo hasta 26 semanas para atender a un miembro del servicio militar bajo el alcance de la Ley durante un período único de 12 meses. Un miembro del servicio militar bajo el alcance de la Ley es un miembro actual de las Fuerzas Armadas, inclusive un miembro de la Guardia Nacional o las Reservas, que padece de una lesión o enfermedad grave sufrida en cumplimiento del deber en el servicio activo que puede incapacitar, por razones médicas, al miembro del servicio militar para desempeñar sus deberes y por la cual recibe tratamientos médicos, recuperación, o terapia; o está en estado de paciente no hospitalizado; o aparece en la lista de jubilados temporalmente por minusvalidez.

### **Beneficios y Protecciones**

Durante una ausencia bajo FMLA, el empresario ha de mantener en vigor el seguro de salud del empleado bajo cualquier “plan de seguro colectivo de salud” con los mismos términos como si el empleado hubiese seguido trabajando. Al regresar de una ausencia de FMLA, a la mayoría de los empleados se le ha de restaurar a su puesto original o puesto equivalente con sueldo, beneficios y otros términos de empleo equivalentes.

El tomar una ausencia bajo FMLA no puede resultar en la pérdida de ningún beneficio de empleo acumulado antes de que el empleado comenzara la ausencia.

### **Requisitos Para Elegibilidad**

El empleado es elegible si ha trabajado para el empresario bajo el alcance de la Ley por lo menos por un año, por 1,250 horas durante los previos 12 meses, y si el empresario emplea por lo menos 50 empleados dentro de un área de 75 millas.

### **Definición de una Condición de Salud Seria**

Una condición de salud seria es una enfermedad, lesión, impedimento, o condición física o mental que involucra o una pernoctación en un establecimiento de atención médica, o el tratamiento continuo bajo un servidor de atención médica que, o le impide al empleado desempeñar las funciones de su puesto, o impide al miembro de la familia que califica participar en actividades escolares o en otras actividades diarias.

Dependiendo de ciertas condiciones, se puede cumplir con el requisito de tratamiento continuo con un período de incapacidad de más de 3 días civiles consecutivos en combinación con por lo menos dos visitas a un servidor de atención médica o una visita y un régimen de tratamiento continuo, o incapacidad a causa de un embarazo, o incapacidad a causa de una condición crónica. Otras condiciones pueden satisfacer la definición de un tratamiento continuo.

### **Uso de la Ausencia**

El empleado no necesita usar este derecho de ausencia todo de una vez. La ausencia se puede tomar intermitentemente o según un horario de

ausencia reducido cuando sea médicamente necesario. El empleado ha de esforzarse razonablemente cuando hace citas para tratamientos médicos planificados para no interrumpir indebidamente las operaciones del empresario. Ausencias causadas por exigencias calificadoras también pueden tomarse intermitentemente.

### **Substitución de Ausencia Pagada por Ausencia No Pagada**

El empleado puede escoger o el empresario puede exigir el uso de ausencias pagadas acumuladas mientras se toma ausencia bajo FMLA. Para poder usar ausencias pagadas cuando toma FMLA, el empleado ha de cumplir con la política normal del empresario que rija las ausencias pagadas.

### **Responsabilidades del Empleado**

El empleado ha de proveer un aviso con 30 días de anticipación cuando necesita ausentarse bajo FMLA cuando la necesidad es previsible. Cuando no sea posible proveer un aviso con 30 días de anticipación, el empleado ha de proveer aviso en cuanto sea factible y, en general, ha de cumplir con los procedimientos normales del empresario en cuanto a llamar para reporter su ausencia.

El empleado ha de proporcionar suficiente información para que el empresario determine si la ausencia califica para la protección de FMLA, con la fecha y la duración anticipadas de la ausencia. Suficiente información puede incluir que el empleado no puede desempeñar las funciones del puesto, que el miembro de la familia no puede desempeñar las actividades diarias, la necesidad de ser hospitalizado o de seguir un régimen continuo bajo un servidor de atención médica, o circunstancias que exijan una necesidad de ausencia familiar militar. Además, el empleado ha de informar al empresario si la ausencia solicitada es por una razón por la cual se había previamente tomado o certificado FMLA. También se le puede exigir al empleado que provea certificación y recertificación periódicamente constatando la necesidad para la ausencia.

### **Responsabilidades del Empresario**

Los empresarios bajo el alcance de FMLA han de informar a los empleados solicitando ausencia si son o no elegibles bajo FMLA. Si lo son, el aviso ha de especificar cualquier otra información exigida tanto como los derechos y las responsabilidades del empleado. Si no son elegibles, el empresario ha de proveer una razón por la inelegibilidad.

Los empresarios bajo el alcance de la Ley han de informar a los empleados si la ausencia se va a designar protegida por FMLA y la cantidad de tiempo de la ausencia que se va a contar contra el derecho del empleado para ausentarse. Si el empresario determina que la ausencia no es protegida por FMLA, el empresario ha de notificar al empleado de esto.

### **Actos Ilegales Por Parte del Empresario**

La ley FMLA le prohíbe a todo empresario:

- que interfiera con, limite, o niegue el ejercicio de cualquier derecho estipulado por FMLA;
- que se despidan a, o se discrimine en contra de, alguien que se oponga a una práctica prohibida por FMLA o porque se involucre en cualquier procedimiento bajo o relacionado a FMLA.

### **Cumplimiento**

El empleado puede presentar una denuncia con el Departamento de Trabajo de EEUU o puede presentar un pleito particular contra el empresario.

FMLA no afecta ninguna otra ley federal o estatal que prohíbe la discriminación, o invalida ninguna ley estatal o local o ninguna negociación colectiva que provea derechos superiores familiares o médicos.

**La Sección 109 de FMLA (29 U.S.C. § 2619) exige que todo empresario bajo el alcance de FMLA exhiba el texto de este aviso. Los Reglamentos 29 C.F.R. § 825.300(a) pueden exigir divulgaciones adicionales.**



Si precisa información adicional:  
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627  
**WWW.WAGEHOUR.DOL.GOV**



# EMPLOYEE RIGHTS

## EMPLOYEE POLYGRAPH PROTECTION ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

**The Employee Polygraph Protection Act prohibits most private employers from using lie detector tests either for pre-employment screening or during the course of employment.**

### PROHIBITIONS

Employers are generally prohibited from requiring or requesting any employee or job applicant to take a lie detector test, and from discharging, disciplining, or discriminating against an employee or prospective employee for refusing to take a test or for exercising other rights under the Act.

### EXEMPTIONS

Federal, State and local governments are not affected by the law. Also, the law does not apply to tests given by the Federal Government to certain private individuals engaged in national security-related activities.

The Act permits polygraph (a kind of lie detector) tests to be administered in the private sector, subject to restrictions, to certain prospective employees of security service firms (armored car, alarm, and guard), and of pharmaceutical manufacturers, distributors and dispensers.

The Act also permits polygraph testing, subject to restrictions, of certain employees of private firms who are reasonably suspected of involvement in a workplace incident (theft, embezzlement, etc.) that resulted in economic loss to the employer.

The law does not preempt any provision of any State or local law or any collective bargaining agreement which is more restrictive with respect to lie detector tests.

### EXAMINEE RIGHTS

Where polygraph tests are permitted, they are subject to numerous strict standards concerning the conduct and length of the test. Examinees have a number of specific rights, including the right to a written notice before testing, the right to refuse or discontinue a test, and the right not to have test results disclosed to unauthorized persons.

### ENFORCEMENT

The Secretary of Labor may bring court actions to restrain violations and assess civil penalties up to \$10,000 against violators. Employees or job applicants may also bring their own court actions.

**THE LAW REQUIRES EMPLOYERS TO DISPLAY THIS POSTER WHERE EMPLOYEES AND JOB APPLICANTS CAN READILY SEE IT.**



Scan your QR phone reader to learn more about the Employee Polygraph Protection Act.

For additional information:

**1-866-4-USWAGE**

(1-866-487-9243)

TTY: 1-877-889-5627



**WWW.WAGEHOUR.DOL.GOV**

# DERECHOS DEL EMPLEADO

## LEY PARA LA PROTECCIÓN DEL EMPLEADO CONTRA LA PRUEBA DEL POLÍGRAFO

SECCIÓN DE HORAS Y SUELDOS DEL DEPARTAMENTO DE TRABAJO DE EEUU

**La Ley Para La Protección del Empleado contra la Prueba de Polígrafo le prohíbe a la mayoría de los empleadores del sector privado que utilice pruebas con detectores de mentiras durante el período de pre-empleo o durante el servicio de empleo.**

### PROHIBICIONES

Generalmente se le prohíbe al empleador que le exija o requiera a un empleado o a un solicitante a un trabajo que se someta a una prueba con detector de mentiras, y que despida, discipline, o discrimine de ninguna forma contra un empleado o contra un aspirante a un trabajo por haberse negado a someterse a la prueba o por haberse acogido a otros derechos establecidos por la Ley.

### EXENCIONES

Esta Ley no afecta a los empleados de los gobiernos federal, estatales y locales. Tampoco se aplica a las pruebas que el Gobierno Federal les administra a ciertos individuos del sector privado que trabajan en actividades relacionadas con la seguridad nacional.

La Ley permite la administración de pruebas de polígrafo (un tipo de detector de mentiras) en el sector privado, sujeta a ciertas restricciones, a ciertos aspirantes para empleos en compañías de seguridad (vehículos blindados, sistemas de alarma y guardias). También se les permite el uso de éstas a compañías que fabrican, distribuyen y dispensan productos farmacéuticos.

La Ley también permite la administración de estas pruebas de polígrafo, sujeta a ciertas restricciones, a empleados de empresas privadas que estén bajo sospecha razonable de estar involucrados en un incidente en el sitio de empleo (tal como un robo, desfalco, etc.) que le haya ocasionado daños económicos al empleador.

La Ley no substituye ninguna provisión de cualquier otra ley estatal o local ni tampoco a tratos colectivos que sean más rigurosos con respecto a las pruebas de polígrafo.

### DERECHOS DE LOS EXAMINADOS

En casos en que se permitan las pruebas de polígrafo, éstas deben ser administradas bajo una cantidad de normas estrictas en cuanto a su administración y duración. Los examinados tienen un número de derechos específicos, incluyendo el derecho de advertencia por escrito antes de someterse a la prueba, el derecho a negarse a someterse a la prueba o a discontinuarla, al igual que el derecho a negarse a que los resultados de la prueba estén al alcance de personas no autorizadas.

### CUMPLIMIENTO

El/La Secretario(a) de Trabajo puede entablar pleitos para impedir violaciones y puede imponer penas pecuniarias civiles de hasta \$10,000 contra los violadores. Los empleados o solicitantes a empleo también tienen derecho a entablar sus propios pleitos en los tribunales.

**LA LEY EXIGE QUE LOS EMPLEADORES EXHIBAN ESTE AVISO DONDE LOS EMPLEADOS Y LOS SOLICITANTES DE EMPLEO LO PUEDAN VER FÁCILMENTE.**



Para información adicional:

**1-866-4-USWAGE**

(1-866-487-9243)

TTY: 1-877-889-5627



**WWW.WAGEHOUR.DOL.GOV**

Escanee su lector telefónico QR para  
saber más en inglés sobre la Ley  
Para La Protección Del Empleado  
Contra La Prueba Del Polígrafo.

U.S. Department of Labor | Wage and Hour Division

WHD 1462SP  
Rev. Jan 2012

# Know Your Rights Under the Recovery Act!

## ***Did you know?***

The American Recovery and Reinvestment Act of 2009 <sup>1</sup> provides protections for certain employees of non-federal employers who make specified disclosures relating to possible fraud, waste and/or abuse of Recovery Act funds.

## ***Who is protected?***

Employees of non-federal employers receiving recovery funds. This includes State and local governments, contractors, subcontractors, grantees or professional membership organizations acting in the interest of recovery fund recipients.

## ***How are Whistleblowers Protected?***

You cannot be discharged, demoted or otherwise discriminated against as a reprisal for making a protected disclosure.

## ***What types of disclosures are protected?***

The disclosure must be made by the employee to the Recovery Accountability and Transparency Board, an Inspector General, the Comptroller General, a member of Congress, a state or federal regulatory or law enforcement agency, a person with supervisory authority over the employee, a court or grand jury, or the head of a federal agency or his/her representatives.

The disclosure must involve information that the employee believes is evidence of:

- gross mismanagement of an agency contract or grant relating to recovery funds;
- a gross waste of recovery funds;
- a substantial and specific danger to public health or safety related to the implementation or use of recovery funds;
- an abuse of authority related to the implementation or use of recovery funds; or
- a violation of law, rule, or regulation related to an agency contract or grant awarded or issued relating to recovery funds.

## ***Take Action!***

Log on to [Recovery.gov](http://Recovery.gov) for more information about your rights and details on how to report at [www.recovery.gov](http://www.recovery.gov).

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<sup>1</sup> [Section 1553 of Division A, Title XV of the American Recovery and Reinvestment Act of 2009, P.L. 111-5](#)





U.S. Department  
of Transportation  
**Federal Highway  
Administration**

# NOTICE

**The highway construction underway at this location is a Federal or Federal-aid project and is subject to applicable State and Federal laws, including Title 18, United States Code, Section 1020, which reads as follows:**

“Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or the cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction of any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report, or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to a material fact in any statement, certificate, or report submitted pursuant to the provisions of the Federal-Aid Road Act approved July 11, 1916 (39 Stat. 355), as amended and supplemented,

Shall be fined under this title or imprisoned not more than five years, or both.”

**Any person having reason to believe this statute is being violated should report the same to the agency representative(s) named below.**

*(Federal-aid projects only)*  
State Highway Department

*(Both Federal and Federal-aid projects)*  
Federal Highway  
Division Administrator

*(Both Federal and Federal-aid projects)*  
Department of Transportation  
Office of Inspector General  
Toll Free Hotline  
1-800-424-9071



## **CITY OF AUSTIN CONTACTS FOR WAGE QUESTIONS**

**Please direct any wage disputes or questions to:**

### **AUSTIN BROWNFIELDS** **REVITALIZATION OFFICE**

City of Austin  
(512) 974-6085  
[brownfields@austintexas.gov](mailto:brownfields@austintexas.gov)

**City of Austin contracts require CONTRACTORS and subcontractors pay contract wage rates as specified in Prevailing Wage Rate Determination (see posted rates).**



## **CONTACTOS DE LA CIUDAD DE AUSTIN PARA PREGUNTAS SOBRE EL SALARIO**

**Usted puede preguntar cualquier duda sobre su salario  
directamente ha:**

### **AUSTIN BROWNFIELDS REVITALIZATION OFFICE**

**City of Austin  
(512) 974-6085  
brownfields@austintexas.gov**

**Los contratos de la ciudad de Austin requieren que los contratistas y los subcontratistas paguen sus salarios basándose en el Determinación Prevaleciente de las Tasas de Salario (consulte tasas posteado).**





## ***Equal Employment Opportunity*** **is** **THE LAW**

Chapter 5-4 of the City of Austin Code relating to Discrimination in Employment by City Contractors prohibits Contractors to engage in any discriminatory employment practice. (DISCRIMINATORY EMPLOYMENT PRACTICE MEANS discrimination against an individual because of race, creed, color, religion, national origin, sexual orientation, gender identity, disability, sex or age, unless sex or age is a bona fide occupational qualification of employment, during an employment action, including advertising, hiring, lay off, termination, classification, training or selection for training, promotion, demotion, transfer or compensation.)

No bid or proposal submitted to the City by a Contractor shall be considered nor shall any purchase order be issued nor contract be awarded by the City to any Contractor unless the contractor agrees not to discriminate based on the above criteria.

*If you believe you have been discriminated against, contact us at:*

### **City of Austin - Equal Employment/Fair Housing Office (EE/FHO)**

Physical Address: 1050 East 11th Street, Suite 300, Austin, Texas 78702

Mailing Address: P. O. Box 1088, Austin, Texas 78767

Telephone: (512) 974-3251

Web: <http://austintexas.gov/departments/equal-employment-and-fair-housing-office>



## ***La Igualdad de Oportunidades de Empleo***

es

## **LA LEY**

Capítulo 5-4 del Código de la Ciudad de Austin está relacionado con el tema de Discriminación del Empleo por parte de los Contratistas que la Ciudad emplea, y La Ciudad prohíbe a los Contratistas a realizar cualquier tipo de discriminación en el trabajo. (LA PRÁCTICA DE DISCRIMINACIÓN EN EL TRABAJO SIGNIFICA discriminación a cualquier individuo por su raza, creencias, color, religión, nacionalidad, origen, orientación sexual, identidad de género, incapacidad física, sexo o edad, a menos que sexo o la edad sea un requisito en el empleo. Durante la contratación del empleo, se prohíbe la discriminación en la publicidad, pérdida de empleo involuntariamente, finalización del contrato, clasificación en el empleo, entrenamiento o en la selección para entrenamiento, promoción, democión, transferencia o compensación.)

Ninguna subasta ó propuesta presentadas a la Ciudad por un Contratista se considerará como aceptada, a menos que el Contratista no se compromete a no discriminar siguiendo la guía de los criterios mencionados anteriormente.

*Si cree que ha sido víctima de discriminación, contáctenos en el:*

### **Ciudad de Austin - Oficina de la Igualdad de Vivienda y Empleo (EE/FHO)**

Dirección Físico: 1050 East 11th Street, Suite 300, Austin, Texas 78702

Dirección Postal: P. O. Box 1088, Austin, Texas 78767

Teléfono: (512) 974-3251

Sitio: <http://austintexas.gov/departament/equal-employment-and-fair-housing-office>





## **Title VI and Related Statutes Nondiscrimination Statement**

The City of Austin, Texas, as a recipient of Federal financial assistance and under Title VI of the Civil Rights Act of 1964 and related statutes, ensures that no person shall on the grounds of race, color, national origin, sex, age, income status, disability, sexual orientation, gender identity, or veteran status be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination or retaliation under any federally or non-federally funded City programs or activities administered by the City or its contractors.

## **Titulo VI y Estatutos Relacionados Declaracion de No Discriminacion**

La ciudad de Austin Texas, como beneficiario de asistencia financiera federal y según la Acta de Derechos Civiles Título VI del 1964 y estatutos relacionados, asegura que ninguna persona será excluida a causa de raza, color, origen nacional, sexo, edad, estado de ingresos, discapacidad, orientación sexual, identidad de genero, o condición de veterano sea excluido de participar, o negado los beneficios, y de otra manera sea sometido a discriminación o de retaliación de parte de cualquier programa que es financiado por fondos federales y de otros metidos programas administrado por la ciudad de Austin o por uno de su contratistas.

If you feel you have been discriminated against, please contact:  
(Si usted se ha sentido atacado por discriminación, por favor comuníquese con:)

**Tony Robertson**  
**Title VI Coordinator**  
**City of Austin, Texas**  
**(512) 974-3259**  
**[tony.robertson@austintexas.gov](mailto:tony.robertson@austintexas.gov)**

# NOTICE TO EMPLOYEES CONCERNING WORKERS' COMPENSATION IN TEXAS

**COVERAGE:** [Name of employer] \_\_\_\_\_  
has workers' compensation insurance coverage from [name of commercial insurance company] \_\_\_\_\_  
in the event of \_\_\_\_\_

work-related injury or occupational disease. This coverage is effective from [effective date of workers' compensation insurance policy] \_\_\_\_\_. Any injuries or occupational diseases which occur on or after that date will be handled by [name of commercial insurance company] \_\_\_\_\_.

An employee or a person acting on the employee's behalf, must notify the employer of an injury or occupational disease not later than the 30th day after the date on which the injury occurs or the date the employee knew or should have known of an occupational disease, unless the Texas Department of Insurance, Division of Workers' Compensation (Division) determines that good cause existed for failure to provide timely notice. Your employer is required to provide you with coverage information, in writing, when you are hired or whenever the employer becomes, or ceases to be, covered by workers' compensation insurance.

**EMPLOYEE ASSISTANCE:** The Division provides free information about how to file a workers' compensation claim. Division staff will answer any questions you may have about workers' compensation and process any requests for dispute resolution of a claim. You can obtain this assistance by contacting your local Division office or by calling 1-800-252-7031. The Office of Injured Employee Counsel (OIEC) also provides free assistance to injured employees and will explain your rights and responsibilities under the Workers' Compensation Act. You can obtain OIEC's assistance by contacting an OIEC customer service representative in your local Division office or by calling 1-866-EZE-OIEC (1-866-393-6432).

**SAFETY VIOLATIONS HOTLINE:** The Division has a 24 hour toll-free telephone number for reporting unsafe conditions in the workplace that may violate occupational health and safety laws. Employers are prohibited by law from suspending, terminating, or discriminating against any employee because he or she in good faith reports an alleged occupational health or safety violation. Contact the Division at 1-800-452-9595.



# AVISO A EMPLEADOS SOBRE COMPENSACIÓN PARA TRABAJADORES EN TEXAS

**COBERTURA:** [ ] tiene cobertura

Nombre del empleador

de seguros de compensación para trabajadores con [ ]

Nombre de la compañía de seguros

para protegerlo en caso de una lesión o enfermedad relacionada con su trabajo. Esta cobertura está vigente desde

el [ ] Cualquier lesión o enfermedad,

Fecha en que entra en vigencia la póliza

que ocurra en o a partir de esta fecha será manejada por [ ]

Nombre de la compañía de seguros

El empleado o la persona que lo representa debe notificar al empleador cuando el empleado sufre una lesión o enfermedad en el trabajo a no más tardar de treinta (30) días después de que ocurrió la lesión o en la fecha en la que el empleado se enteró o debería de haberse enterado de la enfermedad, al menos que la División determine que existe un buen motivo para que no se haya notificado al empleador dentro del tiempo señalado. Su empleador está obligado a proporcionarle información acerca de la cobertura de seguro de compensación, por escrito cuando usted es contratado o cuando su empleador adquiere o deje de tener cobertura de seguro de compensación para trabajadores.

## ASISTENCIA AL EMPLEADO:

La División le proporciona información gratuita sobre como someter un reclamo de compensación para trabajadores. El personal de la División le explicará cuales son sus derechos y responsabilidades bajo la Ley de Compensación para Trabajadores de Texas y le asistirá para resolver disputas relacionadas con su reclamo. Usted puede obtener este tipo de asistencia comunicándose con la oficina local de la División al teléfono 1-800-252-7031.

## LÍNEA PARA REPORTAR CONDICIONES INSEGURAS:

La División ha establecido una línea gratuita telefónica que está en servicio las 24 horas del día, para reportar condiciones inseguras en el lugar de trabajo que pudiesen violar las leyes ocupacionales de salud y seguridad. La ley prohíbe que los empleadores suspendan, despidan o discriminen al empleado o empleada porque el o ella, de buena fe reporta una alegada violación ocupacional de salud o seguridad. Comuníquese con la Sección de Seguridad y Salud al teléfono 1-800-452-9595.



## **ORDINANCE NO. 20100729-047**

### **WORKING CONDITIONS AT CONSTRUCTION SITES**

#### **EMPLOYEE:**

A) Except as provided in Section (B) below, an employee performing construction activity at a construction site is entitled to a rest break of not less than ten (10) minutes for every four (4) hours worked. No employee may be required to work more than 3.5 hours without a rest break.

B) An employee is not entitled to rest breaks under Section (A) on any day that the employee works less than 3.5 hours or spends more than half of his or her work time engaged in non-strenuous labor in a climate-controlled environment.

C) An employer shall provide rest breaks in accordance with the requirements of this section. A rest break shall be scheduled as near as possible to the midpoint of the work period.

#### **EMPLOYER:**

A person who continues to violate the requirements of this ordinance after being notified of the offense in writing by an authorized City representative is subject to a civil penalty of not less than \$100 or more than \$500 for each day the violation occurs.

For information on filing a formal complaint, **call 3-1-1.**



## **ORDENANZA NÚM. 20100729-047**

### **CONDICIONES DE TRABAJO EN SITIOS DE CONSTRUCCIÓN**

#### **EMPLEADO:**

A) Excepto como se indica en la Subsección (B), todos los empleados (as) que lleven a cabo actividades de la construcción en un sito de construcción tienen derecho a un descanso de no menos de diez (10) minutos por cada cuatro (4) horas trabajadas. A ningún empleado se le puede exigir que trabaje más de 3.5 horas sin un descanso.

B) De acuerdo con la Subsección (A) de esta sección, los empleados no tienen derecho a tomar descansos en los días en que trabajen menos de 3.5 horas o en las cuales dediquen más de la mitad de su tiempo laboral a trabajo que no exija esfuerzo físico en ambientes con clima controlado.

C) El empleador debe proporcionar descansos de acuerdo con los requisitos en esta sección. Los periodos de descanso se programarán lo más cercano posible a la mitad del periodo de trabajo.

#### **EMPLEADOR:**

Toda persona que continúe infringiendo los requisitos de la presente ordenanza, después de recibir notificación por escrito de dicha violación, de un representante autorizado de la Ciudad, estará sujeto a una multa civil de no menos de \$100 o de más de \$500 por cada día en que ocurra la violación.

Para información de como someter una queja formal, **teléfono 3-1-1**.



# ATTENTION EMPLOYEES

The Texas Payday Law, Title 2, Chapter 61, Texas Labor Code, requires Texas employers to pay their employees who are exempt from the overtime pay provisions of the Fair Labor Standards Act of 1938 at least once per month. All other employees must be paid at least as often as semi-monthly and each pay period must consist as nearly as possible of an equal number of days.

Scheduled paydays: (You must indicate date or dates of the month for employees paid monthly or semi-monthly, and day of the week for employees paid weekly or at other times.)

MONTHLY \_\_\_\_\_

SEMI-MONTHLY \_\_\_\_\_

WEEKLY \_\_\_\_\_

OTHER \_\_\_\_\_

For more information write or contact the Texas Workforce Commission in Austin or contact your nearest TWC office. TWC offices are located in major cities throughout the state.

## TEXAS WORKFORCE COMMISSION

Labor Law Section

101 East 15th Street, Room 124T

Austin, Texas 78778-0001

1-800-832-9243

TDD 1-800-735-2989 (Hearing Impaired)

**TO EMPLOYERS:** The law requires that this notice or its equivalent be posted in conspicuous places at your business.



# ATENTO AVISO A LOS EMPLEADOS

La Ley Tejana del Salario Atrasado, Título II, Capítulo 61 del Código del Trabajo de Tejas, exige que los patrones de Tejas paguen no menos de una vez al mes a sus empleados que estén eximidos de las disposiciones de la ley de Normas Laborales Justas de 1938, en lo referente al pago de horas adicionales. A todos los demás empleados hay que pagarles no menos de dos veces mensuales, y cada período salarial debe, en la medida de lo posible, tener igual número de días.

Días de pago establecidos: (Hay que indicar en qué día(s) del mes se paga a los empleados con salario quincenal o mensual y en qué día de la semana en que se paga a los empleados pagados semanalmente o en algún otro período.)

MENSUAL

QUINCENAL

SEMANAL

OTRO PERIODO

Para mayores informes, sírvase escribir o llamar a la Comisión de la Fuerza Laboral de Tejas, Austin, Tejas 78778 o comunicarse con la oficina más próxima de la Comisión. Se encuentran oficinas de la Comisión en las principales ciudades del estado.

## TEXAS WORKFORCE COMMISSION

Labor Law Section

101 East 15th Street, Room 124T

Austin, Texas 78778-0001

1-800-832-9243 or TDD 1-800-735-2989 (Hearing Impaired)

*A LOS PATRONES: La ley requiere fijar este aviso, o un aviso equivalente, dentro de su empresa y a la vista de todos.*

**Bidding Requirements, Contract Forms Conditions of the Contract  
WAGE RATES AND PAYROLL REPORTING**

Section 00830Res

**WAGE RATE DETERMINATION**

**RESIDENTIAL CONSTRUCTION TYPE**

COUNTY NAME : TRAVIS

Wages based on DOL Prevailing Wage Rate General Decision:TX20200009 01/03/2020 TX20 and City of Austin Ordinance #20160324-015

***DOL Rate column is for information only. The Total Minimum Wage Rate is derived from the Adjusted Wage Rate Required pursuant to City Ordinance plus the DOL Fringes and can be met using any combination of cash and non-cash qualified fringe benefits, provided the cash component is at least \$15.00/hour.***

CLASSIFICATION	DOL RATE for info only	ADJUSTED WAGE RATE REQUIRED pursuant to City Ordinance	DOL FRINGES	TOTAL MINIMUM WAGE RATE REQUIRED
Air Conditioning Mechanic	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Bricklayer	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Carpenter	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Cement Mason/Concrete Finisher	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Electrician	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Floor Layer: Carpet (Soft) Floor	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Form Setter	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Insulation Installer	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Ironworker	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Laborers: Laborers	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Laborers: Pipelayers	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
*Lead Paint or Asbestos Abatement Worker	\$ 10.80	\$ 15.00		\$ 15.00
Painter	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Plumber	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Power Equipment Operators: Backhoe	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Power Equipment Operators: Front End Loaders	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Power Equipment Operators: Graders	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Power Equipment Operators: Rollers	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Roofer, including Built Up, Composition and Single Ply Roofs	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Sheet Metal Worker	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Sheet Rocker	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Truck Drivers	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.	\$ 10.80	\$ 15.00	\$ -	\$ 15.00

<http://www.wdol.gov/wdol/scafiles/davisbacon/tx.html>

Note: \*Lead Paint & Asbestos Abatement and Roofer, Metal Classifications have been added to this Prevailing Wage Rate Determination pursuant to a City of Austin Prevailing Wage Survey (trades absent from DOL).

The Wage Compliance information detailed below was excerpted from DOL General Decision TX170019 or other sources.

**1. Additional Trade information:**

Electricians\*\* - Including low voltage wiring for computers, fire/smoke alarms.

Elevator Mechanics\*\*\* - also must be paid for 8 holidays - New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving Day, Christmas Day, and Veterans Day.

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

Unlisted classifications needed for work not included within the scope of the classifications listed may be added upon the advance approval of City of Austin Contract Administration. CONTRACTOR shall submit to City of Austin Contract Administration for review the classification, a bona fide definition of work to be performed and a proposed wage with sample payrolls conforming to area practice prior to the start of the job for that type of work.

**2. Wages**

The Total Wage may be met by any combination of cash wages and credible "bona fide" fringe benefits paid for by the employer. Overtime wages must be calculated using the Adjusted Wage Rate specified in the Wage Rate Determination or the actual basic rate of pay, whichever is higher.

City of Austin Ordinance No. 20160324-015 requires that construction workers are paid a Minimum Wage of at least \$15.00/hour. The cash portion of their compensation must meet or exceed this amount.

**3. Crediting fringe benefit contributions to meet DBA/DBRA and City of Austin requirements:**

The Davis-Bacon Act (and 29 CFR 5.23), list fringe benefits to be considered. Examples are:

- > Life Insurance
- > Health Insurance
- > Pension
- > Vacation
- > Holidays
- > Sick Leave

Note: The use of a truck is not a fringe benefit; a Thanksgiving turkey or Christmas bonus is not a fringe benefit. No credit may be taken for any benefit required by federal, state, or local law such as: workers compensation, unemployment compensation; or social security contributions.

Contributions to fringe benefit plans must be made regularly, e.g. daily, weekly, etc. They must be more frequent than quarterly. (see 29 CFR 5.5 (a)(1)(I)) A periodic bonus may not be counted as a fringe benefit.

**4. Annualization of Benefit Costs**

If a firm provides an electrician with \$200 per month medical insurance, to calculate allowable fringe benefit credit contributions per hour, the formula ( [\$200 x 12 months] divided by 2080 hours = \$1.15 per hour ) should be used.

**5. Proper Designation of Trade**

A work classification on the wage decision for each worker must be made based on the actual type of work he/she performed and each worker must be paid no less than the wage rate on the wage decision for that classification regardless of his or her level of skill.

**6. Split Classification**

If a firm has employees that perform work in more than one classification, it can pay the wage rates specified for each classification ONLY if it maintains accurate time records showing the amount of time spent in each classification. If accurate time records are not maintained, these employees must be paid the highest wage rate of all the classifications of work performed by each worker. Accurate time records tracking how many hours a worker performed the work of one trade and then switched to another trade must be accounted for on a daily basis and reflected on Employer Certified Payroll accordingly.

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

=====

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)).

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

#### 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.

=====

**Bidding Requirements, Contract Forms Conditions of the Contract**  
**WAGE RATES AND PAYROLL REPORTING**  
 Section 00830Res

**DETERMINACIÓN DE LA TASA SALARIAL**

**TIPO DE CONSTRUCCIÓN; RESIDENTIAL**

**NOMBRE DEL CONDADO : TRAVIS**

Salarios basados en la decisión general del DOL: TX20200009 01/03/2020 TX19 y el estatuto de la ciudad de Austin #20160324-015

***La columna del salario señalado por el DOL es meramente información. El salario mínimo total es el ajuste del salario requerido según el estatuto de la ciudad de Austin, el salrio puede ser combinado de pago en efectivo, más el pago de incentivos complementarios que no sean en efectivo, siempre y cuando el componente a pagar sea por lo menos de \$15.00/hora.***

Clasificación	DOL infor. de salario unicament e	Salario requerido conforme a la ciudad de Austin	Beneficios suplementario s	Total del salario mínimo requerido
Air Conditioning Mechanic	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Bricklayer	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Carpenter	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Cement Mason/Concrete Finisher	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Electrician	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Floor Layer: Carpet (Soft) Floor	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
Form Setter	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
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Ironworker	\$ 10.80	\$ 15.00	\$ -	\$ 15.00
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Note: \*Lead Paint & Asbestos Abatement and Roofer, Metal Classifications have been added to this Prevailing Wage Rate Determination pursuant to a City of Austin Prevailing Wage Survey (trades absent from DOL).

The Wage Compliance information detailed below was excerpted from DOL General Decision TX20200009 or other sources.

**1. Additional Trade information:**

Electricians\*\* - Including low voltage wiring for computers, fire/smoke alarms.

Elevator Mechanics\*\*\* - also must be paid for 8 holidays - New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving Day, Christmas Day, and Veterans Day.

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**2. Wages**

The Total Wage may be met by any combination of cash wages and credible "bona fide" fringe benefits paid for by the employer. Overtime wages must be calculated using the Adjusted Wage Rate specified in the Wage Rate Determination or the actual basic rate of pay, whichever is higher.

City of Austin Ordinance No. 20160324-015 requires that construction workers are paid a Minimum Wage of at least \$15.00/hour. The cash portion of their compensation must meet or exceed this amount.

**3. Crediting fringe benefit contributions to meet DBA/DBRA and City of Austin requirements:**

The Davis-Bacon Act (and 29 CFR 5.23), list fringe benefits to be considered. Examples are:

- > Life Insurance
- > Health Insurance
- > Pension
- > Vacation
- > Holidays
- > Sick Leave

Note: The use of a truck is not a fringe benefit; a Thanksgiving turkey or Christmas bonus is not a fringe benefit. No credit may be taken for any benefit required by federal, state, or local law such as: workers compensation, unemployment compensation; or social security contributions.

Contributions to fringe benefit plans must be made regularly, e.g. daily, weekly, etc. They must be more frequent than quarterly. (see 29 CFR 5.5 (a)(1)(i)) A periodic bonus may not be counted as a fringe benefit.

**4. Annualization of Benefit Costs**

If a firm provides an electrician with \$200 per month medical insurance, to calculate allowable fringe benefit credit contributions per hour, the formula ( [\$200 x 12 months] divided by 2080 hours = \$1.15 per hour ) should be used.

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**6. Split Classification**

If a firm has employees that perform work in more than one classification, it can pay the wage rates specified for each classification ONLY if it maintains accurate time records showing the amount of time spent in each classification. If accurate time records are not maintained, these employees must be paid the highest wage rate of all the classifications of work performed by each worker. Accurate time records tracking how many hours a worker performed the work of one trade and then switched to another trade must be accounted for on a daily basis and reflected on Employer Certified Payroll accordingly.

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

=====

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)).

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

#### 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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# Exhibit J

Standard Form 1413

**STATEMENT AND ACKNOWLEDGMENT**

OMB Control Number: 9000-0066

Expiration Date: 4/30/2022

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0066. We estimate that it will take .05 hours to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing this burden, or any other aspects of this collection of information to: U.S. General Services Administration, Regulatory Secretariat Division (M1V1CB), 1800 F Street, NW, Washington, DC 20405.

**PART I - STATEMENT OF PRIME CONTRACTOR**

1. PRIME CONTRACT NUMBER		2. DATE SUBCONTRACT AWARDED		3. SUBCONTRACT NUMBER	
4. PRIME CONTRACTOR				5. SUBCONTRACTOR	
a. NAME				a. NAME	
b. STREET ADDRESS				b. STREET ADDRESS	
c. CITY		d. STATE	e. ZIP CODE	c. CITY	
				d. STATE	
				e. ZIP CODE	
6. The prime contract <input type="checkbox"/> does, <input type="checkbox"/> does not contain the clause entitled "Contract Work Hours and Safety Standards Act -- Overtime Compensation."					
7. The prime contractor states that under the contract shown in Item 1, a subcontract was awarded on the date shown in Item 2 to the subcontractor identified in item 5 by the following firm:					
a. NAME OF AWARDDING FIRM					
b. DESCRIPTION OF WORK BY SUBCONTRACTOR					

8. PROJECT		9. LOCATION	
10a. NAME OF PERSON SIGNING		11. BY (Signature)	
10b. TITLE OF PERSON SIGNING			
		12. DATE SIGNED	

**PART II - ACKNOWLEDGMENT OF SUBCONTRACTOR**

13. The subcontractor acknowledges that the following clauses of the contract shown in Item 1 are included in this subcontract:

Contract Work Hours and Safety Standards Act - Overtime Compensation (If included in prime contract see Block 6)	Construction Wage Rate Requirements
Payrolls and Basic Records	Apprentices and Trainees
Withholding of Funds	Compliance with Copeland Act Requirements
Disputes Concerning Labor Standards	Subcontracts (Labor Standards)
Compliance with Construction Wage Rate Requirements and Related Regulations	Contract Termination - Debarment
	Certification of Eligibility

14. NAME(S) OF ANY INTERMEDIATE SUBCONTRACTORS, IF ANY

A		C	
B		D	
15a. NAME OF PERSON SIGNING		16. BY (Signature)	
15b. TITLE OF PERSON SIGNING			
		17. DATE SIGNED	

# Exhibit K

**Davis Bacon Terms and Conditions For  
Cooperative Agreements with Cleanup Activities  
using Hazardous Waste Funding - Governmental  
Entities**

**Davis Bacon Terms and Conditions For**  
**Cooperative Agreements with Cleanup Activities using Hazardous Waste**  
**Funding - Governmental Entities**

DAVIS BACON PREVAILING WAGE TERM AND CONDITION

The following terms and conditions specify how the Subgrantee will assist EPA and the City in meeting their Davis-Bacon (DB) responsibilities when DB applies to EPA awards of financial assistance under CERCLA 104(g), 104(k), and any other statute which makes DB applicable to EPA financial assistance. If the Subgrantee has questions regarding when DB applies, obtaining the correct DB wage determinations, DB contract provisions, or DB compliance monitoring, the Subgrantee should contact the City so the City may contact the regional Brownfields Coordinator or Project Officer at the EPA.

1. Applicability of the Davis Bacon Prevailing Wage Requirements

For the purposes of these terms and conditions, EPA has determined that all construction, alteration and repair activity involving the remediation of hazardous substances, including excavation and removal of hazardous substances, construction of caps, barriers, structures which house treatment equipment, and abatement of contamination in buildings, is subject to DB. If Subgrantee encounters a unique situation at the Site that presents uncertainties regarding DB applicability, the Subgrantee must discuss the situation with the City before authorizing work on the Site.

2. Obtaining Wage Determinations

- (a) Unless otherwise instructed by the EPA or the City on a project specific basis, the Subgrantee shall obtain from the City the proper wage determinations for all work on asbestos abatement activities to be performed at the Site. The EPA requires use of the following DOL General Wage Classifications for the locality in which the construction activity subject to DB will take place (Austin, Travis County, Texas). Wage determinations for specific localities are found at <https://beta.sam.gov/>.
  - (i) When soliciting competitive contracts or issuing task orders, work assignments or similar instruments to existing contractors (ordering instruments) for the excavation and removal of hazardous substances, construction of caps, barriers, and similar activities that do not involve construction of buildings, the EPA requires use of the “Heavy Construction” Classification.
  - (ii) When soliciting competitive contracts or issuing ordering instruments for the construction of structures which house treatment equipment, and abatement of contamination in buildings (other than residential structures less than 4 stories in height), the EPA requires use of the “Building Construction” classification.
  - (iii) When soliciting competitive contracts or issuing ordering instruments for the abatement of contamination in residential structures less than 4 stories in height,

the EPA requires use of the “Residential Construction” classification. **Note that the project’s scope at the time of the execution of this Agreement will require use of Residential Construction classification.**

Note: The Subgrantee must discuss unique situations that may not be covered by the General Wage Classifications described above with the City. If, based on discussions with the Subgrantee, the City determines that DB applies to a unique situation, the City will advise the Subgrantee which General Wage Classification to use based on the nature of the construction activity at the site. *Prior to using requests for bids, proposals, quotes or other methods of soliciting contracts (solicitation), the Subgrantee must obtain from the City the proper City-approved wage determination classification. At this time, the project scope and contract contemplated will require use of the Residential Construction classification. If there is work that must be performed at the Site and that work is not covered by the Residential Construction classification provided, the Subgrantee must notify the City immediately so that the City can make a determination as to how to classify this work activity not covered by the Residential Construction classification.*

**(b) The Subgrantee shall obtain, from the City, the City-approved wage determination prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for the asbestos abatement activities. These City-approved wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.**

- (i) While the solicitation remains open, the Subgrantee shall monitor <https://beta.sam.gov/> on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The Subgrantee shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, and if Subgrantee requests that the City do so, the City may request a finding from EPA that there is not a reasonable time to notify interested contractors of the modification of the wage determination. EPA will provide a report of the Agency’s finding to the City, and the City will in turn notify the Subgrantee of that finding.
- (ii) If the Subgrantee does not award the contract within 90 days of the closure of the solicitation, any modifications or determination contained in the solicitation shall be effective unless EPA, at the request of the City (on behalf of the Subgrantee), obtains an extension of the 90-day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The Subgrantee shall monitor <https://beta.sam.gov/> on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.
- (iii) If the Subgrantee carries out Brownfield cleanup activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the Subgrantee shall insert the



appropriate DOL wage determination from <https://beta.sam.gov/> into the ordering instrument. If the City provides the appropriate DOL wage determination, then the Subgrantee will use the wage determination provided by the City. If the DOL wage determination is less than the City's prevailing wage rate (\$15.00 per hour), then the Subgrantee will use the City's prevailing wage rate.

(c) The Subgrantee shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a Subgrantee's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the Subgrantee has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the Subgrantee shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The Subgrantee's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

### 3. Contract and Subcontract Provisions

(a) The Subgrantee shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to DB, the following labor standards provisions.

#### (1) Minimum wages.

(i) 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 applicable wage determination of the Secretary of Labor which the Subgrantee obtained under the procedures specified in Item 2, above, 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

paragraph (a)(1)(iv) of this section; 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 § 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 paragraph (a)(1)(ii) of this section) 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. The Subgrantee shall require that the contractor and subcontractors post the bulletins in Exhibit I, which include a bulletin providing the name of the City employee or official responsible for monitoring compliance with DB.

(ii)(A) The Subgrantee, on behalf of the City and EPA, shall require that contracts and subcontracts entered into under this agreement provide that 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. The EPA Award Official shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

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

(ii)(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, the Subgrantee, and the City 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 the City to the EPA Award Official. The Award Official will transmit the report, to the Administrator of the Wage and Hour Division, Employment 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 the award official or will notify the award official within the 30-day period that additional time is necessary.

(ii)(C) In the event the contractor, the laborers, or mechanics to be employed in the classification or their representatives, the Subgrantee, and the City do not agree on the

proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the questions, including the views of all interested parties and the recommendation of the award official, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the Award Official within the 30-day period that additional time is necessary.

(ii)(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, 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.

(1) Withholding. The City, upon written request of the Award Official or an authorized representative of the Department of Labor, shall withhold or cause to withhold 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, EPA may, after written notice to the contractor, or City 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.

## (2) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. 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

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.

(ii)(A) The Subgrantee shall require the contractor to submit weekly for each week in which any contract work is performed a copy of all payrolls to the Subgrantee. The Subgrantee is required to submit these weekly payrolls to the City. 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 website at <https://www.dol.gov/whd/forms/wh347.pdf> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the City for transmission to the EPA, if requested by EPA, 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 section 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 the Subgrantee or City.

(ii)(B) Each payroll submitted to the Subgrantee (and, in turn, to the City) 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 § 5.5 (a)(3)(ii) of Regulations, 29 CFR Part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR Part 5, 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 Regulations, 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.

(ii)(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 paragraph (a)(3)(ii)(B) of this section.

(ii)(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 paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the EPA 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, EPA may, after written notice to the contractor, City, Subgrantee, 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 classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor 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 this part 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 Subgrantee shall require the contractor or subcontractor to insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA may by appropriate instructions require, 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 these terms and conditions.

(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), the City, the Subgrantee, EPA, the U.S. Department of Labor, or their employees or their representatives.

(10) Certification of eligibility.

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

(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).

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