

THIS IS A NEAR, FINAL DRAFT. THIS DRAFT WILL BE REPLACED BY THE FINAL, SIGNED AGREEMENT.

STANDBY CONTRACTOR AGREEMENT

**PROJECT NAME: TEXAS CERTIFIED LEAD ABATEMENT
CONTRACTOR SERVICES**

This STANDBY CONTRACTOR AGREEMENT (this “**CONTRACT**”) is hereby made and entered into by and between CITY OF SAN ANTONIO, a Texas municipal corporation (“**CITY**”) and _____, a _____ corporation (“**CONTRACTOR**”), pursuant to Ordinance No. 2020-04-__-_____.

WHEREAS, CITY wishes to engage a pool of up to five (5) lead abatement contractors licensed by the Texas Department of State Health Services (collectively, the “**STANDBY CONTRACTORS**”) to provide on-call, as-requested, lead abatement and environmental remediation construction services in connection with the housing programs administered by the Department of Neighborhood and Housing Services (the “**Services**”); and

WHEREAS, CITY has allocated the aggregate sum of Five Million, Eight Hundred Ninety-two Thousand and No/100 Dollars (\$5,892,000)(the “**AGGREGATE CONTRACT AMOUNT**”) to pay the STANDBY CONTRACTORS for the Services rendered during the term, as may be extended, of this CONTRACT

WHEREAS, funding for payment of the services provided under this CONTRACT come from the United States Department of Housing and Urban Development’s Lead Hazard Reduction Demonstration Grant program (“**LHRDG**”), Community Development Block Grant program (“**CDBG**”) and HOME Investment Partnerships program (“**HOME**”), and may be supplemented with funding from the CITY’s Affordable Housing Fund and CITY’s general fund; and

WHEREAS, CITY will assign projects on a rotating basis to each of the STANDBY CONTRACTORS, subject to availability of the contractor, timeliness concerns, quality of prior or existing services, or any other reason, in CITY’s sole discretion, that may warrant departure from the sequence of rotating schedule; and

WHEREAS, none of the STANDBY CONTRACTORS are guaranteed a minimum amount of work or any compensation hereunder by virtue of being placed in the pool of STANDBY CONTRACTORS; and

WHEREAS, CONTRACTOR applied to be one of the STANDBY CONTRACTORS and it represented to CITY that it possesses the necessary qualifications, skills, experience, licenses and certifications to perform the Services and is willing to serve as an on-call contractor when and as requested by CITY; and

WHEREAS, CITY has approved CONTRACTOR’s application to be a STANDBY CONTRACTOR and, subject to the terms hereof, has placed CONTRACTOR in the pool of STANDBY CONTRACTORS to provide the Services when and as requested by CITY.

NOW THEREFORE, the parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. DEFINITIONS

1.1 For purposes of this CONTRACT, in addition to the definitions and references set elsewhere in this CONTRACT, the following terms shall have the meanings ascribed to them below:

“Business Day” means every day of the week, except all Saturdays, Sundays, and those scheduled holidays officially adopted and approved by the City Council for its employees.

“Days” means calendar days.

“Governmental Authority” means any and all courts, boards, agencies, commissions, offices, or authorities of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, or otherwise), whether now or hereafter in existence.

“Homeowner” means the owner(s) of the land and improvements in, on, or at which the CONTRACTOR will perform Work pursuant to this CONTRACT.

“Legal Requirements” means (A) any and all present and future judicial decisions, statutes, rulings, rules, regulations, permits, certificates, or ordinances of any Governmental Authority in any way applicable to CONTRACTOR, the aforementioned grants, or the Property, including , without limitation, the ownership, use, construction, rehabilitation, development, occupancy, possession, operation, maintenance, alteration, repair, or reconstruction thereof; (B) any and all covenants, conditions, and restrictions contained in any deed or other form of conveyance or in any other instrument of any nature that relate in any way or are applicable to the Property or the ownership, use, construction, occupancy, possession, operation, maintenance, alteration, repair, or reconstruction thereof; (C) CONTRACTOR’s presently or subsequently effective bylaws, certificate of formation, or partnership, limited partnership, joint venturer, trust or other form of business association agreement; and (D) any and all leases related to the Property; and (E) other contracts, whether written or oral, of any nature to which CONTRACTOR may be bound and that relate in any way to the Property or the Project.

“Property” means the land and improvements owned by the Homeowner, and in, on or at which the CONTRACTOR will perform the Work (defined below) pursuant to this CONTRACT.

“Specifications” means any plans, designs, drawings, descriptions, or written course of action approved by CITY and prepared by the lead consultant assigned to the Property for the abatement of lead based paint hazards at such Property, together with any changes approved by the CONTRACTOR, the Homeowner and CITY, and all materials and equipment incorporated or to be incorporated in the Property during the course of such lead-based paint hazard abatement.

“Work” means all labor necessary to complete the lead-based paint hazard control work at, in, or on each Property in strict accordance with the Specifications, and all materials and equipment incorporated or to be incorporated in the Property during the course of such lead-based paint hazard control work.

II. TERM

2.1 Unless renewed and extended pursuant to Section 2.2 or terminated pursuant to Article XXXI, this CONTRACT shall commence on the Effective Date and shall terminate on **March 30, 2023**.

2.2 CITY may, in CITY's sole and absolute discretion, unilaterally elect to renew and extend this CONTRACT for up to two (2) additional one (1) years extensions on the same terms provided herein. CITY may elect to exercise each option to renew and extend at any time, subject only to and contingent upon the appropriation of funding by City Council for that renewal period. Each one (1) year renewal and extension period shall commence on the effective date of the amendment pursuant to Section 29.3. By way of example only, if CITY exercises the first option to renew and extend in January, 2023, and the Parties executed an amendment on February 1, 2023, the first renewal period would commence on February 1, 2023 and expire on January 31, 2024.

2.3 Funding under this CONTRACT and any amendments or waivers that may be made or granted hereunder shall not be automatically renewed. CONTRACTOR will notify CITY in writing to request an extension of this CONTRACT prior to its termination date.

III. RESPONSIBILITIES

3.1 CONTRACTOR hereby accepts responsibility for the performance, in a satisfactory and efficient manner as solely determined by CITY, of all services and activities set forth in this CONTRACT.

3.2 Unless written notification by CONTRACTOR to the contrary is received and approved by CITY, CONTRACTOR's President shall be CONTRACTOR's designated representative responsible for the management of all contractual matters pertaining to this CONTRACT. CITY's Director of Neighborhood and Housing Services Department ("*NHSD*") or her designee shall be CITY's representative responsible for the administration of this CONTRACT. Communications to CITY and CONTRACTOR shall be directed to each of their respective designated representatives as set forth in this Section 3.2.

IV. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS

4.1 CONTRACTOR understands that funds provided to it pursuant to this CONTRACT are funds which have been made available to CITY by the federal government and with other specific assurances made and executed by CITY. Therefore, CONTRACTOR agrees and acknowledges that it will comply with all of the implementing CDBG regulations codified as 24 C.F.R. Part 570, and all other Legal Requirements, including, but not limited to, the following:

- (A) Copeland "Anti-Kickback" Act, 18 U.S.C. § 874, which governs the deductions from paychecks which are allowable and makes it a criminal offense to induce anyone employed on a federally assisted project to relinquish any compensation to which he/she is entitled, and requires all contractors to submit weekly payrolls and statements of compliance;
- (B) Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, which requires that CONTRACTOR sign and submit an anti-lobbying certification and that subcontractors that apply or bid for an award exceeding One Hundred Thousand and 00/100 Dollars (\$100,000.00) file the same certification;
- (C) Chapter 2258 of the Texas Government Code and CITY Ordinance 2008-11-20-1045, Wage and Hour Labor Standard Provisions, as set forth below:
 - (i) CONTRACTOR shall provide the CITY with sufficient documentation to verify

that the provisions of Chapter 2258 of the Texas Government Code, and Ordinance 2008-11-20-1045 are met, and CONTRACTOR understands and acknowledges that CITY may request periodic reports or support to ensure adherence to prevailing wage rates provisions;

- (ii) If, as a result of CITY's review, CITY finds any violations, CONTRACTOR shall forfeit as a penalty to CITY sixty dollars (\$60.00) for each laborer, workman, or mechanic employed, for each calendar day, or portion thereof, that such laborer, workman or mechanic is paid less than the said stipulated rates for any Work done under this CONTRACT, by CONTRACTOR or any subcontractor; and
 - (iii) CONTRACTOR understands and agrees that the establishment of prevailing wage rates pursuant to Ordinance 2008-11-20-1045 shall not be construed to relieve CONTRACTOR, CONTRACTOR's subcontractor or any subcontractor from their obligation under any federal or state law regarding the wages to be paid to or hours worked by laborers, workmen or mechanics insofar as applicable to the Work to be performed hereunder;
- (D) 24 C.F.R. § 570.604, *Environmental standards*;
- (E) 24 C.F.R. § 570.602, *Section 109 of Title I of the Community and Housing Development Act of 1974*, which prohibits discrimination or exclusion of benefits in any program or activity funded in whole or in part with CDBG funds, and also incorporates the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1974;
- (F) 24 C.F.R. § 570.608, *Lead-based paint*, which incorporates the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. §§ 4821-4846, the Residential Lead-Based Paint Hazard Reduction Act of 199, 42 U.S.C. §§ 4851-4856, and the applicable implementing regulations;
- (G) 24 C.F.R. § 570.611, *Conflict of interest*, which provides that no persons who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one (1) year thereafter;
- (H) 24 C.F.R. § 570.614, which requires compliance with the Architectural Barriers Act of 1968, 42 U.S.C. §§ 4151-4157, and with the Americans with Disabilities Act (the "ADA"), 42 U.S.C. § 12131, 47 U.S.C. §§ 155, 201, 218, and 225;
- (I) Title I and V of the ADA, which prohibit employment discrimination against qualified individuals with disabilities in the private sector, and in state and local governments;
- (J) Subject to 24 C.F.R. § 570.702, the provisions of 2 C.F.R. Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*;

- (K) 2 C.F.R. Part 2424, which prohibits the use of HUD funds either directly or indirectly to engage any contractor during any period of debarment, suspension or placement in ineligibility status;
- (L) Title VI of the Civil Rights Act of 1964 and the implementing regulations issued in 24 C.F.R. Part 1, as related to non-discrimination in federally-assisted programs;
- (M) Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, or national origin;
- (N) Title VIII of the Civil Rights Act of 1968 (Fair Housing Act);
- (O) National Historic Preservation Act of 1966, 54 U.S.C. § 300101, and the implementing regulations at 36 C.F.R. Part 800;
- (P) Equal Pay Act of 1963, which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination;
- (Q) Age Discrimination in Employment Act of 1967, which protects individuals who are forty (40) years of age or older from discrimination in employment;
- (R) Clean Air Act, 42 U.S.C. § 7401 *et seq.*, and Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, and CONTRACTOR further agrees to report each violation to CITY and understands that CITY will, in turn, report each violation to HUD and the appropriate EPA Regional Office;
- (S) CONTRACTOR and its subcontractors shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, including, but not limited to, the regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of items designated in Subpart B of 40 C.F.R. Part 247;
- (T) 2 C.F.R. § 200.321, *Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms*, which requires that CONTRACTOR take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible;
- (U) Drug-Free Workplace Act of 1988, 41 U.S.C. § 701, *et seq.*, and the implementing regulations at 2 C.F.R. Part 2429; and
- (V) The following federal regulations as promulgated in the Section 3 clause of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (“**Section 3**”), and if requested by CITY, CONTRACTOR shall provide CITY with the information requested in the Section 3 Utilization Plan, which is available at the following url: www.sanantonio.gov/GMA/Resources.aspx:
 - (i) CONTRACTOR agrees to comply with HUD's regulations in 24 C.F.R. Part 135, which implement Section 3. As evidenced by CONTRACTOR's execution of this CONTRACT, CONTRACTOR certifies that CONTRACTOR is under no contractual or other impediment that would prevent it from complying with the Part 135 regulations.

- (ii) CONTRACTOR agrees to send to each labor organization or representative of workers with which 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.
- (iii) On and after the Effective Date of this CONTRACT, CONTRACTOR agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. 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 C.F.R. Part 135. 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 C.F.R. Part 135.
- (iv) CONTRACTOR will certify that any vacant employment positions, including training positions, that are filled (a) after the contractor is selected but before the contract is executed, and (b) with persons other than those to whom the regulations of 24 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the CONTRACTOR's obligations under 24 C.F.R. Part 135.
- (v) Non-compliance with HUD's regulations in 24 C.F.R. Part 135 may result in sanctions, termination of this CONTRACT for default, and debarment or suspension from further HUD-assisted contracts.
- (vi) With respect to Work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (24 U.S.C. § 450e) also applies to the Work to be performed under this CONTRACT. Section 7(b) requires that to the greatest extent feasible (a) preference and opportunities for training and employment shall be given to Indians, and (b) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. CONTRACTOR agrees to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

4.2 CONTRACTOR must at all times remain in compliance with the requirements set out in Section 4.1. CONTRACTOR further understands that said requirements in Section 4.1 are summaries and are intended only as such and in no way are meant to constitute a complete compilation of all duties imposed upon CONTRACTOR by law or administrative ruling, or to narrow the standards which CONTRACTOR must follow.

4.3 CONTRACTOR assures that all subcontractors receiving funds in connection with the Project are familiar with, and shall comply with, any and all applicable rules and regulations as contained

in Section 4.1 and that CONTRACTOR shall include Section 4.1 as part of every contract awarded in connection with the Project.

V. SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY (SBEDA)

5.1 It is CITY's policy that Small, Minority or Woman-owned Business Enterprises shall have the maximum practical opportunity to participate in the performance of public contracts (the "**SBEDA Policy**"). CONTRACTOR agrees that it will make good faith efforts to comply with all applicable terms and provisions of CITY's SBEDA Policy, Non-Discrimination Policy, and Equal Opportunity Affirmative Action Policy, all of which are available from CITY's Department of Economic Development and the City Clerk's Office. Notwithstanding the foregoing, CONTRACTOR shall comply with the contracting requirements of 2 C.F.R. § 200.321 by:

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (v) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in clauses (i) through (v) of this Section.

VI. LEGAL AUTHORITY

6.1 CONTRACTOR represents, warrants, assures, and guarantees that it possesses the legal authority, pursuant to any proper, appropriate, and official motion, resolution, or action passed or taken, to enter into this CONTRACT and to perform the responsibilities herein required.

6.2 The signer of this CONTRACT for CONTRACTOR represents, warrants, assures, and guarantees that he or she has full legal authority to execute this CONTRACT on behalf of CONTRACTOR and to bind CONTRACTOR to all terms, performances, and provisions herein contained.

6.3 In the event that a dispute arises as to the legal authority to enter into this CONTRACT of either the CONTRACTOR or the person signing on behalf of CONTRACTOR, CITY shall have the right, at its option, to either temporarily suspend or terminate this CONTRACT. If CITY suspends or terminates this CONTRACT for such reasons, CONTRACTOR shall be liable to CITY for any funds CONTRACTOR has received from CITY for performance of the Work under this CONTRACT.

VII. MAINTENANCE OF EFFORT

7.1 CONTRACTOR agrees that the funds and resources provided to it under the terms of this CONTRACT shall in no way be substituted for funds and resources provided from other sources, nor shall such funds and resources in any way serve to reduce the funds, resources, services, or other benefits which would have been available to, or provided through CONTRACTOR had this CONTRACT not been executed.

VIII. PERFORMANCE OF WORK

8.1 Only certified lead personnel and certified lead firms, certified to perform lead-based paint activities in accordance with Sections 295.205-211 of the Texas Environmental Lead Reduction Rules, as may be amended from time to time, shall perform the Work. Accordingly, CONTRACTOR must be certified by the State of Texas to perform lead abatement work prior to conducting lead hazard control work.

8.2 CONTRACTOR shall ensure that the Work shall be performed in accordance with Section 295.212-214 of the Texas Environmental Lead Reduction Rules, as amended from time to time, and in strict accordance with any other applicable Legal Requirements relating to lead hazard control work.

8.3 CONTRACTOR shall also ensure that the Work is performed in strict accordance with the Specifications completed by lead consultants for the Property. Modifications or alterations to the Specifications completed by the lead consultants for the Property may be made only pursuant to the prior written approval of CITY's Director of NHSD or her designee.

8.4 For each Property specified by CITY, CONTRACTOR shall manage, perform, and provide all of the Work to CITY's satisfaction and in accordance with the Lead Specifications Guide, which is attached hereto and incorporated herein for all purposes as Exhibit "A", utilizing only those funds remitted to CONTRACTOR by CITY under this CONTRACT.

8.5 CONTRACTOR shall comply with any and all federal standards, regulations, and abatement requirements in accordance with the provisions outlined in 24 C.F.R. Part 35.

8.6 If CONTRACTOR performs Work that it knows or reasonably should know is contrary to or varies from any Legal Requirement, and does not have written approval from the Texas Department of State Health Services and CITY to conduct such variance, the CONTRACTOR shall bear all costs and damages arising therefrom and shall remain personally liable therefore.

8.7 Prior to commencing the Work, CONTRACTOR shall submit evidence of CONTRACTOR's state certification(s), the results of CONTRACTOR's respiratory fit tests, and proof of insurance coverage required under Article XVIII of this CONTRACT.

8.8 CONTRACTOR shall coordinate all abatement and construction related activities with CITY's Development Services Department to ensure compliance with CITY's requirements for certificates of occupancy, building inspections, and building and demolition permits.

8.9 CITY shall procure a state certified project designer to prepare the Occupant Protection Plan.

8.10 CONTRACTOR shall commence the Work on each Property only after CITY issues a Notice to Proceed, which shall specify the dates for commencement and termination of the Work for such

Property. Prior to CITY's issuance of a Notice to Proceed, CONTRACTOR shall be required to secure a payment bond for each Property wherein the cost to perform the lead hazard control work exceeds Twenty-five Thousand and 00/100 Dollars (\$25,000.00), and to secure both a performance and payment bond for each Property wherein the cost to perform the lead hazard control work exceeds One Hundred Thousand and 00/100 Dollars (\$100,000.00).

8.11 CONTRACTOR and CITY recognize that time is of the essence with regard to the Work and that CITY will suffer financial loss if the Work is not completed within the timeline specified in each Notice to Proceed. In the event that the Work is not completed within the timeline specified each Notice to Proceed, CONTRACTOR shall be held responsible and shall be liable for all costs associated with the delay, including, but not limited to, any additional hotel or relocation expenses associated with protection or shelter of the Homeowner.

8.12 If performance by CONTRACTOR is delayed as a direct result of riot, insurrection, fire, act of God, or operation of law, the CONTRACTOR shall notify CITY in writing specifying the reasons for such delay within three (3) days following the start of the delay. Upon written approval by CITY, CONTRACTOR may extend the allotted time for completion of Work by one (1) day for each day lost.

8.13 CONTRACTOR is responsible for, and shall take all necessary steps to secure the site surrounding the Property at, in, or on which the Work is to be, or is being, performed. CONTRACTOR shall also ensure that unauthorized individuals are prohibited and prevented from entering the designated area of containment and that appropriate measures are taken to provide notice that the area is inaccessible.

8.14 CONTRACTOR shall comply with all provisions of Section 295.214 of the Texas Environmental Lead Reduction Rules, as amended from time to time, relating to the submission of, amendment to, cancellation of, and payment of fees for, notifications to the Texas Department of State Health Services. CONTRACTOR shall provide a copy of all submitted or cancelled notifications to the lead consultant or supervisor assigned to the Property and to CITY.

8.15 For all Work to be performed by the CONTRACTOR pursuant to this CONTRACT, CONTRACTOR shall utilize the Contractor Fixed Unit Cost List and Specifications Manual, which are attached hereto and incorporated herein for all purposes as Exhibit "B", in order to determine the rate of reimbursement for the Work. The Contractor Fixed Unit Cost List and Specifications Manual may be updated annually, or as otherwise may be deemed necessary by the mutual consent of the parties without further approval of City Council provided that the adjustments do not increase the AGGREGATE CONTRACT AMOUNT. Each price adjustment, if any, shall be subject to an assessment of cost reasonableness as required by 2 C.F.R. Part 200 and such determination shall be made by the Director of NHSD or their designee in their sole discretion; any price adjustment that is determined not to be cost reasonable is prohibited.

8.16 Upon completion of the Work for each Property, the appropriate certified lead personnel shall perform a visual inspection and clearance of such Property to ensure that the Property is cleared of all surplus material, hazard, waste, refuse, dirt, and rubbish resulting from the Work and to ensure that dust lead levels are within HUD-approved standards. In the event that the Property is not "cleared" by the aforesaid certified lead personnel, CONTRACTOR shall be held responsible and shall be liable for all costs associated with re-testing, including, but not limited to, wipe samples and time expended by a lead inspector or lead risk assessor, and any additional hotel or relocation expenses associated with protection or shelter of the Homeowner as a result of the additional time needed to clear the Property.

8.17 CONTRACTOR shall immediately provide a copy of all notices received by the CONTRACTOR relating to alleged or actual violations of the Texas Environmental Lead Reduction

Rules to CITY, with a copy also to the lead consultant or supervisor assigned to the subject Property for which such investigation of a potential violation is pending or for which determination of an actual violation has been made. CONTRACTOR shall immediately cure the violation and shall provide evidence of such cure along with evidence of the Texas Department of State Health Services' determination that the violation has been satisfactorily resolved to CITY, with a copy to the lead consultant or supervisor assigned to the subject Property. CITY reserves the right to suspend or terminate this CONTRACT or any Work being performed in, at or on Property pursuant to this CONTRACT, if, in CITY's sole discretion, the occurrence or existence of a violation suggests that the CONTRACTOR is unable to satisfactorily or safely perform the Work.

8.18 CITY reserves the right to have CONTRACTOR's personnel removed from the Project who are not performing the Work in a workmanlike and professional manner, or who are not performing the Work in compliance with the Texas Environmental Lead Reduction Rules, as may be amended from time to time.

8.19 CONTRACTOR understands that CONTRACTOR's engagement pursuant to this CONTRACT involves the performance of the Work on a standby, as-needed basis, and CONTRACTOR expressly acknowledges and agrees that specific requirements as to types, number, locations, conditions, and procedures pertaining to the Work may be established or directed by the NHSD on a case-by-case basis for each Property.

8.20 CITY shall have the right to direct unrestrained access and contact with laboratories and testing facilities used by CONTRACTOR for the Work, and CITY, at its discretion, shall have the right to obtain original or duplicate copies of reports and testing results directly from the laboratory or testing facility used by CONTRACTOR.

IX. REIMBURSEMENT

9.1 In consideration of CONTRACTOR's performance at CONTRACTOR's sole expense, and in a satisfactory and efficient manner as determined by CITY, of the Work under this CONTRACT, CITY agrees to pay CONTRACTOR for all eligible services and reimburse for all eligible expenses at the rates specified in Exhibit "B" attached hereto; *provided, however*, unless otherwise agreed in writing by CITY, the total of all payments and other obligations paid or incurred by CITY during the initial term of this CONTRACT to all of the STANDBY CONTRACTORS shall not exceed the AGGREGATE CONTRACT AMOUNT. CONTRACTOR understands and agrees that CITY does not guarantee any minimum amount of Work under this CONTRACT

9.2 It is expressly understood and agreed by CONTRACTOR that CITY's obligations under this Article IX are contingent upon the actual receipt of adequate funds to meet CITY's liabilities hereunder. Should CITY not receive funds to make payments pursuant to this CONTRACT or should fund awards be reduced, CITY shall notify CONTRACTOR in writing within a reasonable time after such fact has been determined and CITY may, at its option, either terminate this CONTRACT or reduce the amount of its liability accordingly. It is expressly understood by CONTRACTOR that this CONTRACT in no way obligates CITY's general fund monies or any other monies or credits of CITY.

9.3 CITY shall not be liable for any portion of a CONTRACTOR cost, which is or was incurred in connection with an activity of CONTRACTOR where prior written authorization from CITY is required for the activity and such authorization was not first procured, or where CITY has requested that CONTRACTOR furnish data concerning an activity prior to proceeding further therewith and CONTRACTOR nonetheless proceeds without first submitting the data and receiving CITY's approval. Further, CITY shall not be liable for any CONTRACTOR cost, or portion thereof, which: (A) has been

paid, reimbursed, or is subject to payment or reimbursement from another source; (B) was incurred prior to the Effective Date or subsequent to the termination date of this CONTRACT; (C) is not in strict accordance with the terms of this CONTRACT, including all Exhibits attached hereto; (D) has not been billed to CITY within thirty (30) days following billing to CONTRACTOR, or termination of this CONTRACT, whichever is earlier; or (E) is not an allowable cost under this CONTRACT. CITY shall not be obligated or liable under this CONTRACT to any party, other than CONTRACTOR, for payment of any monies or provision of any goods or services.

X. RECEIPT, DISBURSEMENT, AND ACCOUNT OF FUNDS BY CONTRACTOR

10.1 Regarding method of payment, CITY and CONTRACTOR agree as follows:

- (A) CONTRACTOR shall deliver invoices to NHSD, which shall include the address of the Property at, on, or in which the Work is performed, line item of services, number of site visits, and any applicable reports for such services;
- (B) CONTRACTOR shall submit to CITY such other reports as may be required by CITY to document CITY liabilities under this CONTRACT; and
- (C) Upon receipt of and approval by CITY of each of CONTRACTOR's invoices, CITY shall pay to CONTRACTOR an amount equal to CITY's liabilities not previously billed to and subsequently paid by CITY, subject to deduction for any costs questioned or not allowable; *provided, however,* delinquent or unacceptable billing of CITY by CONTRACTOR shall justify delay of payment by CITY.

10.2 Within ten (10) business days after receipt of CITY's written request, CONTRACTOR shall refund to CITY any sum of money paid by CITY to CONTRACTOR later determined to: (A) have resulted in overpayment to CONTRACTOR; (B) have not been spent by CONTRACTOR strictly in accordance with the terms of this CONTRACT; and/or (C) not be supported by adequate documentation to fully justify the expenditure.

10.3 Upon termination of this CONTRACT, should any expense or charge for which payment has been made be subsequently disallowed or disapproved as a result of any auditing or monitoring by CITY, HUD, or any other federal agency, CONTRACTOR shall refund such amount to CITY within ten (10) business days of CITY's written request therefore wherein the amount disallowed or disapproved shall be specified. Refunds of disallowed or disapproved costs, however, shall not be made from funds received pursuant to this CONTRACT or from funds received from or through the federal government or CITY.

10.4 In the event that the actual amount expended by CONTRACTOR to meet the level of performance specified in Exhibit "A" or elsewhere in this CONTRACT, or any amendment thereto, is less than that amount provided to CONTRACTOR pursuant to this CONTRACT, then CITY reserves the right to reappropriate or recapture any such underexpended funds.

10.5 Utilizing a format approved by CITY, a Close-Out Package, together with a final invoice requesting reimbursement of funds pursuant to this CONTRACT, shall be submitted by CONTRACTOR to CITY within fifteen (15) business days following the completion of the Work for each Property. The Close-Out Package shall include, but not be limited to, notifications from the Texas Department of State Health Services, daily job site logs, and hazardous waste manifest forms.

10.6 Within fifteen (15) business days following the termination of this CONTRACT, CONTRACTOR shall submit a final Close-Out Package with a final expenditure report, for the period commencing on the date of CONTRACTOR's last invoice requesting reimbursement of funds through the date of termination of this CONTRACT.

XI. ALLOWABLE COSTS

11.1 Costs shall be considered allowable only if approved in writing and incurred directly and specifically in the performance of and in compliance with this CONTRACT and with all Legal Requirements.

11.2 CITY's prior written authorization shall be required in order for the following to be considered allowable costs: (A) subcontracts, specifically, CITY shall not be obligated to any third parties (including any subcontractors of CONTRACTOR) nor shall CITY funds be used to pay for contract services extending beyond the termination of this CONTRACT; (B) costs or fees associated with the alteration or relocation of the facilities on and in which the activities specified in Exhibit "A" or in the Notice to Proceed are conducted; (C) costs or fees for temporary employees or services; (D) costs or fees for consultant and/or professional services; and (E) costs or fees associated with attendance at meetings, seminars, or conferences.

11.3 Written requests for prior approval shall be CONTRACTOR's responsibility and shall be made within sufficient time to permit a thorough review by CITY. Written approval by CITY must be obtained prior to the commencement of procedures to solicit or purchase services, equipment, or real or personal property. Procurements and/or purchases which must be approved pursuant to the terms of this CONTRACT shall be conducted entirely in accordance with all applicable terms, provisions, and requirements hereof.

XII. PROGRAM INCOME

12.1 For purposes of this CONTRACT, "***Program Income***" shall mean earnings of CONTRACTOR realized from activities resulting from this CONTRACT or from CONTRACTOR's management of funding provided or received hereunder. Such earnings shall include, but shall not be limited to, interest income, usage or rental/lease fees, income produced from contract-supported services of individuals or employees or from the use of equipment or facilities of CONTRACTOR provided as a result of this CONTRACT; and payments from clients or third parties for services rendered by CONTRACTOR pursuant to this CONTRACT.

12.2 On a monthly basis, CONTRACTOR shall report and return to CITY all Program Income received or accrued during the preceding quarter. Alternative arrangements to this requirement may be made only upon written request to and written approval by CITY.

12.3 Records of the receipt and disposition of Program Income shall be maintained by CONTRACTOR in the same manner as required for other CONTRACT funds and shall be submitted to CITY in the format prescribed by CITY.

12.4 CONTRACTOR shall include this Article XII, in its entirety, in all of its subcontracts involving income-producing services or activities.

12.5 It shall be CONTRACTOR's responsibility to obtain from CITY a prior determination as to whether or not income arising directly or indirectly from this CONTRACT, or from the performance thereof, constitutes Program Income, and unless otherwise approved in writing by CITY,

CONTRACTOR shall be responsible to CITY for the repayment of any and all amounts determined by CITY to be Program Income.

XIII. FURTHER REPRESENTATIONS AND WARRANTIES

13.1 In addition the representations and warranties set forth elsewhere in this CONTRACT, CONTRACTOR further represents and warrants that:

- (A) All information, data, or reports heretofore or hereafter provided to CITY are, shall be and shall remain complete and accurate as of the date shown on the information, data, or report, and that since said date shown, shall not have undergone any significant change without written notice to CITY;
- (B) Any supporting financial statements heretofore or hereafter provided to CITY are, shall be and shall remain complete, accurate, and reflective of the financial condition of CONTRACTOR on the date shown on said statements and during the period covered thereby, and that since said date shown, except as provided by written notice to CITY, there has been no material change, adverse or otherwise, in the financial condition of CONTRACTOR;
- (C) No litigation or proceedings are presently pending or threatened against CONTRACTOR and CONTRACTOR has no information or cause to believe that litigation or proceedings, whether judicial or administrative against CONTRACTOR is imminent;
- (D) None of the provisions contained herein contravene or in any way conflict with the authority under which CONTRACTOR is doing business or with the provisions of any existing indenture or agreement of CONTRACTOR;
- (E) CONTRACTOR has the legal authority to enter into this CONTRACT and accept payments hereunder, and has taken all necessary measures to authorize such execution of the CONTRACT and acceptance of payments pursuant to the terms and conditions hereof; and
- (F) None of the assets of CONTRACTOR are both currently and for the duration of this CONTRACT subject to any lien or encumbrance of any character, except for current taxes not delinquent and except as shown in the financial statements provided by CONTRACTOR to CITY.

XIV. MAINTENANCE OF RECORDS

14.1 CONTRACTOR shall maintain all records required by the federal regulations specified in 24 CFR § 570.506 that are pertinent to the activities to be funded under this CONTRACT, including, but not limited to: (A) records providing a full description of each activity undertaken; (B) records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG Program; (C) records required to determine the eligibility of activities; (D) records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance; (E) records documenting compliance with the fair housing and equal opportunity components of the CDBG Program; (F) financial records in accordance with the applicable requirements listed in 24 C.F.R. § 570.502; and (G) other records necessary to document compliance with Subpart K of 24 CFR Part 570.

14.2 CONTRACTOR shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the CONTRACT for a period of five (5) years. The retention period begins on the date of the submission of CITY's annual performance and evaluation report to HUD in which the activities assisted under this CONTRACT are reported on for the final time. Notwithstanding the above, if there are litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five (5) year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five (5) year period, whichever occurs later.

14.3 Nothing in this Article XIV shall be construed to relieve CONTRACTOR of: (A) responsibility for retaining accurate and current records which clearly reflect the level and benefit of services provided under this CONTRACT; and (B) fiscal accountability and liability pursuant to this CONTRACT and any applicable rules, regulations, and laws.

14.4 CONTRACTOR agrees to include the substance of this Article XIV in all of its subcontracts.

XV. ACCESSIBILITY OF RECORDS

15.1 At any reasonable time and as often as CITY may deem necessary, CONTRACTOR shall make all of its records available to CITY, HUD, or any of their authorized representatives, and shall permit CITY, HUD, or any of their authorized representatives to audit, examine, and make excerpts and/or copies of same. CONTRACTOR's records shall include, but shall not be limited to, the following: reports, test results, laboratory results, field notes, and other data.

XVI. PERFORMANCE RECORDS AND REPORTS

16.1 As often and in such form as CITY may require, CONTRACTOR shall furnish CITY performance records and reports as deemed by CITY as pertinent to the matters covered by this CONTRACT.

XVII. MONITORING AND EVALUATION

17.1 CONTRACTOR agrees that CITY may carry out monitoring and evaluation activities so as to ensure compliance by CONTRACTOR with this CONTRACT and all applicable Legal Requirements. CONTRACTOR agrees to cooperate fully with CITY in the development, implementation, and maintenance of record-keeping systems and to provide CITY with any data determined by CITY to be necessary for its effective fulfillment of its monitoring and evaluation responsibilities. CONTRACTOR agrees that it will cooperate with CITY in such a way so as not to obstruct or delay CITY in CITY's monitoring of CONTRACTOR's performance and that CONTRACTOR will designate one of its staff to coordinate the monitoring process as requested by CITY's staff.

17.2 After each official monitoring visit, CITY shall provide CONTRACTOR with a written report of monitoring findings. Copies of any fiscal, management, or audit reports by any of CONTRACTOR's funding or regulatory bodies shall be submitted to CITY within five (5) business days of receipt thereof by CONTRACTOR.

XVIII. INSURANCE

18.1 CONTRACTOR agrees to comply with the following insurance provisions:

- (A) Prior to the commencement of the Work, CONTRACTOR shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to CITY's Department of Planning and Community Development, which shall be clearly labeled "[name of contractor] – Texas Certified Lead Abatement Contract Services" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The CITY will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must have the agent's signature and phone number, and be mailed, with copies of all applicable endorsements directly from the insurer's authorized representative to CITY. CITY shall have no duty to pay or perform under this CONTRACT until such certificate and endorsements have been received and approved by NHSD. No officer or employee, other than CITY's Risk Manager, shall have authority to waive this requirement.
- (B) CITY reserves the right to review the insurance requirements of this Article XVIII during the term of this CONTRACT and any extension hereof and to modify insurance coverages and their limits when deemed necessary and prudent by CITY's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this CONTRACT. In no instance will CITY allow modification whereby CITY may incur increased risk.
- (C) CONTRACTOR's financial integrity is of interest to CITY; therefore, subject to CONTRACTOR's right to maintain reasonable deductibles in such amounts as are approved by CITY, CONTRACTOR shall obtain and maintain in full force and effect for the duration of this CONTRACT, and any extension hereof, at CONTRACTOR's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M. Best's rating of no less than A-(VII), in the following types and for an amount not less than the amount listed amount listed below:

<i>INSURANCE TYPE</i>	<i>LIMITS</i>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury d. Contractual Liability e. Independent Contractors f. Environmental Impairment/Impact – sufficiently broad to cover disposal liability g. Damage to property rented by you	For Bodily Injury and Property Damage \$1,000,000 per occurrence; \$2,000,000 general aggregate, or its equivalent in Umbrella or Excess Liability Coverage.
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence.

c. Hired Vehicles	
5. Professional Liability (Claims-made Coverage)	\$1,000,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service. Coverage to be maintained and in effect for no less than two years subsequent to the completion of the professional service.
6. Explosion, Collapse, Underground Property Hazard Liability	\$2,000,000 per claim
7. Environmental Insurance –(Contractor’s Pollution Liability (Claims-made coverage)	\$1,000,000 per occurrence; \$2,000,000 general aggregate for claims associated with hazardous materials, to include spills and mitigation.
8. Umbrella or Excess Liability Coverage	\$2,000,000 per occurrence combined limit Bodily Injury (including death) and Property Damage. (per occurrence limit depends on scope of operation)

- (D) CONTRACTOR agrees to require, by written contract, that all subcontractors providing goods or services hereunder obtain the same categories of insurance coverage required of CONTRACTOR herein, and provide a certificate of insurance and endorsement that names CONTRACTOR and CITY as additional insureds. Policy limits of the coverages carried by subcontractors will be determined as a business decision of CONTRACTOR. CONTRACTOR shall provide CITY with said certificate and endorsement prior to the commencement of any Work by the subcontractor. This provision may be modified by CITY’s Risk Manager, without subsequent City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this CONTRACT. Such modification may be enacted by letter signed by CITY’s Risk Manager, which shall become a part of the contract for all purposes.
- (E) As they apply to the limits required by CITY, CITY shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all required endorsements. CONTRACTOR shall pay any costs incurred resulting from provision of said documents. CONTRACTOR shall be required to comply with any such requests and shall submit requested documents to CITY at the address provided below within ten (10) days:
- City of San Antonio
Department of Neighborhood and Housing Services
Attention: Director
1400 S. Flores
San Antonio, Texas 78204
- (F) CONTRACTOR agrees that with respect to the above-required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

- (i) Name CITY and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, with respect to operations and activities of, or on behalf of, the named insured performed under contract with CITY, with the exception of the workers' compensation and professional liability policies;
 - (ii) Provide for an endorsement that the "other insurance" clause shall not apply to CITY where CITY is an additional insured shown on the policy;
 - (iii) Workers' compensation and employers' liability, general liability and automotive liability policies will provide a waiver of subrogation in favor of CITY; and
 - (iv) Provide advance written notice directly to CITY of any suspension, or non-renewal in coverage, and not less than ten (10) days advance notice for nonpayment of premium.
- (G) Within five (5) days of a suspension, cancellation, or non-renewal of coverage, CONTRACTOR shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend CONTRACTOR's performance should there be a lapse in coverage at any time during this CONTRACT. Failure to provide and to maintain the required insurance shall constitute a material breach of this CONTRACT.
- (H) In addition to any other remedies CITY may have upon CONTRACTOR's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, CITY shall have the right to order CONTRACTOR to stop the Work hereunder, and/or withhold any payment(s) which become due to CONTRACTOR hereunder until CONTRACTOR demonstrates compliance with the requirements hereof.
- (I) Nothing herein contained shall be construed as limiting in any way the extent to which CONTRACTOR may be held responsible for payments of damages to persons or property resulting from CONTRACTOR's or its subcontractors' performance of the Work covered under this CONTRACT.
- (J) CONTRACTOR understands and agrees that its insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by CITY for liability arising out of the activities under this CONTRACT.
- (K) CONTRACTOR understands and agrees that the insurance required is in addition to and separate from any other obligation contained in this CONTRACT and that no claim or action by or on behalf of CITY shall be limited to insurance coverage provided.
- (L) CONTRACTOR and any subcontractors are responsible for all damage to their own equipment and/or property.

XIX. INDEMNIFICATION

19.1 CONTRACTOR covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, CITY and the elected officials, employees, officers, directors, volunteers and representatives of CITY, individually and collectively, from and against any and all costs, claims,

liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon CITY directly or indirectly arising out of, resulting from or related to CONTRACTOR'S activities under this CONTRACT, including any acts or omissions of CONTRACTOR, any agent, officer, director, representative, employee, consultant or subcontractor of CONTRACTOR, and their respective officers, agents, employees, directors and representatives while in the exercise of the rights or performance of the duties under this CONTRACT. The indemnity provided for in this Section 19.1 shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. **IN THE EVENT CONTRACTOR AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. In addition, Respondent agrees to indemnify, defend, and hold the City harmless from any claim involving patent infringement, trademarks, trade secrets, and copyrights on goods supplied.**

19.2 The indemnity provisions set forth in this Article XIX are solely for the benefit of the parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. CONTRACTOR shall advise CITY in writing within twenty-four (24) hours of any claim or demand against CITY or CONTRACTOR known to CONTRACTOR related to or arising out of CONTRACTOR's activities under this CONTRACT and shall see to the investigation and defense of such claim or demand at CONTRACTOR's cost. CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving CONTRACTOR of any of its obligations under this Article XIX.

19.3 Defense Counsel - CITY shall have the right to select or to approve defense counsel to be retained by CONTRACTOR in fulfilling its obligation hereunder to defend and indemnify CITY, unless such right is expressly waived by CITY in writing. CONTRACTOR shall retain CITY approved defense counsel within seven (7) business days of CITY'S written notice that CITY is invoking its right to indemnification under this Contract. If CONTRACTOR fails to retain Counsel within such time period, CITY shall have the right to retain defense counsel on its own behalf, and CONTRACTOR shall be liable for all costs incurred by CITY. CITY shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

Employee Litigation - In any and all claims against any party indemnified hereunder by any employee of CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any subcontractor under worker's compensation or other employee benefit acts.

XX. EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

20.1 During the performance of this CONTRACT, CONTRACTOR agrees as follows:

- (A) CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. CONTRACTOR will take affirmative action to ensure that applicants are

employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (B) CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (C) CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (D) CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (E) CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (F) CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to CONTRACTOR's books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (G) In the event of CONTRACTOR's noncompliance with the nondiscrimination clauses of this CONTRACT or with any of the said rules, regulations, or orders, this CONTRACT may be canceled, terminated, or suspended in whole or in part and CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (H) CONTRACTOR will include the portion of the sentence immediately preceding Section

20.1(A) and the provisions of Section 20.1(A) through this Section 20.1(H) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

20.2 CONTRACTOR shall comply with all other applicable local, state and federal equal employment opportunity and affirmative action rules, regulations and laws. So that CITY can investigate compliance with local, state and federal equal employment opportunity and affirmative action rules, regulations and laws, CONTRACTOR shall furnish to CITY any and all information and reports requested by CITY, and shall permit access by CITY of any and all of its books, records, and accounts.

20.3 In the event of non-compliance by CONTRACTOR (or CONTRACTOR's subcontractors) with local, state and federal equal employment opportunity and affirmative action rules, regulations and laws, this CONTRACT may be canceled, terminated, or suspended by CITY, in whole or in part, and CONTRACTOR may be barred from further contracts with CITY.

XXI. NONDISCRIMINATION

21.1 CONTRACTOR covenants that it, or its agents, employees or anyone under its control, will not discriminate against any individual or group on account of race, color, sex, age, religion, national origin, handicap or familial status, in employment practices or in the use of or admission to the premises at, in or on which the Project and the Work is to be performed.

XXII. CONFLICTS OF INTEREST

22.1 CITY's Charter and Ethics Code prohibit a CITY officer or employee, as those terms are defined in CITY's Ethics Code, from having a financial interest in any contract with CITY or any agency of CITY, such as CITY-owned utilities. An officer or employee has a "prohibited financial interest" in a contract with CITY or in the sale to CITY of land, materials, supplies, or service, if any of the following individual(s) or entities is a party to such contract or sale: a CITY officer or employee; his or her parent, child or spouse; a business entity in which the officer or employee or his or her parent, child or spouse owns ten percent (10%) or more of the voting stock or shares of the business entity, or ten percent (10%) or more of the fair market value of the business entity; a business entity of which any individual or entity above listed is a subcontractor on a CITY contract, a partner or a parent or subsidiary business entity.

22.2 CONTRACTOR warrants and certifies, and this CONTRACT is made in reliance thereon, that it, its officers, employees, and agents performing on this CONTRACT are neither a CITY officer nor an employee as defined by Section 2-52(f) of CITY's Ethics Code. CONTRACTOR further warrants and certifies that it has tendered to CITY a Discretionary Contracts Disclosure Statement in compliance with CITY's Ethics Code.

XXIII. POLITICAL AND SECTARIAN ACTIVITIES

23.1 None of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, either directly or indirectly, for any political activity including, but not limited to, an activity to further the election or defeat of any candidate for public office or for any activity undertaken to influence the passage, defeat or final content of local, state, or federal legislation.

23.2 None of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, directly or indirectly, for the construction, operation, maintenance, or administration of any sectarian or religious facility or activity, nor shall said performance rendered or funds received by utilized so as to benefit, directly or indirectly, any such sectarian or religious facility or activity.

XXIV. PUBLICITY

24.1 When appropriate, as determined by and upon written approval of CITY, CONTRACTOR shall publicize the activities conducted by CONTRACTOR pursuant to the terms of this CONTRACT. In any news release, sign, brochure, or other advertising medium disseminating information prepared or distributed by or for CONTRACTOR, however, mention shall be made that the Project was made possible with HUD funding and CITY participation.

XXV. SPECIAL PROVISIONS

25.1 CONTRACTOR must conduct lead hazard control work as stated in the Master Specifications and Occupant Protection Plan (“*OPP*”) completed by CITY’s environmental consultants and in accordance with the Program’s Policies and Procedures, local, state and federal regulations including but not limited to: HUD 24 C.F.R. Part 35, EPA 40 C.F.R. Part 745, OSHA 29 C.F.R. §1926.62, and Texas Department of State Health Services (“*DSHS*”) Lead Reduction Rules. In addition, all work performed shall meet or exceed all applicable local code, ordinances, and regulations and comply with all applicable federal and state laws and regulations.

25.2 CONTRACTOR will work each weekday, Monday-Friday, 8:00 AM – 5:00 PM, Central Time, unless otherwise authorized, in writing by CITY to work other hours or days.

25.3 CONTRACTOR shall submit copies of certifications, respiratory fit tests and proof of insurance prior commencing lead hazard control work to CITY’s San Antonio Green and Healthy Homes Program Manager.

25.4 CONTRACTOR shall submit DSHS notifications/amendments and copy the assigned environmental consultant and CITY’s staff prior to start of lead hazard control work. CONTRACTOR is responsible for updating the notification when deemed necessary.

25.5 CONTRACTOR shall be responsible, at its sole cost, for any costs associated with failed clearances, which include but not be limited to: dust wipes, soil samples, visuals, and environmental consultant’s fees.

25.6 CONTRACTOR shall be responsible, at its sole cost, for any costs associated with exceeding the allotted time for lead hazard control work to include relocation costs and other related expenses.

25.7 CONTRACTOR shall be responsible for securing the job site and ensuring unauthorized persons do not enter the designated area of containment.

25.8 CONTRACTOR shall submit a close-out package, in the form and containing the information requested by CITY, at the end of each project to include but not be limited to: copies of DSHS notifications, daily job site logs, and waste manifest for an EPA regulated landfill.

25.9 CONTRACTOR shall obtain and close out permits as required through CITY's Development Services Department.

25.10. CONTRACTOR shall utilize the Fixed Cost Unit List attached hereto as Exhibit "B" to determine the costs for lead hazard work on any given project.

25.11. CONTRACTOR shall have a minimum of two (2) employees on the job site at all times.

25.12. CONTRACTOR shall possess and maintain a U.S. Environmental Protection Agency ("EPA") Remodeling, Renovation and Painting certification as required by law at all times during the term of this CONTRACT.

CONTRACTOR shall possess and maintain a DSHS certification for lead abatement contractors as required by law at all times during the term of this CONTRACT.

XVI. RIGHTS TO PROPOSAL AND CONTRACTUAL MATERIAL

26.1 All finished or unfinished reports, documents, data, studies, surveys, charts, drawings, maps, models, photographs, designs, plans, schedules, or other appended documentation to any proposal or contract, and any responses, inquiries, correspondence and related material submitted by CONTRACTOR, shall, upon receipt, become the property of CITY.

XXVII. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

27.1 CONTRACTOR certifies, and the CITY relies thereon in execution of this CONTRACT, that neither CONTRACTOR nor its Principals (defined below) are presently debarred, suspended, proposed for debarment, or declared ineligible, or voluntarily excluded for the award, proposed for debarment, or declared ineligible, or voluntarily excluded for the award of contracts by any federal governmental agency or department. "*Principals*," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of subsidiary, division, or business segment, and similar positions).

27.2 If at any time during the term of this CONTRACT, CONTRACTOR learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances, CONTRACTOR shall provide immediate written notice to CITY.

27.3 CONTRACTOR's certification is a material representation of fact upon which the CITY has relied in entering into this CONTRACT. Should CITY determine, at any time during this CONTRACT that this certification is false, or should it become false due to changed circumstances, the CITY may terminate this CONTRACT in accordance with Article XXXI.

XXVIII. SUBCONTRACTING

28.1 Notwithstanding anything to the contrary in this CONTRACT, none of the Work performed under this CONTRACT shall be subcontracted without the prior written approval of CITY.

Any Work approved by CITY for subcontracting shall be only by written agreement and, unless specific waiver is granted in writing by CITY, shall be subject to each and every provision of this CONTRACT. Compliance by subcontractors with this CONTRACT shall be the responsibility of CONTRACTOR.

28.2 CONTRACTOR shall ensure that all subcontractors are certified, reputable, and competent. CONTRACTOR shall provide to CITY copies of all certificates of its employees, subcontractors, and their employees who will be performing Work which requires a certificate under the Texas Environmental Lead Reduction Rules, as may be amended from time to time. Such certificates shall provide the name of the certified worker and the certificate number.

28.3 CONTRACTOR agrees that no subcontract approved pursuant to this CONTRACT shall provide for payment on a "cost plus a percentage of cost" basis.

XXIX. CHANGES AND AMENDMENTS

29.1 Except when the terms of this CONTRACT expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall be by amendment in writing executed by both CITY and CONTRACTOR; *provided, however*, the parties agree that applicable changes in local, state and federal rules, regulations or laws shall be automatically incorporated into this CONTRACT without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XXX. SUSPENSION OF FUNDING

30.1 Upon the occurrence of any of the following events (each, an "*Event of Default*"), CITY, without limiting or waiving any rights it may otherwise have, may, at its discretion, withhold further payments to CONTRACTOR by providing CONTRACTOR five (5) business days' written notice specifying the alleged default or failure as well as the action required for cure thereof, if any:

- (A) Neglect or failure by CONTRACTOR to perform or observe any of the terms, conditions, covenants or guarantees of this CONTRACT or any other valid, written contract or amendment between CITY and CONTRACTOR;
- (B) Finding by CITY that CONTRACTOR is in such unsatisfactory financial condition as to endanger performance under this CONTRACT, including, but not limited to:
 - (i) Apparent inability of CONTRACTOR to meet its financial obligations;
 - (ii) Appearance of items that reflect detrimentally on the creditworthiness of CONTRACTOR, including, but not limited to, liens, encumbrances, etc., on the assets of CONTRACTOR; or
 - (iii) CONTRACTOR is delinquent, in the ordinary course of business, in the payment of taxes or in the payment of costs of performance of this CONTRACT;
- (C) Appointment of a trustee, receiver or liquidator for all or a substantial part of CONTRACTOR's property, or institution of bankruptcy, reorganization, rearrangement of or liquidation proceedings by or against CONTRACTOR;
- (D) The entry by a court of competent jurisdiction of a final order providing for the modification or alteration of the rights of CONTRACTOR's creditors; or

- (E) Violation by CONTRACTOR of any legal requirement to which CONTRACTOR is bound or shall be bound under the terms of this CONTRACT.

30.2 Upon occurrence of an Event of Default, CITY shall grant CONTRACTOR such period of time as CITY, in its sole discretion, deems appropriate to take and complete corrective action, but such period of time shall not exceed ten (10) days to correct monetary Events of Default and thirty (30) days to correct non-monetary Events of Default unless otherwise agreed by CITY. At the end of the applicable remedial period, if any, CITY shall review CONTRACTOR's effort to correct the Event of Default. Upon expiration of the suspension period: (A) Should CITY determine that the Event of Default has been cured, CONTRACTOR may be restored to full compliance status and paid all eligible funds withheld during the suspension period; or (B) Should CITY determine continued non-compliance, the termination provisions of Article XXXI may be effectuated.

XXXI. TERMINATION

31.1 If an Event of Default specified in Section 30.1 continues beyond any applicable notice and cure period (if any), CITY may immediately terminate this CONTRACT for cause by providing written notice to CONTRACTOR.

31.2 Notwithstanding anything to the contrary in this CONTRACT, CITY may terminate this CONTRACT for convenience at any time, in whole or in part, if CITY determines that continuation of this CONTRACT is not in CITY's interest. CITY shall provide CONTRACTOR at least thirty (30) days' advance written notice prior to termination under this Section 31.2; *provided, however*, if termination is due to the expenditure, reduction or termination of funds allocated for the Project, termination shall be effective immediately upon CITY providing notice to CONTRACTOR.

31.3 Upon termination of this CONTRACT, CONTRACTOR shall be entitled to receive just and equitable compensation for any Work satisfactorily completed in accordance with this CONTRACT prior to the termination date. The question of satisfactory completion of such Work shall be determined by the CITY alone, and its decision shall be final.

31.4 CONTRACTOR may terminate this CONTRACT for any of the following reasons: (A) cessation of outside funding upon which CONTRACTOR depends for performance hereunder; or (B) upon the dissolution of CONTRACTOR's organization, provided such dissolution was not occasioned by a breach of this CONTRACT.

31.5 Upon a decision to terminate by either CITY or CONTRACTOR, the terminating party shall promptly provide written notice to the other party with the effective date of termination. Upon receipt of a termination notice from CITY or determination by CONTRACTOR to terminate this CONTRACT, CONTRACTOR shall immediately cancel, withdraw, or otherwise terminate any outstanding orders or subcontracts which relate to the performance of this CONTRACT. CITY shall not be liable to CONTRACTOR for any expense, encumbrances, or obligations whatsoever incurred after the date of termination.

31.6 Upon receipt of notice to terminate, all finished or unfinished documents, data, studies, surveys, charts, drawings, maps, models, photographs, designs, plans, schedules, or other appended documentation to any proposal or contract, prepared by or on behalf of CONTRACTOR under this CONTRACT shall, at the option of CITY, and in accordance with Article XVI, become the property of CITY and shall, if requested or agreed to by CITY, be delivered by CONTRACTOR to CITY in a timely and expeditious manner.

31.7 Within thirty (30) days after the termination date, CONTRACTOR shall submit a statement to CITY, indicating in detail the Work performed under this CONTRACT prior to the effective date of termination.

31.8 Termination of this CONTRACT shall not relieve CONTRACTOR from the payment of any sum(s) that shall then be due and payable or become due and payable to CITY hereunder or as provided for at law or in equity, or any claim for damages then or theretofore accruing against CONTRACTOR hereunder or by law or in equity, and any such termination shall not prevent CITY from enforcing the payment of any such sum(s) or claim for damages from CONTRACTOR. Instead, all rights, options, and remedies of CITY contained in this CONTRACT shall be construed and held to be cumulative and no one of them shall be exclusive of the other, and CITY shall have the right to pursue any one or all of such remedies or any such other remedy or relief which may be provided by law or in equity whether or not stated in this CONTRACT.

31.9 Notwithstanding anything to the contrary in this CONTRACT, if CONTRACTOR'S Work is not fully completed to the satisfaction of CITY in accordance with the terms of this CONTRACT, CONTRACTOR shall refund any and all sums of money paid by CITY to CONTRACTOR within ten (10) business days of its receipt of CITY's written request

31.10 Upon termination of this CONTRACT by CITY under Section 30.1(A), CONTRACTOR shall be barred from future CONTRACTS with CITY absent the express written consent of CITY's City Manager or her designee.

XXXII. NOTIFICATION OF ACTION BROUGHT

32.1 In the event that any claim, demand, suit, proceeding, cause of action or other action (collectively, a "***Claim***") is made or brought against CONTRACTOR, CONTRACTOR shall give written notice thereof to CITY within two (2) business days after itself being notified. CONTRACTOR's notice to CITY shall state the date and hour of notification to CONTRACTOR of the Claim; the names and addresses of those instituting or threatening to institute the Claim, the basis of the Claim; and the name(s) of any others against whom the Claim is being made or threatened.

XXXIII. ASSIGNMENT

33.1 CONTRACTOR shall not transfer, pledge, or otherwise assign this CONTRACT, any interest in and to same, or any claim arising thereunder, without first procuring the written approval of CITY, which may be withheld in its sole discretion. For purposes of this provision, the Director of the Neighborhood and Housing Services Department or their designee shall be final and binding on all parties. Any attempt at transfer, pledge, or other assignment shall be void *ab initio* and shall confer no rights upon any third person. If an assignment is made without obtaining CITY's written consent, CITY shall have the option, in its sole discretion, to immediately terminate this CONTRACT.

XXXIV. LEGAL EXPENSES

34.1 Under no circumstances will the funds received under this CONTRACT be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding against CITY or any other public entity. For purposes of this Article XXXIV, "***adversarial proceeding***" means any cause of action filed by the CONTRACTOR in a state or federal court, as well as any state or federal administrative hearing, but does not include Alternative Dispute Resolution proceedings.

34.2 CITY may terminate this CONTRACT if CONTRACTOR files and/or pursues an adversarial proceeding against CITY. CITY may also deem CONTRACTOR ineligible for consideration to receive any future funding while any adversarial proceeding against CITY remains unresolved.

XXXV. SEVERABILITY

35.1 If any clause or provision of this CONTRACT is held invalid, illegal, or unenforceable under present or future federal, state or local laws, including but not limited to the CITY's Charter, Code, or ordinances, then and in that event it is the intention of the parties hereto that such invalidity, illegality, or unenforceability shall not affect any other clause or provision hereof and that the remainder of this CONTRACT shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this CONTRACT that is invalid, illegal, or unenforceable, there be added as a part of the CONTRACT a clause or provision as similar in terms to such invalid, illegal, or unenforceable clause or provision as may be possible, legal, valid, and enforceable.

XXXVI. STATE CONTRACTING REQUIREMENTS

36.1 Texas Government Code §2270.002 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. By executing this CONTRACT, CONTRACTOR hereby verifies that it does not boycott Israel, and will not boycott Israel during the Term of this CONTRACT. For purpose of this representation, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. CONTRACTOR's verification is a material representation of fact upon which the CITY has relied in entering into this CONTRACT. Should CITY determine, at any time during this CONTRACT, including any renewals or extensions hereof, that this certification is false, or should it become false due to changed circumstances, the CITY may terminate this CONTRACT in accordance with Article XXXI.

36.2 Texas Government Code § 2252.152 provides that a governmental entity may not enter into a governmental contract that is identified on a list prepared and maintained under Texas Government Code §§ 806.051, 807.051, or 2252.153. By executing this CONTRACT with CITY, CONTRACTOR hereby certifies that is not identified on such a list and that it will notify CITY should it be placed on such a list while under contract with CITY. CITY hereby relies on CONTRACTOR's certification. If found to be false, CITY may terminate this CONTRACT for material breach.

XXXVII. NON-WAIVER OF PERFORMANCE

37.1 No waiver by CITY of a breach of any of the terms, conditions, covenants, or guarantees of this CONTRACT shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of CITY to insist in any one or more cases upon the strict performance of any of the covenants of this CONTRACT, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. No act or omission of CITY shall in any manner impair or prejudice any right, power, privilege, or remedy available to CITY hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby. No representative or agent of CITY may waive the effect of the provisions of this Section 37.1.

XXXVIII. ENTIRE CONTRACT

38.1 This CONTRACT, including all Exhibits, constitutes the final and entire agreement between the parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this CONTRACT shall be deemed to exist or to bind the parties hereto unless same are in writing, dated subsequent to the Effective Date, and duly executed by both parties.

XXXIX. INTERPRETATION

39.1 When a reference is made in this CONTRACT to an Article, Section, or Exhibit, such reference will be to an Article, Section, or Exhibit of this CONTRACT unless otherwise indicated. When a reference is made to this CONTRACT in this CONTRACT, such reference will be to this CONTRACT and the Exhibits attached hereto, as this CONTRACT and the Exhibits may be amended from time to time in accordance with Article XXIX. The headings in this CONTRACT are for reference only and shall not affect the interpretation of this CONTRACT. Where appropriate, all personal pronouns used herein, whether used in the masculine, feminine or neuter gender, shall include all other genders and singular nouns used herein shall include the plural and vice versa. In the event any disagreement or dispute should arise between the parties pertaining to the interpretation or meaning of any part of this CONTRACT or its governing rules, regulations, laws, codes or ordinances, CITY, as the party ultimately responsible to HUD for matters of compliance, shall have the final authority to render or secure an interpretation.

XL. NOTICES

40.1 All notices, demand, requests, and other communications hereunder shall be in writing and shall be deemed to have been given: (A) when delivered by hand (with written confirmation of receipt); (B) one (1) business day after being sent by reputable private courier service for next business day delivery (receipt requested); or (C) two (2) business days after being deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested. A party's rejection or other refusal of a notice, demand or request submitted by the other party, or the inability to deliver such communications because of changed address of which no notice was given as herein required, shall be deemed to be receipt of the notice, demand or request sent. All notices, demands, requests or other communications to be sent to a party must be sent to or made at the address set forth below or at such other address as such party may specify by providing at least ten (10) days' prior written notice thereof to the other party in accordance with this Section 40.1.

If to CITY:

Neighborhood and Housing Services Department
Attention: Director
1400 S. Flores
San Antonio, Texas 78204

If to CONTRACTOR:

Attention: _____

XLII. PARTIES BOUND

41.1 This CONTRACT shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns, except as otherwise expressly provided herein.

XLIII. RELATIONSHIP OF PARTIES

42.1 CONTRACTOR is an independent contractor and is not an employee, servant, agent, partner or joint venturer of CITY. CITY is interested only in the results achieved by the services of the CONTRACTOR, and the manner of legally achieving those results is the responsibility of the CONTRACTOR. CITY is not responsible for deducting, and shall not deduct, from payments to CONTRACTOR any amounts for withholding tax, FICA, insurance or other similar item relating to CONTRACTOR or CONTRACTOR's employees. Neither CONTRACTOR nor its employees shall be entitled to receive any benefits which employees of CITY are entitled to receive and shall not be entitled to workers' compensation, unemployment compensation, medical insurance, life insurance, paid vacations, paid holidays, pension, profit sharing, or social security on account of their work for CITY.

XLIV. TEXAS LAW TO APPLY

43.1 THIS CONTRACT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES ARE PERFORMABLE IN BEXAR COUNTY, TEXAS. THE PARTIES HEREBY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE STATE OF TEXAS AND COURTS LOCATED IN BEXAR COUNTY, TEXAS AND AGREE THAT VENUE IS PROPER THEREIN, WITH RESPECT TO ANY DISPUTE, CLAIM, CAUSE OF ACTION OR THE LIKE ARISING FROM OR OUT OF THIS CONTRACT OR ANY RELATED CONTRACT, ARRANGEMENT OR UNDERSTANDING.

XLV. COUNTERPARTS

44.1 This CONTRACT may be executed in any number of multiple counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument. Each such counterpart shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile or other electronic transmission of any signed original document or retransmission of any signed facsimile or other electronic transmission will be deemed the same as delivery of an original.

[Signature page to follow.]

IN WITNESS WHEREOF, the undersigned parties have executed this CONTRACT on the dates shown below to be effective as of the effective date of CITY's ordinance authorizing this CONTRACT (the "*Effective Date*").

CITY OF SAN ANTONIO,
a Texas municipal corporation

[Name of Contractor],
a _____ corporation

By: _____
VERÓNICA R. SOTO, AICP
Director
Department of Neighborhood and
Housing Services

By: _____
_____[name]
_____[title]

APPROVED AS TO FORM:

By: _____
SCOTT ZIMMERER
Assistant City Attorney

Attachments:

- Exhibit "A" – Lead Specifications
- Exhibit "B" – Contractor Fixed Unit Cost Lists and Specifications Manual