

INDIANAPOLIS HOUSING AGENCY
Form of Contract

Project Name: _____ for Indianapolis Housing Agency senior Communities
Contract No. PS-_____

This Contract is made _____, 2005, in accordance with Indianapolis Housing Agency (hereinafter called "Agency") and US Housing and Urban Development (HUD) procurement procedures, by and between the Agency, and _____ herein called "Contractor"). All references to the Indianapolis Housing Agency (IHA) in the RFB documents shall mean the Agency as defined in this contract.

Article 1. Performance. The contractor shall supply and install video security systems as outlined in Scope of Work (SOW), Attachment____ and in accordance with Contractor's Response to Agency Request for Proposal (RFP) specifications, which is included as Attachment____, for the senior communities as outlined in the specifications and as directed. All work is to be performed according to the SOW and RFP response specifications referred to herein, said documents are specifically incorporated by reference as a part of this agreement and in possession of Contractor.

Article 2. Compensation. In consideration for full and satisfactory performance of all work requirements contained in Attachment A, the Agency agrees to compensate the Contractor, in accordance with the SOW, for the amount not to exceed \$_____.00 which is made a part of this Agreement as Attachment _____. The total amount shall include all labor, materials and equipment which will be supplied by the contractor.

Article 3. Contractor Covenants. Contractor agrees to the following:

- A. To furnish all labor and equipment, at the designated communities as referenced in Attachment__ in accordance with the SOW and RFP specifications and any other contract documents.
- B. Contractor has agreed to begin work on _____, 2005, as noted in the Notice to Proceed as, herein specifically incorporated by reference and to work through the completion of the contract which ends on or about six months from the date of complete contract execution , or unless otherwise directed by the Contract Monitor or unless that the day and/or time shall be extended as provided below for or by mutual agreement endorsed on this contract and signed by the parties; and then, in such case, on or before the extended day and/or time. Time is of the essence in the completion of the contracted work. If Contractor fails at any time to perform all work as agreed upon in a reasonable time, Agency shall be entitled to enter into an agreement with another vendor to complete the work and to bill Contractor for the difference in price, if any.
- C. To give all requisite notices to the proper authorities, obtain all official inspections, permits, certificates and licenses made necessary by the work in Contractor's charge, and to pay all proper and legal fees.
- D. To maintain insurance as will protect and defend Contractor from all claims arising under workman's compensation acts and from any **other claims for damages** under this contract, whether such operations be by Contractor or by any sub-contractor or any one directly or indirectly employed by or acting as agent for either of them. Certificates of Insurance shall be filed with the Agency.
- E. To indemnify and save harmless Agency, the Consolidated City of Indianapolis, Marion County and their respective officers, employees, agents against all loss costs

or damages on account of injuries to person or property occurring in the performance of the contract. Indemnifiable damages include, but are not limited to defense costs, judgments, liens, attorney's fees, court costs, inspection fees. Additionally, Contractor shall have a duty to defend Agency against any and all claims arising out of any circumstances addressed in Article 3, Section D. The duty to defend shall immediately accrue upon written tender of the defense to Contractor. Contractor shall either bear the defense costs or shall ensure that its insurance carrier will agree to defend on Contractor's behalf. Failure to immediately accept the tender of defense shall be deemed a material breach of this agreement, and Agency shall have the right, in its sole discretion, to defend any actions itself and charge Contractor, including the right to withhold payment in the amount of said costs, with all costs associated with said defense and/or to terminate the contract.

- F. If the Contractor is adjudged a bankrupt, or if it should make any general assignment for the benefit of creditors, or if a receiver should be appointed on account of Contractor's insolvency, or if Contractor should persistently or repeatedly refuse or should fail, except in cases where an extension of time is allowed in writing, to supply enough properly skilled workers or proper materials, or if Contractor should fail to make prompt payment to any sub-contractor or for material or labor, or persistently disregard laws, ordinances or instructions of the Agency, or otherwise be guilty of a substantial violation of any contract terms, Agency may, without prejudice to any other right or remedy and after giving Contractor 10 days written notice, terminate the contract and take possession of the premises and of all materials, tools, and other equipment on the premises.

- H. To certify and warrant to Agency that neither it, nor its' sub-contractors, agents and employees of either who will participate, in any way, in the performance of any services required under this contract has or will have any conflict of interest, direct or indirect, with the Agency, Consolidated City of Indianapolis or Marion County. Contractor shall immediately advise Agency if any conflict arises during the term of this agreement. If a conflict arises, parties will immediately take all steps necessary to resolve said conflict. If an agreed resolution cannot be reached, Agency reserves the sole right to unilaterally resolve the conflict after consultation with Agency's legal department. Agency may then send written notice to Contractor demanding certain actions within a time certain to resolve the conflict. Contractor's failure to comply with any Agency directives, on this issue, will be deemed a material breach of this contract.

Contractor hereby assumes responsibility for all damages caused to Agency property, employees, guests, tenants, invitees or other third persons as a result of any acts or omissions, intentional or otherwise, caused in part or whole by Contractor, its sub-contractors, employees, agents assigns or any persons affiliated with Contractor by law.

Article 4. Agency Covenants. Agency agrees to the following:

- A. To pay Contractor for the performance of services under the contract, subject to additions and deductions provided in the contract as stated at Paragraph B of this article. Payment to Contractor shall become due and payable in full upon Agency's final approval of the services rendered. Agency shall, after inspection, advise Contractor whether the project has been approved. If the Agency fails to approve the project, the Agency will detail in writing, all known and apparent defects or any other basis for withholding approval. The notice will set forth a reasonable time in which Contractor will be allowed to cure any defects or other detailed problems. Upon written notice of

final approval and/or approval of invoice and all required documents, Agency shall have thirty (30) days to tender contractual payments, providing goods and services have been satisfactorily provided and performed. Agency is under no obligation to pay sooner than thirty (30) days.

- B. That Agency may make alterations, deviations, additions or omissions from the Project Manual, by written change order, without affecting or making the contract void. If this event occurs, the parties shall agree on the value of any such changes and any additional time required to complete the work and add to or deduct from the above-agreed compensation any excess or deficiency occasioned by the above referenced changes.

Article 5. Mutual Covenants. The parties further agree as follows:

- A. During process of the scope of service and upon completion of the work, Agency reserves a right to inspect the work site to determine and ensure compliance prior to payment hereunder. Said right includes the right of Agency to ensure that all suppliers and sub-contractors have been fully compensated and that no liens would be filed. Failure of Contractor to pay, without good cause, their sub-contractors and/or suppliers shall cause the Contractor to be in breach of contract Agency may, at its discretion; tender payment directly to any supplier or sub-contractor to which Contractor has failed to compensate. Any funds paid under this provision may be deducted from the contractual payment amounts payable or billed to contractor directly, based on Agency's sole discretion.
- B. Payment shall not be tendered until Contractor shall deliver to owner a certification that no liens exist, complete release of all liens arising out of this contract, or receipts in full in lieu of a release and, if required in either case, an affidavit that so far as Contractor has knowledge or information that the certificates, releases and receipts include all labor and material for which a lien could be filed. Contractor may, if any sub-contractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to Agency, to indemnify against any actual or potential lien. If any lien remains unsatisfied after all payments are made, Contractor shall indemnify and refund to Agency all monies that the latter may be compelled to pay in discharging such lien, including costs and reasonable attorney's fees. Agency may withhold a portion of the contract payment equal to any amounts paid under this provision from the contractual funds payable herein. It is the policy of the Agency to pay all legitimate and approved invoices within thirty (30) days of approval.
- C. The funds used to finance this project may come from various government sources. Notwithstanding any other terms of this contract, if the allocated funds designated to pay for the services under this contract are at any time delayed, stopped or reduced, due to no action or omission of Agency, the contract may be immediately terminated by Agency, without further recourse. Contractor will be entitled to compensation for all work performed prior to termination.
- D. Agency may terminate this agreement for cause or convenience. Cause will be deemed to be any breach of this contract by the Contractor. When the contract is terminated for convenience (i.e. for any business reason), the Agency shall provide the Contractor with a written notice of termination allowing for 10 days advance notice. Contractor shall be entitled to compensation for all work completed up to and including the effective termination date. Upon completion or termination of this contract, Contractor shall provide, as the exclusive property of the Agency, all

original construction documents, data, studies, briefs, drawings, maps, models, photographs, files, and any documents related to the contractual services.

- E. Each provision contained within this contract shall be enforced independently of any other provision herein contained and any other claim or cause of action. If any clause or provision, or any part thereof, is later adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of applicable law, it shall not effect the validity of the remaining part or whole of any other clause or provision, which shall remain in full force and effect.
- F. Failure of Agency, at any time, to require strict performance by Contractor, shall in no way effect the rights of the Agency to enforce the same or subsequent breaches under the contract. Nor shall agency be deemed, in any way, to have agreed to any contract modifications by an act, omission and/or acquiescence.
- G. This contract represents a mutual understanding of terms between the parties indicated. This agreement shall not be assignable, in any way, by Contractor without the prior written consent of Agency. Agency reserves the right to withhold consent for any reason whatsoever and at its discretion.
- H. Venue, under this contract, shall be deemed to be Marion County, Indiana.
- I. Any and all notices or correspondence required to be sent, under the contract, shall be addressed as follows:

CONTRACTOR

_____IN

AGENCY
Indianapolis Housing Agency
Rufus Bud Myers
Executive Director
1919 N. Meridian
Indianapolis, Indiana 46202

- K. This contract and all documents specifically incorporated **by attachment and inclusion and** represents the entire agreement between the parties and supercedes all prior written or oral negotiations, representations and understandings, written or oral. The terms and conditions herein may only be modified by written agreement signed by both Agency and Contractor. The documents specifically incorporated by inclusion and **attachment** are as follows:
 - 1. Scope of Work (SOW), Attachment _____
 - 2. Rate Sheet, Attachment, Attachment _____
 - 3. RFP Response, Attachment _____
 - 4. **HUD-5370, General Conditions of the Construction Contract, Attachment _____**
 - 5. Section 3 Compliance Plan
 - 6. Notice to Proceed, Attachment _____
 - 7. Any and all federal, State and Local laws, regulations and ordinances, Attachment _____ or N/A

- 8. Minutes of PreConstruction Conference dated __/__/05 Attachment_____
- 9. Wage Rates: IN_____ for _____ Community
- 10. Wage Rates_____ for Barton Apts., Barton Annex, and Lugar Tower
- 11. Any other documents specifically referenced in this contract

ALL OF WHICH IS AGREED TO BY THE UNDERSIGNED ON THE DATES INDICATED BELOW

AGENCY:
 Indianapolis Housing Agency
 1919 North Meridian Street
 Indianapolis, Indiana 46202-1303

CONTRACTOR:

 Title: _____

By: _____
 Rufus Bud Myers
 Title: Executive Director

Date: _____

Date: _____

APPROVED AS TO LEGAL FORM:

By: _____
 Deputy General Counsel

Date: _____

Attachments

Copy:

ATTACHMENT A

INDIANAPOLIS HOUSING AGENCY
HUD-DETERMINED WAGE RATE CONTRACT CLAUSE FOR SMALL
PURCHASES
ROUTINE MAINTENANCE

Work under this contract is covered under Section 12 of the United States Housing Act of 1937, pertaining to the payment of wages rates for routine maintenance labor. By executing this clause, the Contractor agrees to comply with all pertinent requirements, as outlined below.

1. Project Description/Purchase Order No:

2. Wage Rates:

The contractor agrees to pay rates not less than those contained in Attachment A to this document for this project.

3. Minimum Wages

All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development which is attached hereto and made a part hereof. Such laborers and mechanics shall paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at a rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate only

what the following criteria have been met: (1) the work to be performed by the classification required is not performed by a classification in the wage determination; (2) the classification is utilized in the area by the industry; and (3) the proposed wage rate bears a reasonable relationship to the wage rates contained in the wage determination.

The wage rate determined pursuant to this paragraph shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

4. Withholding of Funds

The Contracting Officer, upon his or her own action or upon request of HUD shall withhold or cause to be withheld from the Contractor under the contract or any other contract subject to HUD-determined wage rates, with the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the Contractor or any subcontractor the full amount of wages required by this clause. In the event of failure to pay any laborer or mechanic employed or working on the site of the work all or part of the wages required by the contract, the Contracting Officer or HUD may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, or advance, until such violations have ceased. The PHA or HUD may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

5. Payrolls and Basic Records:

A. Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the work-site. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

B. Each invoice submitted shall be accompanied by a "Statement of Compliance", signed by the contractor or subcontractor or his or her agency who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- That the payroll for the payroll period contains the information required to be maintained under subparagraph 5(A) and 5(B) of this clause and that such information is correct and complete;
- That each laborer or mechanic employed on the contract during the payroll period had been paid the full weekly wages earned without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and

- That each laborer or mechanic has been paid not less than the applicable wage rates for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
 - C. The submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the “Statement of compliance” required by subparagraph 5(C) of this clause.
 - D. The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.
 - E. The Contractor or subcontractor shall make the records required under subparagraph 5(A) available for inspection, copying, or transcription by authorized representatives of HUD or the PHA and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment or denial of participation in HUD’s programs pursuant to 24 CFR Part 24.

6. Compliance with Copeland Act Requirements.

The Contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

7. Contract Termination; debarment.

A breach of this contract clause may be grounds for termination of the contract and for debarment as a Contractor and a subcontractors as provided in 24 CFR Part 24.

8. Contract Work Hours and Safety Standards Act.

As used in this paragraph, the terms “laborers” and “mechanics” include watchmen and guards.

- A. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any work week in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic

receives compensation at a rate not else than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

B. Violation; liability of unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in subparagraph 8(A) of this clause, the Contractor or any subcontractor responsible thereof shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the provisions set forth in subparagraph 8(A) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in subparagraph 8(A) of this clause.

C. Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under such contract or any federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in subparagraph 8(B) of this clause.

G. 9. Subcontracts

The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this clause and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Contractors shall be responsible for the compliance by any subcontractor or lower tier subcontractors with all the provisions contained in this clause.

10. Non-Federal Prevailing Wage Rates

Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State or tribal law to be prevailing, with respect to any employee in any trade or position employed under the contract, is inapplicable to the contract and shall not be enforced against the Contractor or any subcontractor, with respect to employees engaged under the contract whenever either of the following occurs:

A. Such non-Federal prevailing wage rate exceeds: (1) the applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a et seq) to be prevailing in the locality with respect to such trade; (2) an applicable apprentice wage rate based thereon specified in an apprenticeship

program registered with the U.S. Department of Labor of a DOL-recognized State Apprenticeship Agency; or (3) an applicable trainee wage rate based thereon specified in a DOL-certified trainee program; or

- B. Such non-Federal prevailing wage rate, exclusive of any fringe benefits, exceeds the applicable wage rate determined by the Secretary of HUD to be prevailing in the locality with respect to such trade or position.

HUD DETERMINED CONTRACT CLAUSE FOR ROUTINE MAINTENANCE

Principal/Firm
Richmond Guttering Company

Signature: _____

Date

End of Document