

PROFESSIONAL SERVICES AGREEMENT
for
PUBLIC HOUSING ARMED SECURITY GUARDS

This Professional Services Agreement (the “Agreement”), dated as of November 27, 2019, by and between National Security and Investigations, LLC (“the Contractor”) and the Community Development Authority of the City of Madison, a Wisconsin housing and community development authority authorized by Wis. Stat. s. 66.1335 and public body corporate and politic (the “CDA”);

WHEREAS, the CDA solicited and reviewed proposals from firms qualified to provide assistance to CDA consistent with the Scope of Work described in Section 3 below; and

WHEREAS, the Contractor is qualified, duly authorized and willing to provide the requested services.

NOW THEREFORE, in consideration of the terms, conditions, covenants and representations contained herein, or incorporated and made a part hereof, the parties hereto agree as follows:

1. **TERM OF AGREEMENT.** Subject to the termination rights set forth in Section 9 herein, the term of this agreement shall be for one (1) year, commencing on January 13, 2020 and expiring on January 12, 2021 (the “Term”), with renewal options as set forth below. This Contract shall not take effect until fully executed by both parties.
2. **RENEWAL.** This Agreement may be renewed at the CDA’s option upon the same terms for up to four (4) additional one (1) year renewal terms. CDA will notify the Contractor not less than sixty (60) days prior to the expiration of the current term of its intent to renew or not renew this Contract. To effectuate the renewal, the parties shall execute a renewal document in an agreed format to be signed by authorized representatives of both parties. If the parties renew this Agreement, then said time period will become part of the Term.
3. **SCOPE OF WORK.** The Contractor shall furnish the necessary personnel and equipment to perform security work at the locations listed in **Attachment A** (the “Properties”) and as required by CDA. The Contractor shall work in cooperation with the CDA site managers and the Madison Police Department, to ensure proper completion and operation of the tasks under this Agreement. The Contractor shall perform all work in accordance with the requirements of this Agreement, including the following Attachments:

Attachment A: Properties

Attachment B: Core Schedule

Attachment C: CDA Security Patrol Operation Guidelines

Attachment D: General Conditions for Non-Construction Contracts, HUD form 5370-C, Section I

The duties of the Contractor’s Security Guards (the “guards”) shall include, but not be limited to, the following:

- Patrol interior and exterior of buildings, grounds, and parking lots at random intervals. Inspect and secure vacant units as needed.
- Report to police suspicious, irregular, or illegal activities and/or individuals including domestic disputes.
- Enforce CDA policies for parking violations, trespassing, banned from property and noise complaints.
- Observe, document, and, when needed, verify identification of persons on the property.
- Complete Daily Activity and Incident Reports and ensure all activity occurring during shift is recorded to include, but not be limited to, any unusual and suspicious activity.
- Report any maintenance problems or property damage to CDA staff.
- Report any safety concerns or fire hazards in accordance with the CDA Security Patrol Operation Guidelines (Attachment C).
- Testify at CDA eviction trials and tenant grievance meetings.
- Act as a first responder to all emergencies as needed.
- Monitor all CDA sites for improper or illegal dumping of trash, furniture or any debris into common areas and/or CDA property.

4. SECURITY GUARD REQUIREMENTS. All security guards shall meet the following minimum requirements and qualifications:

- Provide outstanding customer service to residents and CDA staff.
- Be able to communicate orally and in writing fluently in English with the ability to receive, give, and understand written and verbal instructions and procedures.
- Be physically and mentally qualified to perform the requirements of this specification.
- Be knowledgeable of the specification requirements and CDA instructions to ensure strict compliance with requirements is maintained.
- Be able to carry tools such as radios, flashlights, and operate the equipment necessary to perform patrol duties throughout the shift.
- Be trained and hold a valid certification in First aid, CPR and AED deployment.
- Be qualified and licensed to carry firearms and other less-than-lethal weapons, such as batons, chemical sprays, etc. Carry of weapons shall be authorized by the CDA. Upon approval to carry weapons, the vendor shall furnish proof to CDA verifying security guards are qualified and have been trained. CDA reserves the right to deny or revoke approval of any guard to carry weapons.
- Enforce unauthorized personnel are not permitted on CDA grounds or in facilities at any time.
- Security Guards shall be able to maintain a visible presence on the properties, to assist in enforcing the CDA rules, and inform residents and guests of CDA rules and trespass policies.
- Respond to/ report complaints about other residents, visitors or guests.

The parties acknowledge that continuity of security personnel within each CDA neighborhood fosters familiarity and cohesiveness within the neighborhood and promotes cooperation between residents, CDA staff, and public and private safety officers. Therefore, the contractor will strive to maintain one (1) primary guard (defined as a guard who will work the majority of the available scheduled days) at each designated primary location with secondary guards to work the remaining days each week. The Contractor shall be responsible for providing any

relief personnel. The CDA will not provide employees for service relief at any time.

- a. Guard Supervision. The Contractor shall supervise the security personnel provided under this contract and shall be solely responsible for their performance. The Contractor's agents and employees shall conform to the highest standards of protection service. The Contractor agrees to remove from service hereunder any of its agents or employees upon request of CDA. Without limiting the Contractor's responsibility, the Contractor's agents and employees shall conform to the CDA's rules and regulations at the properties in accordance with written instructions that the CDA may issue from time to time.
- b. Uniforms. Guards shall be outfitted with CDA approved uniforms, identification and other equipment as needed and as deemed acceptable by the CDA. Uniforms shall identify the individual as security and must be worn at all times while on duty. All personnel dispatched to serve within the scope of services herein shall be professionally uniformed at the sole expense of the Contractor.
- c. Background Checks. The Contractor shall conduct a criminal background investigation on all employees and agents furnished as security personnel at any and all CDA Properties and subject to Sec.111.31 et seq. Wis. Stats. shall not allow any employee or agent to perform security services at the Properties if that employee or agent has a conviction record involving any of the following:
 - i. Class A misdemeanor, or
 - ii. Felony, or
 - iii. Class B and C misdemeanor if misdemeanor occurred within the last three (3) years (excluding traffic crimes except those listed in paragraph d. below), or
 - iv. Second-offense or higher violations of the following: Operating Under the Influence of an Intoxicant or Other Drug, Operating with a Detectable Amount of Controlled Substance, Operating with a Prohibited Alcohol Concentration, or any other violation under Wis. Stat. sec. 346.63 that is charged as a misdemeanor or felony.

Before allowing any employee or agent to perform security services at the Properties, Contractor shall (if requested by CDA) furnish the CDA with copies of all such investigation materials and a copy of employee's resume and driver's license record under this Agreement.

- d. Armed Guards. Contractor shall only assign armed security personnel under this Agreement, if:
 - i. Contractor holds all permits required for the security agency by the Wisconsin DSPS for the Contractor to employ and utilize armed private security personnel; and
 - ii. all employees assigned as armed security personnel at CDA properties under this Agreement have been issued and continue to hold valid, current permits and certifications required by the Wisconsin DSPS to carry a firearm and go armed as a private security person, including but not limited to a certification of proficiency to carry a firearm (a Wisconsin Concealed Carry license alone is not considered adequate under this Agreement); and

- iii. all armed employees must follow all rules established by the Wisconsin DSPS for performing armed private security guard work and all other applicable laws and regulations and hold any other permits that may be required by law.
- e. Firearms and Other Weapons. Contractor agrees to operate in compliance with Wisconsin Administrative Code Chapter SPS 34, and all other applicable regulations, at all times while performing work under this Agreement. Contractor's guards may carry any other type of lawful weapon only if approved by Contractor and CDA, and in compliance with all laws applicable to such weapons.
- f. Equipment.
 - i. Phones. The CDA shall supply a cell phone at each site office which will be equipped with SilverTrac Guard Management, an application that tracks the patrol routes as more specifically described in Attachment C. The phones shall also be programmed with the phone numbers to contact CDA staff and Madison Police and Fire Departments. Guards shall use the CDA provided cell phones as required by Attachment C and elsewhere in this Contract. The Contractor shall report to the CDA immediately if a CDA issued cell phone is broken, lost, or stolen.
 - ii. Other equipment. Contractor shall supply all other necessary equipment. Security personnel shall use equipment and/or supplies owned by the CDA or its affiliates only with the express permission of the CDA.
- g. Patrol Vehicles. The Contractor shall provide and maintain all vehicles needed to transport guards between the various Properties.
- h. Keys. Guards will be issued keys the properties by the CDA Site Manager. The Contractor is responsible for returning property keys to the security office daily and for reporting to the CDA Site Manager when keys are lost or stolen. The Contractor is responsible for all costs associated with replacing keys lost or stolen by Contractor personnel.
- i. Guard Training. Prior to assignment to the Properties and on a regular basis, the Contractor shall train its employees and agents on the following topics:
 - i. Legal restrictions/responsibility/authority;
 - ii. Communications procedures/radio and telephone;
 - iii. CDA Security Patrol Operation Guidelines (Attachment C);
 - iv. CDA security guard management application;
 - v. Safety vulnerabilities and principles;
 - vi. Public relations; and
 - vii. Tactical awareness and threat assessment.

All the Contractor's agents and employees must demonstrate satisfactory knowledge of Wisconsin law as it pertains to private security, arrest, search and seizure. The Contractor must certify this training of Wisconsin law has taken place prior to the assignment of personnel to the CDA, and re-certify each person once yearly subsequent to their initial assignment to CDA premises.

- j. Use of Trainees. Contractor may assign a new employee, designated as a “Trainee,” if the Trainee has been issued a temporary private security guard permit under Wis. Stat. sec. 440.26(5r). Contractor agrees that during such time the Trainee shall obtain all required permit(s) and shall not work as the primary guard on any Property without express prior approval of CDA. A Trainee shall not work on CDA property after expiration of the temporary permit unless s/he has been issued the required permit(s) and Contractor has provided a copy to CDA. Contractor shall not allow a Trainee whose permit has been denied to work on CDA property. A copy of all required private security or private detective permits and certificates of proficiency to carry a firearm (if applicable) shall be provided to CDA upon request and shall be posted in the respective office(s) where the employee works, if an office is provided under this Agreement.
- k. Permits and Licensing. The Contractor shall perform all security work in a thorough and professional manner in conformance with the accepted methods and practices and at all times be in strict compliance with all federal, state, and local ordinances, laws and regulations. The Contractor shall obtain and pay for all necessary permits, training, approvals and acceptances required by law.

All Contractor employees furnished as security personnel under this Agreement shall hold a valid, current private security guard permit (or private detective license if considered the equivalent by the State) issued by the Wisconsin Department of Safety and Professional Services (DSPS).

Contractor shall, upon request of CDA, furnish CDA with copies of all such permits or licenses and (re)certifications *before* assigning the employee to perform security services under this Agreement, and if requested by CDA, shall obtain CDA’s approval of the employee *before* that employee performs any such services. CDA’s approval will also include a review of the criminal background investigation materials required under Sec. I.

- l. Alcohol and Drug Consumption: Guards shall not consume alcoholic beverages eight (8) hours prior to reporting for duty nor on the job at any time. Guards shall not consume illegal controlled substances at any time prior to or while on the job. All guards shall conduct themselves in a professional manner at all times while on the job.

5. SCHEDULE OF SERVICES.

- a. The guard’s daily schedules for providing security services shall include the Core Hours listed in **Attachment B** but shall be determined by and finalized with each CDA Site Manager on a weekly basis.
- b. Contractor shall provide security coverage daily and including the following holidays: Memorial Day, Independence Day, Labor Day, and New Year’s Eve. Additional time may be required for security employees to appear in court, at grievance hearings or other meetings on behalf of CDA. No more than twenty percent (20%) of the security personnel’s on-duty time shall be spent in CDA workstations.
- c. The CDA reserves the right to set and revise the schedule of hours and the number of hours worked depending on the hourly rates proposed and/or the needs of the particular site. This

schedule may be changed by CDA by providing written notice to the Contractor. Any such changes shall be implemented within ten (10) working days after the mailing of CDA's written notice. The CDA reserves the right to request the change or removal of any security employee from the CDA schedule without notice.

6. REPORTS. The Contractor shall submit a Daily Activity Report on a daily basis to the CDA Site Manager via the SilverTrac Guard Management Application. Incident Reports and Safety Inspection Reports should be completed as assigned through the SilverTrac Guard Management Application and submitted electronically with the Daily Activity Report to the CDA Site Manager.

7. COMPENSATION.

- a. Start-Up Fee. The CDA shall pay a one-time start-up fee in the amount of \$8,000 within seven (7) days of the contract date of signature.
- b. The Contractor agrees to perform all of the work set forth in the Agreement. Such compensation shall constitute full and complete payment for work performed and/or services rendered and for all supervision, labor, supplies, materials, equipment or use thereof, and for all other expenses and incidentals necessary to complete all of the work.

Contractor shall submit monthly invoices to the CDA Contract Representative. Invoices shall include the site location, identifying date, day, hours worked, total hours worked per day, number of officers on duty per day, dollar amount per day, total hours and total dollar amount.

The cost of services shall be billed on an hourly basis and in strict conformity with the schedule and hours of service requested and approved by the CDA Site Manager, according to the procedures in Section 5. CDA reserves the right to withhold payment for any hours worked outside of the schedules approved by CDA through the procedures in Section 5.

Fees for security guard services provided by the Contractor under this Agreement shall be as follows:

Non-Holidays (Armed \$34.00)

Holiday (Armed \$51.00)

CDA agrees to submit payment for services to Contractor within 30 days of invoice. CDA reserves the right to withhold payment for services which were rendered contrary to the requirements, as set forth in Sections 3, 4 and 5 or any other term of this Agreement.

8. CONTRACT ADMINISTRATION. This contract shall be managed for CDA by Deborah Rakowski (the "CDA Contract Representative"). Communication between the Contractor and the CDA relating to personnel assignment, problems, or duty changes shall be through the CDA Site Managers and the Contractor designated supervisor.

9. RECORDS. All of the documents, materials, files, reports, data, etc., related to this Agreement which the Contractor prepares or receives are the sole property of the CDA as described in paragraph 5 of Attachment D, "Rights in Data (Ownership and Proprietary Interest.*)" The Contractor will not publish any such materials or use them for any research or publication, other than work required by this Agreement, without the written permission of the CDA.

The Contractor agrees to make its records related to this Agreement available to CDA or U.S. Department of Housing and Urban Development staff at any reasonable time and shall comply with the requirements of paragraph 3 of Attachment D, "Examination and Retention of Contractor's Records."

10. NOTICES. All notices, consents, request, authorizations and approvals (collectively "Notices") permitted or required under this Agreement shall make specific reference to the fact that the Notice is made pursuant to the Agreement, and shall be in writing, signed, and personally delivered, or sent by confirmed facsimile copy, or registered or certified mail, return receipt requested. The date of personal delivery or date of mailing by United States Postal Service registered or certified mail shall be considered the date of the Notice.

If to the CDA: Community Development Authority of the City of Madison
215 Martin Luther King Jr Boulevard
Room 161
Madison, Wisconsin 53703

If to Contractor: National Security and Investigations, LLC
Attn: David Kirmsse
E3320 Bunker Road
Waupaca, Wisconsin 54981

11. TERMINATION. This Agreement may be terminated:

- a. In the event that the Contractor shall default in any of the covenants, provisions, commitments, or conditions herein contained, and any such default shall continue unremedied for a period of ten (10) days after written notice, the CDA may at its option and in addition to all other rights and remedies which it may have at law or in equity against the Contractor, including expressly the specific enforcement hereof and nonpayment of services rendered contrary to the terms of the Agreement, have the cumulative right to immediately terminate the Agreement and all rights of the Contractor under this Agreement. A termination for default under this paragraph shall also be subject to the procedures, rights and remedies in Paragraph 3 of Attachment D.
- b. Notwithstanding Clause A above, the CDA reserves the right to terminate this Agreement at any time for the convenience of the CDA upon fifteen (15) days written notice to the Contractor. In the event of termination for convenience, the CDA will pay the Contractor for all services satisfactorily completed prior to the effective date of the termination.

12. INDEMNIFICATION AND INSURANCE

- a. Indemnification. The Contractor shall be liable to and hereby agrees to indemnify, defend and hold harmless the Community Development Authority of the City of Madison, and the City of Madison, and their respective officers, officials, board members, agents, and employees (the “Indemnified Parties”) against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the Indemnified Parties for damages (including, but not limited to property damage, personal injury, wrongful detention, wrongful arrest, civil rights violations, bodily injury, assault and battery, and loss of life) sustained by any person or persons, or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the Contractor's and/or any Subcontractor's acts or omissions in the performance of this agreement, whether caused by or contributed to by the negligence of the Indemnified Parties. The obligations of Contractor under this paragraph shall survive the expiration or termination of this Agreement.
- b. Insurance. The Contractor shall maintain at all times during this Agreement the following insurance coverages:
 - i. Commercial General Liability. Commercial General Liability insurance, including, but not limited to contractual liability, personal injury, bodily injury, assault and battery, and property damage insurance coverage issued by a company or companies authorized to do business in the State of Wisconsin, with liability coverage provided for therein in the amount of \$1,000,000 per occurrence, covering the Contractor as primary and listing the Community Development Authority of the City of Madison, the City of Madison, and their respective officers, officials, board members, agents and employees as additional insureds.
 - ii. Business Automobile Liability. The Contractor shall procure and maintain during the life of this contract Business Automobile Liability insurance covering owned, non-owned and hired automobiles with limits of not less than \$1,000,000 combined single limit per accident.
 - iii. Worker’s Compensation. The Contractor shall procure and maintain during the life of this contract statutory Workers’ Compensation insurance as required by the State of Wisconsin. The Contractor shall also carry Employers Liability limits of at least \$100,000 Each Accident, \$100,000 Disease – Each Employee, and \$500,000 Disease – Policy Limit.
 - iv. Umbrella Liability. Umbrella Liability coverage at least as broad as the underlying Commercial General Liability, Business Automobile Liability, and Employers Liability with minimum limits of \$5,000,000 per occurrence and aggregate and listing the Community Development Authority of the City of Madison, the City of Madison, and their respective officers, officials, board members, agents and employees as additional insureds.
 - v. Third Party Dishonesty. Third Party Dishonesty coverage, covering the acts of

Contractor and Contractor's employees, providing coverage for the theft of the Community Development Authority of the City of Madison's, City of Madison's or others' property (including, but not limited to money, securities, and personal property) in an amount not less than \$50,000.

- vi. Professional Liability. The Contractor shall procure and maintain professional liability insurance with coverage of not less than \$3,000,000. If such policy is a "claims made" policy, all renewals thereof during the life of the contract shall include "prior acts coverage" covering at all times all claims made with respect to Contractor's work performed under the contract. This Professional Liability coverage must be kept in force for a period of six (6) years after the termination or expiration of this Agreement.
- c. Acceptability of Insurers. The above-required insurance is to be placed with insurers who have an A.M. Best rating of no less than A- (A minus) and a Financial Category rating of no less than VII.
- d. Proof of Insurance, Approval. The Contractor shall provide the CDA with certificate(s) of insurance showing the type, amount, class of operations covered, effective dates, and expiration dates of required policies prior to commencing work under this Contract. Contractor shall provide the certificate(s) to the CDA's representative upon execution of the contract, or sooner, for approval by the City Risk Manager. The Contractor shall provide copies of additional insured endorsements or insurance policies, if requested by the City Risk Manager.

The Contractor and/or Insurer shall give the CDA thirty (30) days advance written notice of cancellation, non-renewal or material changes to any of the above-required policies during the term of this Contract.

In the event that the insurance coverages required herein are not maintained, the CDA shall have the right, in addition to any other remedies, to terminate this Agreement even if this act of default has been remedied at the time of receipt of the CDA's notice of cancellation of the coverage. Further, in the event of a lapse of insurance policies or coverage and protection as required by this Agreement, the CDA may, without notice of default, declare this Agreement terminated in addition to all other rights and remedies which it may have at law or in equity against the Contractor, including expressly the specific enforcement of this requirement of this Agreement.

13. NONDISCRIMINATION AND AFFIRMATIVE ACTION.

- a. Non-Discrimination. In the performance of work under this Agreement, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs or student status. Contractor further agrees not to discriminate against any subcontractor or person who

offers to subcontract on this Agreement because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.

B. **Affirmative Action.** All references to the amount of aggregate annual business with the City of Madison or “City” in this subsection A. refers to annual aggregate business with both the City of Madison and the CDA. In Article VII, the remedies available to the City shall also be available to the CDA.

i. **The following language applies to all contractors employing fifteen (15) or more employees (Madison General Ordinances, sec. 39.02(9)(c).)**

The Contractor agrees that, within thirty (30) days after the effective date of this Contract, Contractor will provide to the City of Madison Department of Civil Rights (the “Department”), certain workforce utilization statistics, using a form provided by the City.

If the Contract is still in effect, or if the City enters into a new agreement with the Contractor, within one year after the date on which the form was required to be provided, the Contractor will provide updated workforce information using a second form, also to be furnished by the Department. The second form will be submitted to the Department no later than one year after the date on which the first form was required to be provided.

The Contractor further agrees that, for at least twelve (12) months after the effective date of this Contract, it will notify the Department of each of its job openings at facilities in Dane County for which applicants not already employees of the Contractor are to be considered. The notice will include a job description, classification, qualifications, and application procedures and deadlines, shall be provided to the Department by the opening date of advertisement and with sufficient time for the Department to notify candidates and make a timely referral. The Contractor agrees to interview and consider candidates referred by the Department, or an organization designated by the Department, if the candidate meets the minimum qualification standards established by the Contractor, and if the referral is timely. A referral is timely if it is received by the Contractor on or before the date stated in the notice.

The Department will determine if a contractor is exempt from the above requirements at the time the Request for Exemption in 14.B.ii.(2) is made.

ii. **Articles of Agreement, Request for Exemption, and Release of Payment:**
The “ARTICLES OF AGREEMENT” beginning on the following page, apply to all contractors, unless determined to be exempt under the following table and procedures:

NUMBER OF EMPLOYEES	LESS THAN \$50,000 Aggregate Annual Business with the City*	\$50,000 OR MORE Aggregate Annual Business with the City*
14 or less	Exempt**	Exempt**
15 or more	Exempt**	Not Exempt

*As determined by the Finance Director

**As determined by the Department of Civil Rights

(1) **Exempt Status:** In this section, “Exempt” means the Contractor is exempt from the Articles of Agreement in section 14.B.ii.(5) of this Contract and from filing an Affirmative Action plan as required by Section IV of the Articles of Agreement. The Department of Civil Rights (“Department”) makes the final determination as to whether a contractor is exempt. If the Contractor is not exempt, sec. 14.B.ii.(5) shall apply and Contractor shall select option A. or B. under Article IV therein and file an Affirmative Action Plan.

(2) **Request for Exemption – Fewer Than 15 Employees:** (MGO 39.02(9)(a)2.) Contractors who believe they are exempt based on number of employees shall submit a Request for Exemption on a form provided by the Department within thirty (30) days of the effective date of this Contract.

(3) **Exemption – Annual Aggregate Business:** (MGO 39.02(9)(a)c.): The Department will determine, at the time this Contract is presented for signature, if the Contractor is exempt because it will have less than \$50,000 in annual aggregate business with the City for the calendar year in which the contract is in effect. CONTRACTORS WITH 15 OR MORE EMPLOYEES WILL LOSE THIS EXEMPTION AND BECOME SUBJECT TO SEC. 14.B.ii.(5) UPON REACHING \$50,000 OR MORE ANNUAL AGGREGATE BUSINESS WITH THE CITY WITHIN THE CALENDAR YEAR, BEGINNING IN 2019.

(4) Release of Payment: (MGO 39.02(9)(e)1.b.) All non-exempt contractors must have an approved Affirmative Action plan meeting the requirements of Article IV below on file with the Department within thirty (30) days of the effective date of this Contract and prior to release of payment by the CDA. Contractors that are exempt based on number of employees agree to file a Request for Exemption with the Department within thirty (30) days of the effective date and prior to release of payment by the CDA.

(5) Articles of Agreement:

ARTICLE I

The Contractor shall take affirmative action in accordance with the provisions of this Contract to insure that applicants are employed, and that employees are treated during employment without regard to race, religion, color, age, marital status, disability, sex, sexual orientation, gender identity or national origin and that the employer shall provide harassment-free work environment for the realization of the potential of each employee. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training including apprenticeship insofar as it is within the control of the Contractor. The Contractor agrees to post in conspicuous places available to employees and applicants notices to be provided by the City of Madison setting out the provisions of the nondiscrimination clauses in this Contract.

ARTICLE II

The Contractor shall in all solicitations or advertisements for employees placed by or on behalf of the Contractors state that all qualified or qualifiable applicants will be employed without regard to race, religion, color, age, marital status, disability, sex, sexual orientation, gender identity or national origin.

ARTICLE III

The Contractor shall send to each labor union or representative of workers with which it has a collective bargaining Agreement or other Contract or understanding a notice to be provided by the City of Madison advising the labor union or workers representative of the Contractor's equal employment opportunity and affirmative action commitments. Such notices shall be posted in conspicuous places available to employees and applicants for employment.

ARTICLE IV

(This Article applies to non-public works contracts.)

The Contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison (MGO 39.02) including the Contract compliance requirements. The Contractor warrants and certifies that one of the following paragraphs is true (**check one**):

- A. Contractor has prepared and has on file an affirmative action plan that meets the format requirements of Federal Revised Order No. 4, 41 CFR part 60-2, as established by 43 FR 51400 November 3, 1978, including appendices required by City of Madison ordinances or it has prepared and has on file a model affirmative action plan approved by the Madison Common Council.
- B. Within thirty (30) days after the effective date of this Contract, Contractor will complete an affirmative action plan that meets the format requirements of Federal Revised Order No. 4, 41 CFR Part 60-2, as established by 43 FR 51400, November 3, 1978, including appendices required by City of Madison ordinance or within thirty (30) days after the effective date of this Contract, it will complete a model affirmative action plan approved by the Madison Common Council.
- C. Contractor believes it is exempt from filing an affirmative action plan because it has fewer than fifteen (15) employees and has filed, or will file within thirty (30) days after the effective date of this Contract, a form required by the City to confirm exempt status based on number of employees. If the City determines that Contractor is not exempt, the Articles of Agreement will apply.
- D. Contractor believes it is exempt from filing an affirmative action plan because its annual aggregate business with the City for the calendar year in which the contract is

in effect is less than fifty thousand dollars (\$50,000), or for another reason listed in MGO 39.02(9)(a)2. If the City determines that Contractor is not exempt, the Articles of Agreement will apply.

ARTICLE V

(This Article applies only to public works contracts.)

The Contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison, including the Contract compliance requirements. The Contractor agrees to submit the model affirmative action plan for public works Contractors in a form approved by the Director of Affirmative Action.

ARTICLE VI

The Contractor will maintain records as required by Section 39.02(9)(f) of the Madison General Ordinances and will provide the City's Department of Affirmative Action with access to such records and to persons who have relevant and necessary information, as provided in Section 39.02(9)(f). The City agrees to keep all such records confidential, except to the extent that public inspection is required by law.

ARTICLE VII

In the event of the Contractor's or subcontractor's failure to comply with the Equal Employment Opportunity and Affirmative Action provisions of this Contract or Sections 39.03 and 39.02 of the Madison General Ordinances, it is agreed that the City at its option may do any or all of the following:

- A. Cancel, terminate or suspend this Contract in whole or in part.
- B. Declare the Contractor ineligible for further City contracts until the Affirmative Action requirements are met.
- C. Recover on behalf of the City from the prime Contractor 0.5 percent of the Contract award price for each week that such party fails or refuses to comply, in the nature of liquidated damages, but not to exceed a total of five percent (5%) of the Contract price, or ten thousand dollars (\$10,000), whichever is less. Under public works contracts, if a subcontractor is in noncompliance, the City may recover liquidated damages from the prime Contractor in the manner described above. The preceding sentence shall not be construed to prohibit a prime Contractor from recovering the amount of such damage from the noncomplying subcontractor.

ARTICLE VIII

(This Article applies to public works contracts only.)

The Contractor shall include the above provisions of this Contract in every subcontract so that such provisions will be binding upon each subcontractor. The Contractor shall take such action with respect to any subcontractor as necessary to enforce such provisions, including sanctions provided for noncompliance.

ARTICLE IX

The Contractor shall allow the maximum feasible opportunity to small business enterprises to compete for any subcontracts entered into pursuant to this Contract. (In federally funded contracts the terms "DBE, MBE, and WBE" shall be substituted for the term "small business" in this Article.)

14. MISCELLANEOUS

- a. Independent Contractor, Tax Filing. It is agreed that Contractor is an independent Contractor and not an employee of CDA, and that any persons who the Contractor utilizes and provides for services under this Contract are employees of the Contractor and are not employees of CDA.

Contractor shall provide its taxpayer identification number to the CDA Finance Manager, 215 Martin Luther King Jr. Blvd, Room 161, Madison, WI 53703, prior to payment. As an independent contractor, the Contractor may have a responsibility to make estimated tax returns, file tax returns, and pay income taxes and make social security payments on the amounts received under this Agreement and that no amounts will be withheld from payments made to the Contractor for these purposes and that payment of taxes and making social security payments are solely the responsibility and obligation of the Contractor. The Contractor is further informed that it may be subject to civil and/or criminal penalties for failure to properly report income and pay taxes and social security taxes on the amount received under this Contract.

- b. Entire Agreement. This Professional Services Agreement, including all of its attachments (hereafter, "Agreement" or "Contract") is the entire agreement of the parties and supersedes any and all oral contracts and negotiations between the parties.
- c. Choice Of Law And Forum Selection. This Contract shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of Wisconsin. The parties agree, for any claim or suit or other dispute relating to this Contract that cannot be mutually resolved, the venue shall be a court of competent jurisdiction within the State of Wisconsin and the parties agree to submit themselves to the jurisdiction of said court, to the exclusion of any other judicial district that may have jurisdiction over such a dispute according to any law.
- d. Compliance With Applicable Laws. The Contractor shall become familiar with, and shall at all times comply with and observe all federal, state, and local laws, ordinances, and regulations which in any manner affect the services or conduct of the Contractor and its agents and employees.
- e. Remedies Not Exclusive. No right or remedy conferred hereunder is exclusive of any other right or remedy, but each such right or remedy is cumulative and, in addition, to any other right or remedy under or by law provided, and may be exercised without exhausting and without regard to any other such right or remedy.
- f. No Waiver. No waiver by the CDA of any defect shall affect any subsequent default or breach of duty or contract or shall impair the exercise of any right or remedy accruing upon any default or the exercise thereof, nor shall it be construed as a waiver of any such default or breach of duty or contract or acquiescence therein. Failure of the CDA to insist upon the strict performance of any of the terms, covenants or conditions here to be performed by the Contractor shall not be deemed a waiver of any rights or remedies which the CDA shall have and shall not be deemed a waiver of any subsequent default of any such terms, conditions and covenants to be performed by the Contractor. Every right or remedy conferred herein upon the Contractor or the CDA may be enforced and exercised as often as the Contractor or the CDA may deem expedient.
- g. Severability. If any term or provision of this Agreement, or the application thereto to any person or circumstance, shall, to any extent, be invalid, unlawful or otherwise

unenforceable, the remainder of this Agreement, or the application of such term or provisions to the persons or circumstances other than those as to which it is invalid, unlawful or otherwise unenforceable shall not be affected thereby and every other term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

- h. Approvals. Whenever under this Agreement approvals, authorizations, determinations, satisfactions, or waivers are authorized or required, such approvals, authorizations, determinations, satisfactions or waivers shall be effective and valid only when given in writing, by the officers of the CDA authorized by law to give such approval and delivered to the party to whom it is directed at the address specified hereunder.
- i. Amendment. This Agreement shall be binding on the parties hereto, their respective heirs, devisees, and successors, and cannot be varied or waived by any oral representations or promise of any agent or other person of the parties hereto. Any change in any provision of this Agreement may only be made by a written amendment, signed by duly authorized representatives of each party.
- j. No Private Right or Cause of Action; Third Parties. Nothing contained herein shall be interpreted or construed to create any right or any cause of action by or on behalf of any person not a party hereto, except as may be provided in the Agreement. This Contract is intended to be solely between the parties hereto. No part of this Contract shall be construed to add, supplement, amend, abridge or repeal existing rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.
- k. Assignability/Subcontracting. Contractor shall not assign or subcontract any interest or obligation under this Agreement without CDA's prior written consent. All of the services required hereunder will be performed by Contractor and employees of Contractor unless the use of a subcontractor is expressly provided for elsewhere in this Contract. Any assignment or subcontracting without CDA's consent as required herein shall be void.
- l. Authority. Contractor represents that it has the authority to enter into this Agreement. If the Contractor is not an individual, the person signing on behalf of the Contractor represents and warrants that he or she has been duly authorized to bind the Contractor and sign this Agreement on the Contractor's behalf.
- m. Counterparts, Electronic Delivery. This Contract may be signed in counterparts, each of which shall be taken together as a whole to comprise a single document. Signatures on this Contract may be exchanged between the parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original. Executed copies or counterparts of this Contract may be delivered by facsimile or email and upon receipt will be deemed original and binding upon the parties hereto, whether or not a hard copy is also delivered. Copies of this Contract, fully executed, shall be as valid as an original.

IN WITNESS WHEREOF, the parties hereto have entered into this Professional Services Agreement.

CONTRACTOR:

National Security and Investigation LLC

By: _____
(Signature)

(Print name and title of person signing)

Date: _____

**COMMUNITY DEVELOPMENT AUTHORITY
OF THE CITY OF MADISON:**

By: _____
Chair, Community Development Authority
of the City of Madison.

Print Name: _____

Date: _____

By: _____
CDA Executive Director

Print Name: _____

Date: _____

FOR CDA OFFICIAL USE ONLY:

CDA Resolution Number: _____

Date adopted: _____

Initial and date to approve:

_____ CDA FINANCE MANAGER

_____ DEPARTMENT OF CIVIL RIGHTS (if applicable for AA Plan)

_____ RISK MANAGEMENT

_____ CITY ATTORNEY (Approved as to form)

Attachment A Properties

The CDA owns and manages properties throughout the City of Madison. A comprehensive map of these properties can be found at <http://www.cityofmadison.com/dpced/housing/map/>. CDA properties are managed by 3 property management site offices; West, East, and Triangle. This contract only includes properties managed by the West and East site offices. There are 3 locations managed by the West Site Office and 2 locations managed by the East Site Office that require daily patrols. The remaining properties listed require an incident only response.

West Public Housing

The west public housing properties included in this contract are located on the West side of the City of Madison and are managed by the West Site Office which is located at Romnes Apartments, 540 W Olin Avenue, #200.

West Daily Patrols

There are 3 properties on the west side located at separate physical locations that are comprised of 17 buildings with 207 units. These properties will be patrolled on a daily basis.

Baird Fisher Apartments

- Located at 2009 – 2043 (odd) & 2024 – 2030 (even) Baird Street and 2001 – 2011 Fisher Street
- 10 buildings (3 two-unit/single story, 3 two-unit/townhouse, and 4 four-unit/townhouse buildings)
- 28 units
- Off street parking

Romnes Apartments

- Located at 540 West Olin Avenue
- 1 building, 3 stories
- 167 units including the West Site Office
- Off street parking
- Community room, exercise room, and game room on site

Britta Park Apartments

- Located at 4338 – 4360 Britta Parkway
- 3 buildings
- 12 units (townhomes)
- Off street parking
- Full basements with storage lockers on site

West Incident Only Properties (Not patrolled daily)

There are 20 public housing properties on the west side that do not need to be patrolled on a daily basis but do require a response from a security guard if an incident is reported during the approved security guard scheduled hours.

Address	No. of Buildings	No. of Units
2402, 2406, 2410 Catalpa Road	3	3
2022–2036 Greenway Cross	1	8
2916–2922 Harvey Street	1	4
1005 Sequoia Trail	1	1

2918–2920 & 2926–2928 Traceway Drive	2	4
2944-2946 & 2961-2967 Turbot Drive	2	6
7005-7015 & 7006-7024 Chester Drive	5	16
2506-2516 & 2518-2528 Frazier Ave	4	12
5301 & 5305 Shaw Court	2	2
222 & 302 N Blackhawk Avenue	2	2
1647 & 1651 Capital Avenue	2	8
4273 & 4309 Doncaster Drive	2	2
5601 Elder Place	1	1
6401-6403 Hamersley Road	1	2
5122-5124 Manitowoc Parkway	1	2
6405-6407 Raymond Road	1	2
5838 Russet Road	1	4
1302 Tempkin Avenue	1	1
1309-1311 & 1401-1403 Theresa Terrace	2	4
1810 S Whitney Way	1	4
Total	36	88

East Public Housing

The east public housing properties included in this contract are located on the East side of the City of Madison and are managed by the East Site Office, which is located at 3538 Straubel Street, #101.

East Daily Patrols

There are 2 properties on the east side located at separate physical locations that are comprised of 33 buildings with 223 units. These properties will be patrolled on a daily basis.

Webb Rethke Apartments

- Located at 302-324 Rethke, 402-416 Rethke, & 3101–3131 Webb Avenue
- 11 buildings (4 two-units & 7 four-unit townhomes)
- 36 units
- Off street parking

Truax Park Apartments & “A” Site

- Located at 1-15 Straubel Court & 1601-1667 Wright St
- 14 buildings (4 three-story buildings & 10 townhomes)
- 76 units
- Off street parking

Truax Phase 1 (Invoiced Separately)

- Located at 3502 – 3534 Straubel Street & 1501-1507 Wright Street

- 6 buildings (3-stories)
- 71 units
- Off-street parking

Truax Phase 2 (Invoiced Separately)

- Located at 3538 Straubel Street & 1511 Wright Street
- 2 buildings (2 stories)
- 40 units including the East Site Office
- Underground parking and Off-street parking

East Incident Only Properties (Not patrolled daily)

There are 4 public housing properties on the east side that do not need to be patrolled on a daily basis but require a response from a security guard if an incident is reported during the approved security guard scheduled hours.

Address	No. of Buildings	No. of Units
Tenney Park Apartments 302 & 314 N Baldwin St. 12217-1223 & 1225 E Gorham St	4	41
4541-4543 Stein Avenue	1	2
2292-2294 S Thompson Drive	1	2
1414, 1416, & 1418 #A-G Williamson St	2	9
Total	8	54

**Attachment B
Core Schedule**

West Security Guard Schedule

The guard schedule for coverage at the West public housing properties is set by the Contractor but requires 40 hours per week scheduled 7 days per week.

East Security Guard Schedule

The guard schedule for the East Public Housing includes 42 hours per week scheduled 7 days per week. The preferred schedule is as follows:

Sunday – Wednesday	5:00PM – 10:00 PM
Thursday	5:00PM – 11:00 PM
Friday – Saturday	5:00PM – 1:00 AM

Security Patrol Operation Guidelines

CDA PUBLIC SAFETY AND SECURITY PROGRAM



COMMUNITY DEVELOPMENT AUTHORITY OF THE CITY OF MADISON

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Introduction

As a Security Officer for the Community Development Authority of the City of Madison (CDA) it is your responsibility to read and become familiar with these Standard Operating Guidelines.

The CDA has the authority to amend or revoke any Standard Operating Guideline and to create any additional Standard Operating Guidelines from time to time, as the circumstances for the good of the Agency may require.

Security Officer's subject to these Standard Operating Guidelines must understand that, no set Standard Operating Guideline can be established which will completely cover all cases arising in the discharge of their duties. Necessarily, some matters must be left to the intelligence and discretion of the individual.

However, it must be understood if discretion is used in a reckless or unreasonable manner, which is determined to be detrimental to the image of the CDA or its Residents and which sound public opinion recognizes as injurious to the ability of the CDA to serve its Residents, that individual who violates or attempts to violate these Standard Operating Guidelines will be subject to Disciplinary Action, up to and including termination from security duties with the CDA.

CODE OF ETHICS

As an Officer, I pledge:

To accept the responsibilities and fulfill the obligation of my role: protecting life and property; preventing and reducing crimes against the CDA and its Residents; upholding the law; and respecting the constitutional rights of persons.

To follow the City of Madison Code of Ethics (see MGO 3.35) and conduct myself with **honesty and integrity** and to adhere to the highest moral principles in the performance of my assigned duties.

To be faithful, diligent, and dependable in discharging my duties, and to uphold at all times the laws, policies, and procedures that protect the rights of others.

To observe the precepts of truth, accuracy, and prudence, without allowing personal feelings, prejudices, animosities, or friendships to influence my judgments.

To report to my Immediate Supervisor, without hesitation, any violation of the law or the CDA's regulations.

To respect and protect the confidential and privileged information of the CDA and its Residents beyond the term of my employment, except where their interests are contrary to law or to this Code of Ethics.

To cooperate with all recognized and responsible law enforcement and government agencies in matters within their jurisdiction.

To accept no compensation, commission, gratuity, or other advantages while contracted to perform Security Services for the CDA.

To conduct myself **professionally** at all times, and to perform my duties in a manner that reflects credit upon me, the CDA, and its Residents.

To strive continually to improve my performance by seeking training and educational opportunities that will better prepare me for my duties and responsibilities.

As a Security Contractor of the CDA and its Residents, I pledge:

To recognize that my principal responsibilities are, in the service of the CDA and its Residents, to protect life and property as well as to prevent and reduce crime against the CDA, and Residents; and in the public interest, to uphold the law and to respect the constitutional rights of all persons.

To be guided by a sense of **integrity, honor, justice**, and morality in the conduct of business; in all personnel matters; in relationships with government agencies, the CDA, and its Residents; and in responsibilities to the general public.

To strive faithfully to render services of the highest quality and to work continuously to improve my knowledge and skills and thereby improve the overall effectiveness of services provided to the CDA.

To uphold the trust of the CDA, its Residents, and the public by performing my functions within the law, not ordering or condoning violations of law; and ensuring that all personnel conduct their assigned duties lawfully and with proper regard for the rights of others.

To respect the reputation and practice of others in the industry, but to expose to the proper authorities any conduct that is unethical or unlawful.

To apply uniform and equitable standards of employment in recruiting and selecting personnel regardless of any protected status, and in providing salaries commensurate with job responsibilities and with training, education, and experience.

To cooperate with recognized and responsible law enforcement and other criminal justice agencies; to comply with state licensing and registration laws and other statutory requirements that pertain to the CDA.

To respect and protect the confidential and privileged information of the CDA and its Residents beyond the term of Security Contract, except where their interests are contrary to law or to this Code of Ethics.

To maintain a professional posture in all business relationships with the CDA and its Residents, with others in the industry, and with members of other professions; and to insist that all personnel adhere to the highest standards of professional conduct.

To encourage the professional advancement of all personnel by assisting them to acquire appropriate industry knowledge, education, and training.

TRAINING REQUIREMENTS

Prior to assignment to CDA Properties and on a regular basis, Security Personnel shall be trained on the following topics:

- a. Legal restrictions/responsibility/authority/use of force;
- b. Communications procedures/radio and telephone;
- c. Patrol procedures;
- d. Report writing;
- e. Safety vulnerabilities and principles;
- f. Public relations;
- g. Tactical awareness and threat assessment; and
- h. First Aid, CPR, and AED deployment.

All Security Personnel must demonstrate satisfactory knowledge of Wisconsin law as it pertains to private security, arrest, search and seizure. Proof of completed training and subsequent recertification's must be provided prior to assignment.

GENERAL RULES & REGULATIONS

PURPOSE

The purpose of this Standard Operating Guideline is to establish the General Rules & Regulations of the CDA.

STANDARD OPERATING GUIDELINE

It is the Standard Operating Guideline of the CDA to have Security Officers become familiar with the following Company Rules & Regulations. The procedures below give a definitive course of action for all employees to follow.

PROCEDURE

A. GENERAL COMPANY RULES

01. All Security Officers shall follow the Chain of Command as established by the CDA.
02. All employees shall treat each other and the public with respect.
03. Duties and responsibilities of each Security Site as established will remain in effect. Procedures and duties may be changed only through the authorization of the Housing Site Manager.
04. Security Officers shall keep all CDA and/or personally Owned Equipment, and Facilities clean and in proper order at all times.
05. Any Officer, injured while on duty will notify their Immediate Supervisor and the Housing Site Manager as soon as possible.
06. Use of issued security equipment provided by the CDA is to be used only while on duty. Damage to issued security equipment should be reported immediately.
07. Security Officers shall take appropriate action to render first aid and respond to emergencies.
08. Security Officers shall not walk away from an assigned duty, post, or position unless properly relieved or the incident is resolved.
09. Security Officers shall give full attention to their duty performance. Failure to give suitable attention will be considered Neglect of Duty. Examples include, but are not necessarily limited to the following:
 - A. Failure to take appropriate action to prevent, respond or intervene in incidents harmful to the CDA residents, staff, or property;
 - B. Unnecessary absence from one's assignment while on duty;
 - C. Failure to perform duties or failure to comply with all Standard Operating Guidelines, Rules, Regulations, General and Special Orders, Written or Verbal Orders.

10. Security Officers shall report violations of a Law, Standard Operating Guideline, Rule, Regulation, General and Special Order, and Written or Verbal Order. All such violations shall be reported to the proper Chain of Command.
11. Insubordination which shall include, but not necessarily be limited to the following:
 - A. Any failure or deliberate refusal to obey a lawful order given by a Resident or CDA staff In Charge;
 - B. Any disrespectful, mutinous, insolent, abusive language or action toward any Resident or the CDA staff in or out of their presence.
12. Security Officers in violation of these General Rules & Regulations will be subject to Disciplinary Action, up to and including Termination from duties with the CDA.

RULES OF COMPLIANCE

PURPOSE

The purpose of this Standard Operating Guideline is to establish the CDA's Rules of Compliance.

STANDARD OPERATING GUIDELINE

It is the Standard Operating Guideline of the CDA to set compliance expectations of Security Officers providing Patrol Operations for the CDA.

01. Security Officers shall follow all Local, County, State, and Federal Laws.
02. No Security Officer shall use their position for any political or unlawful purpose.
03. All Security officers shall carry their Company Identification Card, State issued Driver's License, and State Firearms Permit issued by DSPS, on them at all times while on duty.
04. Security Officers who are repeatedly in violation of traffic laws, disorderly conduct, driving under the influence, or any misdemeanors, or who are arrested on any felony charges, shall be subject to Disciplinary Action, up to and including Termination from Security duties with the CDA.
05. Any Security Officer that is convicted of a Felony at any time during the contract must be removed from duties immediately.
06. Periodically check vacant units for unauthorized entry and use. Security Officers should enter a unit they know is vacant if there appears to be physical damage to the unit or it appears to be inhabited.
07. With the exception of the collection of information of an active incident, Security ***shall not*** enter an occupied unit without the expressed permission or request of first responders, CDA staff, or tenant.

08. No Security Officer shall withhold from any Law Enforcement Official any information of criminal activity or fail to cooperate fully with any Investigation, as long as not to violate one's Federal or State Constitutional Rights.

USE OF FORCE

PURPOSE

The purpose of this Standard Operating Guideline is to establish the CDA's stance on Use of force.

STANDARD OPERATING GUIDELINE

It is the Standard Operating Guideline of the CDA to set expectations of Security Officers Use of force during Patrol Operations.

01. Security Officers shall follow all the State & Federal laws; DSPS and training standards with regard to the appropriate application of using force.
02. Security Officers must report ALL use of force incidents in the Daily Activity report.

RELEASE OF INFORMATION

PURPOSE

The purpose of this Standard Operating Guideline is to establish CDA's stance concerning the Release of Personally Identifiable Information (PII). PII is defined as information which can be used to distinguish or trace an individual's identity, such as their name, address, social security number, biometric records, etc. along, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as a date and place of birth, mother's maiden name, etc. (OMB M-07-16) PII is considered confidential information and requires written consent from the Individual to be released. The CDA maintains all Releases of Information regarding PII.

01. Security Officers are prohibited from communicating matters of a confidential nature; and shall not release any information to the General Public or Members of the Media without prior approval from their Immediate Supervisor and the CDA.
02. Security Officers shall not release, in any form, PII including the name and address of any tenant to anyone who is not authorized by the CDA to know this information outside of those authorized individuals involved in a normal investigation.

KEY CONTROL

PURPOSE

The purpose of this Standard Operating Guideline is to establish the CDA's stance concerning Key Control.

01. Security Officers are required to report lost or stolen keys to their Immediate Supervisor and the CDA Site Manager immediately.
02. Security Officers **are not authorized** to provide access to any occupied unit. Maintenance must be contacted for all tenant requests for unit entry and these requests must be notated in the daily report.

HARASSMENT & SEXUAL HARASSMENT

PURPOSE

The purpose of this Standard Operating Guideline is to establish the CDA's stance concerning Harassment and Sexual Harassment of employees and residents. The CDA follows the policies and procedures to file a complaint outlined in Administrative Procedural Memorandum 3-5, *Prohibited Harassment and/or Discrimination Policy*.

PROCEDURE

A. DEFINITION OF HARASSMENT

01. Harassment includes verbal abuse, epithets, and vulgar or derogatory language, display of offensive cartoons or materials, mimicry, lewd or offensive gestures and telling of offensive jokes motivated by a person's membership in a protected class.
02. Harassment occurs when an employee is subjected to unwelcome verbal or physical conduct because of race, color, religion, gender, sexual orientation, disability, age, national origin, ancestry, citizenship, marital status, military service, unfavorable military discharge, or any other protected status. The CDA prohibits Harassment in the workplace on these grounds.
03. The CDA will not tolerate the display of pornographic, racist, offensive, signs or images; practical jokes that result in awkwardness or embarrassment; unwelcome invitations or requests, whether indirect or explicit.

B. DEFINITION OF SEXUAL HARASSMENT

01. Sexual Harassment, being discrimination on the grounds of gender, is a violation of law. Unwanted sexual advances, unwanted requests for sexual favors, and other unwanted verbal or physical conduct of a sexual nature constitute Sexual Harassment when:
 - A. Submission to such conduct is made either explicitly or implicitly a term of, or condition of, an individual's employment; or
 - B.
 - C. Submission to, or rejection of, such conduct by an individual affects that individual's employment.
02. Sexual Harassment can include such things as pinching, patting, rubbing, leering, "dirty jokes", pictures or pornographic materials, comments, suggestions, innuendoes, requests, or demands of a sexual nature. The behavior need not be intentional in order to be considered Sexual Harassment.

03. The CDA will not tolerate the display of pornographic, racist, offensive, signs or images; practical jokes that result in awkwardness or embarrassment; unwelcome invitations or requests, whether indirect or explicit.

C. RIGHT TO FILE A COMPLAINT

01. Employees and Residents have the right to file a complaint, orally or in writing, against Security Personnel.
02. Any form of harassment and/or sexual harassment by Security Officers will not be tolerated and shall be subject to Disciplinary Action, up to and including Termination from Security duties with the CDA.

ILLEGAL DRUGS, ALCOHOL ABUSE, AND NO-SMOKING

PURPOSE

The purpose of this Standard Operating Guideline is to establish the CDA's stance on Illegal Drugs and/or Alcohol Abuse on CDA Property. Illegal Drugs and/or Alcohol Use that affects the health, safety, or right to peaceful enjoyment of the premises by Security Personnel, CDA Staff, Residents, or Non-Residents is prohibited.

STANDARD OPERATING GUIDELINE

It is the Standard Operating Guideline of the CDA to maintain a Zero Tolerance for Illegal Drugs and/or Alcohol Abuse on CDA Property. This activity is prohibited by all persons including Security Personnel, CDA Staff, Residents, and Non-Residents. The procedures below give a definitive course of action to follow.

PROCEDURE

A. ILLEGAL DRUG USE

01. Any drug-related criminal and/or civil-offense activity is strictly prohibited on or off the premises of CDA Property.
02. The Illegal Drug Use Procedure is governed by the CDA Lease, Section 7, G-I.
03. Security Officers shall document and report all observations of this violation in the Daily Activity Report.
04. Security Personnel shall have the right to ask Non-Resident violators of this policy to leave the property.
05. Security Officers shall contact the police to assist with anyone unconscious deemed too intoxicated to leave as requested.

B. ALCOHOL

01. Alcohol consumption in common areas of the building and exterior grounds of CDA property is strictly prohibited. Security Personnel, tenants, household members, guests and visitors may not consume alcoholic beverages in the common areas and exterior grounds of CDA property.
02. The Alcohol Procedure is governed by the CDA Lease and the Non-Standard Rental Provisions, Section 8.
03. Security Officers shall document and report all observations of this violation in the Daily Activity Report.
04. Security Officers shall have the right to ask Non-Resident violators of this policy to leave the property.
05. Security Officers shall contact the police to remove all Non-Residents violators refusing to leave when requested and have them cited for trespassing.
06. Security Officers shall contact the police to assist with anyone unconscious deemed too intoxicated to leave as requested.

C. NO-SMOKING

01. Smoking on or within any part of CDA property is strictly prohibited. Security Personnel, tenants, household members, guests and visitors shall not smoke on or within any portion of CDA property.
02. The No-Smoking Procedure is governed by the CDA No-Smoking Policy Lease Addendum.
03. Security Personnel shall document and report all observations of this violation in the Daily Activity Report.
04. Security Personnel shall have the right to ask Non-Resident violators of this policy to leave the property.
05. Security Officers shall contact the police to remove all Non-Residents violators refusing to leave when requested and have them cited for trespassing.

PATROL PROCEDURES & DUTIES

PURPOSE

The purpose of this Standard Operating Guideline is to establish the CDA's Patrol Procedures & Duties on CDA Property.

STANDARD OPERATING GUIDELINE

It is the Standard Operating Guideline of the CDA to set expectations of Security Officers during Patrol Operations. The procedures below give a definitive course of action for all Security Officers to follow.

PROCEDURE

A. PATROL OPERATIONS

Security Officers are expected to conduct patrols in accordance with the CDA Site Location duties. Patrols should be conducted regularly, but in a random fashion so as not to allow others to establish a pattern. Use the following patrol techniques listed below to assist in your Patrol Operations:

01. Carry a cellular phone, to call **911** in emergencies;
02. Patrol the area completely in an unpredictable pattern, looking for suspicious activity or person(s) in distress. Also check for smoke, fire, hazardous materials, and/or fresh damage caused by vandals;
03. Utilize tact and diplomacy when dealing with uncooperative subjects. Report disorderly groups and/or persons found on CDA property. Remember that a group of kids is **NOT** normally a disorderly group;
04. Patrol known trouble spots heavily. Watch for vehicles cruising the area aimlessly and continuously. Watch for persons loitering around the property and being secretive, evasive, or suspicious;
05. Report street lights and security lights on CDA property or in buildings that are not working;
06. Watch for merchandise or household goods being loaded into vehicles or carried by individuals;
07. Patrol **ALL** underground parking garages and parking lots at each CDA Site;
08. Get **CORRECT** vehicle license plate numbers, accurate descriptions, and locations;
09. Investigate persons who appear to be looking into vehicles;
10. Stay as visible as possible to create the sense of "Security Is Everywhere";
11. Double back on your patrol route in order to surprise those who are studying your patrol patterns;

B. AREAS TO PATROL

Areas and items to be checked while on patrol include, but are not necessarily limited to the following:

01. Common Areas
02. Stairwells
03. Parking Lots/underground garages
04. Elevators
05. Electrical or Mechanical Rooms
06. Loading Docks
07. Laundry rooms
08. Community rooms

- 09. Play areas
- 10. Alleys
- 11. Doors
- 12. Windows
- 13. Missing persons (resident AMBER/SILVER Alerts)

C. PROCEDURES FOR INCIDENT & EMERGENCY RESPONSE

- 01. Report the incident and location to police immediately via **911**;
- 02. Keep the situation under observation and report all activity at the scene;
- 03. Remain at a safe distance and location if necessary or take other appropriate action to protect life and property;
- 04. Assist Law Enforcement or Fire/Rescue personnel if so requested;
- 05. If someone is being physically injured, take the appropriate action as necessary to preserve life.

Security Officer's should always be attentive while on patrol, document all potential safety and fire hazards, and take appropriate corrective actions if necessary. Daily Activity & Incident Reports shall be completed accurately and in a timely manner. Contact your Immediate Supervisor for further clarification.

D. PARKING ENFORCEMENT

- 01. Establish if the vehicle in question has a valid parking permit;
- 02. If the vehicle has a valid parking permit, issue the appropriate violation based on Site rules for the Property;
- 03. Vehicles without a valid parking permit shall be handled based on the Site rules;
- 04. Any vehicle with occupants shall be observed, documented and Security Officers should attempt to identify occupants, prior to requesting the vehicle be moved;
- 05. Security Officers should maintain all safety considerations when approaching an occupied vehicle.

E. RESIDENT COMPLAINTS

- 01. When receiving a resident complaint of an active crime, collect as much information from the complainant and notify the police immediately via **911**;
- 02. Keep the situation under observation and report all activity at the scene. Remain at a safe distance and location if necessary or take other appropriate action to protect life and property;
- 03. Non-emergency resident complaints shall be thoroughly documented in the Daily Activity report and notify maintenance as appropriate.

F. REPORTING

01. All Daily Activity & Incident reports and supporting evidence collected will be created and documented into the **SilverTrac Guard Management Software** app installed on your CDA mobile patrol device;
02. In the event of damage to the CDA mobile patrol device, all information must be documented on paper formatted report form and sent to the Site Manager at the end of the Officer's shift.

G. LOST & FOUND

01. All keys found on or immediately around CDA properties shall be notated into Daily Activity report, collected, placed into an evidence envelope and turned in to the Site Manager at the end of the Security shift;
02. Security Officer's should contact their supervisor for guidance on collection & storage of found items identified and being owned by the CDA.

Security Officer's should contact their supervisor for guidance on collection & storage of found items **that is not** identified as being owned by the CDA.

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

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

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

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

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

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

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

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

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

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

- (a) The HA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

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- (b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.
- (c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:
- (i) appeals under the clause titled Disputes;
 - (ii) litigation or settlement of claims arising from the performance of this contract; or,
 - (iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes

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

8. Contract Termination; Debarment

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

9. Assignment of Contract

The Contractor shall not assign or transfer any interest in this contract; except that claims for monies due or to become due from the HA under the contract may be assigned to a bank, trust company, or other financial institution. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership approved by the HA.

10. Certificate and Release

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

11. Organizational Conflicts of Interest

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

12. Inspection and Acceptance

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

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

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

13. Interest of Members of Congress

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

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

No member, officer, or employee of the HA, no member of the governing body of the locality in which the project is situated, no member of the governing body in which the HA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

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

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

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

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

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

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

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

(b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

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

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

16. Equal Employment Opportunity

During the performance of this contract, the Contractor agrees as follows:

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.
- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. Dissemination or Disclosure of Information

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

18. Contractor's Status

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

19. Other Contractors

HA may undertake or award other contracts for additional work at or near the site(s) of the work under this contract. The contractor shall fully cooperate with the other contractors and with HA and HUD employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or HA employee.

20. Liens

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

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

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

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

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

22. Procurement of Recovered Materials

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