



City of Apache Junction Housing Rehabilitation Program

Bidding Instructions

Thank you for your interest in the City of Apache Junction's Housing Rehabilitation Program. Below are the instructions to the bidders. Please read the information carefully as it includes pertinent information regarding the submission of your bid. Additional, detailed information about the program and all necessary forms can be found on the City's website at www.ajcity.net/rehab. Should you have any questions regarding this project, please contact Heather Patel, Program Coordinator at (480) 474-2635 or hpatel@ajcity.net

Proposals must be submitted on the date provided in the request for bids. All proposals must be submitted in a minimum 8 1/2"x 11" letter sized envelope with the words "Sealed Bid Residential Rehab" along with the address, and the name of the owner of the project being bid. This must be clearly printed on the face of the envelope. In addition, the name of the firm submitting the bid must be listed on the face of the envelope. Failure to comply with the requirements of this paragraph will result in such a bid being considered invalid and returned unopened to the sender. All bidders will be notified by email of the bid results. PLEASE PROVIDE TWO (2) COPIES OF YOU BID AND DO NOT STAPLE, PAPERCLIP OR SECURE YOUR BID.

The City of Apache Junction is an Equal Opportunity Employer, Minority Contractors participation is encouraged DBE/MBE/WBE. A copy of the City's Equal Employment Opportunity Policy is available on-line at <http://www.ajcity.net/index.aspx?nid=556> .

A complete list of bidding requirements and relevant forms are available on the City website at www.ajcity.net/rehabcontractor. Included in the packet of information are the following documents:

- 1) Contractor Certifications
- 2) Color Preference form*
- 3) Change Order form*
- 4) Waiver of Lien*
- 5) Sample Contract

The following documents/items shall be returned with your bid package:

- 1) Project scope and bid sheet (available for each project)
- 2) Contractor Certification forms (obtain on-line)
- 3) List of Subcontractors
- 4) Contractor and subcontractor's ROC license number(s)
- 5) Bid Bond worth 10% of the bid**

The following documents/items can be submitted upon award of bid:

- 1) Contractor and subcontractor's City of Apache Junction Privilege Tax License
- 2) Insurance Certification***
- 3) Subcontractor Certification forms (obtain on-line)
- 4) Subcontractor Insurance Certification

*These documents may be used by the selected contractor if awarded.

**Bonding requirements will be for projects that exceed \$50,000 in value. If applicable, Performance and Payment Bonds will be required upon award.

***Insurance requirements: Workers Compensation and Employer's Liability Insurance in accordance with Arizona law for all persons engaged on the work site and Comprehensive Public Liability and Property Damage Insurance coverage in minimum amounts of \$1,000,000 as approved by Owner, covering injury to person and/or property, including, but not limited to, injury to the person or Owner of this property.



Submit with bid

City of Apache Junction Housing Rehabilitation Program

Contractor Certification

I, the undersigned, am submitting a bid in conjunction with a housing rehabilitation project funded through a HOME and/or CDBG program:

Legal business name: _____

Dbas: _____

Legal address: _____

Contact/title: _____

Email address: _____

Phone number: _____

City of AJ Privilege Tax License No.	IRS Tax Id No.	AZ ROC License No.	DUNS No.	CCR No. (CAGE code)	Insurance Company and Coverage (attach certificate of insurance)

I hereby certify that:

- a. Neither I nor any firm, partnership or association in which I have a substantial interest is, to the best of my knowledge, designated as an ineligible contractor by the Comptroller General of the United States pursuant to Section 5.6(b) of the Regulations of the Secretary of Labor, part 5 (29CFR, part 5) or pursuant to Section 3(a) of the Davis-Bacon Act as amended (40 U.S.C. 276a-2(a).
- b. No part of the aforementioned contract is or will be subcontracted to any subcontractor, if such subcontractor or firm, corporation, partnership or association in which such subcontractor has a substantial interest is to the best of my knowledge, designated as an ineligible contractor pursuant to any of the aforementioned regulatory or statutory provisions
- c. I agree to obtain and forward to the aforementioned grantee, a Certification executed by each and every subcontractor, preferably prior to the execution of any subcontract, including those executed by his/her subcontractors and any lower tier subcontractors or where circumstances do not allow, to obtain and forward such to the grantee within ten (10) days of execution.
- d. I hereby acknowledge that I am aware that should I sign a subcontract with a subcontractor or should that subcontractor sign a contract with a lower tiered subcontractor who is found to be ineligible to receive federal funds, I shall subtract such costs from the amount I will bill the grantee or homeowner.
- e. My company is :
 - A single proprietorship;
 - A partnership;
 - A corporation organized in the State of _____
 - Another organization (describe) _____



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f. The name, title and address of the owners, partners or officers of the undersigned are:

Name	Title	Address

g. The names and addresses of all other persons, both natural and corporate, having a substantial interest in the undersigned, and the nature of the interest, are: (Indicate if None)

Name	Address	Nature of Interest

h. The names, addresses and trade classifications of all other building construction contractors in which the undersigned has a substantial interest are: (Indicate if None)

Name	Address	Trade Classification

i. I further certify the demographic and business information of my company are:

Type of Trade Code*	Racial Code*	Hispanic Owned Y/N	Women Owned	Section 3 (Y/N)

**See Demographic and Trade Code table below for information*

Demographic and Trade Codes	
Race	Type of Trade Code
11 – White	1 – New Construction
12 – African American	2 – Substantial Rehab
13 – Asian	3 – Repair
14 – American Indian or Alaskan Native	4 – Service
15 – Native Hawaiian or other Pacific Islander	5 – Project Management
16 – American Indian or Alaskan Native and White	6 – Professional
17 – Asian and White	7 – Tenant Services
18 – African American and White	8 – Education Training
19 – American Indian or Alaskan Native and White	9 – Architecture/Engineering
20 – Other Multi-racial	10 – Other



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I hereby certify that I have the legal authority to complete and submit this document on behalf of:

Name of Contractor: _____

Signature (in Ink): _____

Type or Print Name: _____

Title: _____ Date: _____

WARNING: U.S. Criminal Code, Section 1010, Title 18, U.S.C. provides in part: "Whoever...makes, passes, utters or publishes any statement, knowing the same to be false...shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

City Use Only

The contractor is eligible to participate in the HOME/CDBG funded construction project: Yes No

Comments: _____

Person making this determination (typed or printed name): _____

Signature _____ Date _____

Date grantee or HOME/CDBG Program notified of determination: _____

Grantee or HOME/CDBG Program notified by: Mail Fax Phone e-mail



Submit with bid

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Certifications

CIVIL RIGHTS

The undersigned is fully aware that this contract is wholly or partially federally funded, and further, agrees to abide by the:

Civil Rights Act of 1964, Title VI, as amended, that provides no person on the basis of Race, Color, or National Origin shall be excluded from participation, denied program benefits, or subjected to discrimination.

And, Civil Rights Act of 1968, Title VIII, as amended, will not discriminate in housing on the basis of Race, Color, Religion, Sex, or National Origin.

And, Rehabilitation Act of 1973, Section 504, as amended, that no otherwise qualified individual shall solely by reason of his or her handicap be excluded from participation and/or employment, denied program benefits, subjected to discrimination under any program receiving federal funds;

And, Housing and Community Development Act of 1974, Section 109, as amended, that no person shall be excluded from participation (including employment), denied program benefits, or subjected to discrimination on the basis of Race, Color, National Origin, Sex, Age, and Handicap under any program or activity funded in whole or part under Title I (CDBG) of the Act.

And, Age Discrimination Act of 1975, as amended, that no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funds.

And, Americans with Disabilities Act of 1990, as amended, that there shall be no employment discrimination against "qualified individuals with disabilities."

And, Executive Order 11063, that no person shall, on the basis of race, color, religion, sex, or national origin, be discriminated against in housing and related facilities provided with federal assistance, or lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the federal government.

And, Executive Order 11246, as amended, that no person shall be discriminated against, on the basis of race, color, religion, sex, or national origin, in any phase of employment during the performance of federal or federally assisted construction contracts in excess of \$10,000.

EQUAL EMPLOYMENT OPPORTUNITY

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

1. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, familial status, religious affiliation or handicap. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color, national origin, familial status, religious affiliation or handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising;



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- layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City of Apache Junction setting forth the provisions of this non-discrimination clause.
2. The Contractor will, in all solicitation or advertisements for employees placed by or on behalf of the Contractor for the City of Apache Junction, state that all qualified applicants will receive consideration for employment without regard to race, creed, sex, color, national origin, familial status, religious affiliation or handicap.
 3. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this contract so that such provisions will be binding upon each subContractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
 4. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the City of Apache Junction's Department of Housing and/or Community Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
 5. In the event of the Contractor's non-compliance with any provision of this contract or with any of such rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government 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.
 6. The Contractor will include the provisions of the subparagraphs 12 (a) through (f) 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 provision will be binding upon each subContractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the City of Apache Junction's Department of Housing and/or Community Development may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subContractor or vendor as a result of such direction by the City of Apache Junction's Department of Housing and/or Community Development, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS

SECTION 503

(if contract \$25,000 or over)

1. The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
2. The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.



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3. In the event of the Contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
4. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
5. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
6. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subContractor with respect to any subcontract or purchase order as the Director of the Office of Federal contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

FLY ASH CERTIFICATION

The undersigned is fully aware that this contract is wholly or partially federally funded, and further by submission of this bid certifies that the percentage of fly ash in the concrete or cement is or will be consistent with the amounts required by the EPA Guidelines and/or Code of Federal Register 9CFR for federal procurement of cement and concrete containing fly ash, which is attached.

ACCESS TO RECORDS AND RECORDS RETENTION

The undersigned certifies, to the best of his or her knowledge and belief that:

1. The individual, sole proprietor, partnership, corporation, and/or association agrees to permit the City of Apache Junction, Arizona Department of Housing Development (ADOH), U. S. Department of Housing and Urban Development (HUD), and the Office of the Inspector General and/or their designated representatives to have access to all records for review, monitoring, and audit during normal working hours.
2. The individual, sole proprietor, partnership, corporation, and/or association agrees to retain all records for at least five years following the "official Arizona Department of Housing Development "Closeout" date of the grant or the resolution of all audit findings, whichever is later.

CONFLICT OF INTEREST

The undersigned is fully aware that this contract is wholly or partially federally funded, and further, by submission of the bid or proposal that the individual or firm, certifies that:

1. There is no substantial interest, as defined by Arizona Revised Statute §§38-503 through 505, with any public official, employee, agency, commission, or committee with the City of Apache Junction.
2. Any substantial interest, as defined by Arizona Revised Statute §§38-503 through 505, with any public official, employee, agency, commission, or committee (including members of their immediate



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family) with the City of Apache Junction that develops at any time during this contract will be immediately disclosed to the City of Apache Junction.

ANTI-LOBBYING CERTIFICATION

The undersigned certifies, to the best of his or her knowledge and belief that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this Certification be included in the award documents for all sub-awards to all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

CERTIFICATIONS SIGNATURE FORM

These Certifications (Civil Rights, Equal Employment Opportunity, Affirmative Action for Handicapped Workers -Section 503, Fly Ash, Access to Records and Records Retention, Conflict of Interest, Lobbying) are a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of these Certifications is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required Certifications shall be subject to a civil penalty of not less than \$10,000 and not more that \$100,000 for each such failure.

(typed name of official)

(signature of official)

(typed name of firm)

(date)



Submit with bid

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Affirmative Action Certification

The City of Apache Junction, as required by national policy, the Arizona Department of Housing and the CDBG Program, are Affirmative Action Employers and therefore encourage the use of minority business enterprises, women-owned business enterprises and small business enterprises in a rural area whenever possible.

Although not required as a part of the proposal, the City of Apache Junction requests your cooperation in submitting the following certification as a part of your proposal.

Name of Firm: _____

1. Minority Business Enterprise Yes ___ No ___

A minority business enterprise is a business concern that is (1) at least 51 percent owned by one or more minority individuals, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more minority individuals; and (2) whose daily business operations are managed and directed by one or more of the minority owners.

There is no standard definition of minority used by all federal financial assistance agencies; however, recipients shall presume that minority individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, or other groups whose members are found to be disadvantaged by the Small Business Act or by the Secretary of Housing under Section 5 of Executive Order 11625.

Business firms which are 51 percent owned by minorities, but are in fact managed and operated by non-minority individuals do not qualify.

2. Women Business Enterprise Yes ___ No ___

A women business enterprise (WBE) is a business concern that is, (1) at least 51 percent owned by one or more women, or, in the case of a publicly owned business; at least 51 percent of the stock is owned by one or more women; and, (2) whose daily business operations are managed and directed by one or more of the women owners.

Business firms which are 51 percent owned by women, but are in fact managed and operated by men do not qualify.

3. Small Business Enterprise in a Rural Area Yes ___ No ___

A small business enterprise in a rural area (SBRA) is a business concern that is physically located outside any standard metropolitan statistical area.

This Certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.

(Typed name of official)

(Signature of official)

(Typed name of firm)

(Date)



Use if awarded

City of Apache Junction Housing Rehabilitation Program

Color Preference Information

(an alternate format may be used)

Homeowner: _____

Address: _____

Date: _____

Please state your standard color preference/style number for the following items:

	First Choice	Second Choice
Floor Tile:	_____	_____
Flooring (vinyl):	_____	_____
Roof Shingles:	_____	_____
Carpeting:	_____	_____
Exterior Paint:	_____	_____
Interior Paint:	_____	_____
Household Appliances:	_____	_____
Kitchen Cabinets:	_____	_____
Kitchen Countertops:	_____	_____

Please note that all items listed above may not be applicable to your home.

Homeowner acknowledges that by signing this form every effort to adhere to the homeowner's color choice when replacing items in the home will be made, but in some circumstances it may be necessary to substitute.

Contractor's signature

Homeowner's signature



Use if awarded

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Change Order Form

(an alternate format may be used)

Date: _____

Homeowner: _____

Contractor: _____

Address: _____

Job#: _____

The following change (s) is/are authorized in the above referenced housing rehabilitation contract.

Item	Description of Change	Cost

Homeowner's signature

Contractor's signature

Housing Program Staff



Use if awarded

City of Apache Junction Housing Rehabilitation Program

Lien Waiver

Contractor:

Contract Date:

Amount:

LET IT BE KNOWN:

1. As a final invoice, the undersigned hereby certifies that there is due from and payable by the Owner to the contractor under the above contract the remaining total sum of _____ which represents payment in full.
2. The CONTRACTOR warrants that all subcontractors who have worked under this contract have been paid in full.
3. The CONTRACTOR warrants that all material suppliers who have supplied materials under this contract have been paid in full.
4. The CONTRACTOR warrants that all of his/her employees who have worked under this contract have been paid in full.
5. The CONTRACTOR indemnifies and saves harmless both the Owner and the City of Apache Junction from any claim for payment from any subcontractor, material man, or CONTRACTOR'S employee.
6. The CONTRACTOR warrants that any lien rights which may be claimed to have arisen for the described work, and accruing to or through the undersigned, are hereby expressly and fully waived in consideration of the payment this made. This waiver is given for the benefit of, and may be relied upon by, the Owner of the aforementioned contract and mortgagers or construction lender and any subcontractor through whom the undersigned might otherwise claim.
7. The undersigned hereby guarantees the work performed for a period of one (1) year from the date of final acceptance of all the work required by the contract. Also attached hereto are all manufacturers' and suppliers' written guarantees and warranties covering materials and equipment furnished under the contract.

Typed or Printed Name and Title

Signature

Date

STATE OF ARIZONA)
) §
County of Pinal)

The forgoing instrument was acknowledged before me this ____ day of _____, 20__, by _____ (Name).

My Commission Expires:

Notary Public



Use if awarded

City of Apache Junction Housing Rehabilitation Program

Sample Construction Contract

RECITALS:

- A. That the City of Apache Junction ("City") has commenced a program of housing rehabilitation, pursuant to applicable Federal and State laws; and
- B. That Owner is a participant in the City of Apache Junction Housing Rehabilitation Program; and
- C. That Owner has selected Contractor as being properly licensed and fully qualified to perform the work proposed to be accomplished, and Contractor has agreed to perform the same upon the terms and conditions hereinafter set forth; and
- D. That Owner and Contractor acknowledge and agree that the City of Apache Junction is a third party beneficiary of this contract consistent with the City's Housing Rehabilitation Program and shall occur no liability for Contractor's omissions or intentional or negligent acts..

AGREEMENT:

The parties agree as follows:

1. **Description of Work.** Contractor shall supply, at his sole expense, all of the labor, equipment and material necessary to accomplish all of the work described on Plans and/or Specifications attached hereto and incorporated herein by reference (the "work"). Contractor agrees to perform such work in accordance with the contract documents, all applicable laws, and in good and workmanlike manner.
2. **Time for Completion of Work.** Contractor agrees to begin all of the work as provided herein within a period of seven (7) calendar days from and after the giving of a "Notice to Proceed" by Owner, and complete such work within 60 or 90 calendar days thereafter, unless modified by change or order. Contractor agrees that for each day and every day that work shall remain incomplete after the time specified for completion, the sum of Fifty Dollars (\$50.00) per day (which the parties agree is a reasonable sum) may be deducted from monies due to Contractor as liquidated damages.
3. **Permits, Fees and Taxes.** Unless otherwise provided in the contract documents, Contractor shall secure and pay for all permits, governmental fees, transaction privilege license fees and taxes, construction sales taxes, licenses and inspections necessary for the proper execution and completion of work which are customarily secured after execution of the contract and which are legally required. Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the work. If the Contractor observes that the drawings, Plans and/or Specifications are at variance with the applicable laws, rules, ordinances and/or regulations bearing on the conduct of the work, he shall promptly notify City in writing. Any necessary changes shall be adjusted as provided for in the Contract for Changes in work. If the Contractor knowingly performs work contrary to such laws or ordinances, and without notice to City, he shall bear all costs arising therefrom. All work shall be performed in conformance with applicable codes and requirements whether or not covered by the specifications and drawings for the work.



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Contractor understands that the activity described herein constitutes "doing business in the City of Apache Junction" and Contractor agrees to obtain a business and privilege tax license pursuant to Article 8 of the Apache Junction City Code and keep such license and payment of all required taxes current during the term of this Agreement. Any activity by any subcontractors within the corporate city limits will invoke the same business and privilege tax regulations on any subcontractors and Contractor ensures its subcontractors will obtain any required business tax license and will pay any required privilege tax.

Contractor shall pay all license, sales, consumer, use and other similar taxes for the work or portions thereof provided by Contractor which are legally enacted at the time bids are received whether or not yet effective or subsequently applicable due to acts of jurisdictions or bodies other than City.

4. Payment. For and in consideration of the performance by the Contractor of all of the work required by this Agreement and in the Work Write-Up attachment, Owner agrees to pay to said Contractor the sum of _____ (\$_____). Payment of said sum shall be in installments as follows: Ninety percent (90%) of the value of work successfully completed at time of request. The remaining ten percent (10%) after the final acceptance of the work.

Owner shall be required to pay such installments only upon the presentation of a fully approved and executed payment form. All payments are subject to satisfactory intermediate and final inspections by the City of Apache Junction.

Compensation for the work performed shall be made in no more than two (2) progress payments not to exceed ninety percent (90%) of the value of the work successfully completed at the time of the request or inspection and then only after appropriate lien waivers are executed and provided by the respective providers/subcontractors. Ten percent (10%) of the final contract amount will be held for a period not to exceed thirty (30) calendar days after final acceptance of the work or until all call-back items have been corrected.

5. Contract Documents. This agreement and following documents shall be deemed collectively, for all purposes, the "Contract Documents" Applicable to the work to be performed by the Contractor pursuant hereto:

- A. this Agreement;
- B. the Bidding Instructions and Requirements;
- C. the Project Scope and Bid Sheet;
- D. the Housing Rehabilitation Guidelines; and
- E. the proposal submitted by Contractor.

6. Indemnification. Contractor does hereby agree to hold Owner, agents and representatives of Owner, free and harmless from any claim, demand or judgment, known or unknown, which arises out of the performance by Contractor pursuant to the provisions of this Agreement. In addition, Contractor shall be responsible to, and pay said parties referred to in this paragraph, for the cost to them of any expenses, including, but not limited to, attorneys fees or expert consultant costs, incurred by them in the defense of, or in resistance to, any such claim or demand and shall pay any actual judgment rendered against such parties by reason of such cause or causes.



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Owner, in consideration of the benefits provided by City hereunder, hereby agrees to unconditionally release and forever release City from any claims or causes of action whatsoever, known or unknown, which might now exist, or hereafter accrue, directly or indirectly, as a result of any work being performed pursuant to this Agreement.

The indemnification provisions shall apply to any and all acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of Contractor or Contractor's employees, subcontractors or agents. This section shall survive the expiration or early termination of the Agreement.

7. Insurance Requirements. Contractor shall take out, maintain in force during the term of this Contract, and provide proof of the following insurance coverage:
 - A. Workers Compensation and Employer's Liability Insurance in accordance with Arizona law for all persons engaged on the work site:
 - B. A Comprehensive Public Liability and Property Damage Insurance coverage in minimum amounts of \$1,000,000 as approved by Owner, covering injury to person and/or property, including, but not limited to, injury to the person or Owner of this property.

Contractor shall supply Owner with certificate of insurance, evidencing the existence of such insurance and each such certificate shall contain a provision that the said policies represented by such certificates cannot be canceled, except upon thirty (30) calendar days prior written notice to Owner of such cancellation. In the event that such insurance is canceled, Owner may direct Contractor to cease all activities pursuant to this Agreement, or, in the alternative, at Owner's discretion, obtain such insurance coverage in the name of Contractor, and deduct the costs of such premiums from such sums as may be due to Contractor. Certificates of proof of such insurance shall be filed with City at the time the Bid and Proposal are submitted.

8. Protection and Job Safety. Contractor shall at all times provide protection against weather, rain, wind, storms and heat so as to maintain all work, materials, apparatus and fixtures free from injury or damage. At the end of a day's work, all new work and the premises likely to be damaged shall be protected and/or secured. Any work damaged by failure to provide protection as required above shall be replaced or repaired at Contractor's expense. Contractor shall be solely responsible for all job safety at all times.
9. Inspection of Work and Cleanup. City shall at all times have access to the work. If specifications, plans, instructions, laws, ordinances, building standards or any public authority require any work to be specifically inspected, tested or approved, Contractor shall give City timely notice of its readiness for inspection and, if the inspection is by another authority other than City, the time fixed for such inspection. Inspections by City shall be promptly made. If any work should be covered up without approval or consent of City, it must, if required by City, be uncovered for examination at Contractor's expense. If such work should be found not in accordance with this Agreement, including incorporated Plans and Specifications, Contractor shall pay such costs; provided, however, if Contractor can show that the defect was not caused by him or his subcontractors, then in that event, Owner shall pay the cost of remedying such work. At all times, Contractor and Owner shall permit the U.S. Department of Housing and Urban Development to examine and inspect the rehabilitation work. Upon completion of the work contemplated by this Agreement, Contractor shall cause all debris resulting from such construction to be removed from Owner's property and shall leave Owner's property in a neat and broom-clean condition.



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10. Project Insurance. Owner will procure, at his expense, insurance against fire, vandalism and malicious mischief pertaining to construction of the work. Such coverage shall be disclosed on the Certificate of Insurance.
11. Right to Stop Work. Contractor shall have the right to stop work if any payment is not made to Contractor, when due under this Agreement.
12. Change Orders. No change in work, as described in the Work Write-Up, shall be made except upon the mutual consent of Owner, Contractor and City. Contractor shall not be entitled to any compensation for any extra work unless such written agreement is made and entered into. Such agreement shall describe the nature of the extra work, the estimated time for completion thereof, and the compensation to be paid to Contractor and terms of payment for the performance of the same.
13. Real Property Liens. Contractor shall pay promptly all valid bills and charges for material, labor or otherwise in connection with or arising out of the construction of said work and will hold Owner of the Property free and harmless against all liens and claims of lien for labor and material, or either of them, filed against the property or any part thereof, and from and against all expense and liability in connection therewith, including, but not limited to, court costs and attorneys fees resulting or arising therefrom. Should any license or claim of lien be filed for record against the property, or should Owner receive notice of any unpaid bill or charge in connection with construction, Contractor shall forthwith either pay and discharge the same and cause the same to be released of record, or shall furnish Owner with proper indemnity either by satisfactory corporate surety bond or satisfactory title policy, which indemnity shall also be subject to approval of Lien Holder.
14. Equal Opportunity Provision. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. Contractor will take affirmative action to insure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to 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 will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion or national origin.

Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials:

"Every Contractor and subcontractor shall incorporate, or cause to be incorporated, in all contracts for work in connection with this project the following referred to as a 'Section 3' clause:

- A. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and



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Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C.

1701(u). Section 3 requires THAT TO THE GREATEST EXTENT FEASIBLE, OPPORTUNITIES FOR TRAINING AND EMPLOYMENT BE GIVEN LOWER INCOME RESIDENTS OF THE PROJECT AREA AND CONTRACTS FOR WORK IN CONNECTION WITH THE PROJECT BE AWARDED TO BUSINESS CONCERNS WHICH ARE LOCATED IN, OR OWNED IN SUBSTANTIAL PART BY PERSONS RESIDING IN THE AREA OF THE PROJECT.

B. The parties to this contract certify and agree that they are under no contractual obligations or other disability which would prevent them from complying with these requirements.

C. The Contractor will include this Section 3 clause in every agreement with a subcontractor for work in connection with the project. The Contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations and will not let any subcontractor unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Compliance with the provisions of Section 3, and all applicable rules and Orders issued thereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project.

Failure to fulfill these requirements shall subject the contractors and subcontractors, its successors and assigns, to those sanctions specified by the grant or loan agreement of contract through which federal assistance is provided.

A copy of the City of Apache Junction's Equal Opportunity Employment Policy is available at <http://www.ajcity.net/index.aspx?nid=556>.

15. Entire Agreement. This Agreement expresses the entire contract documents existing between Owner and Contractor, there being no other oral or written agreement in existence pertaining to the work contemplated by this said Agreement.
16. Assignment. Contractor shall not assign any portion of the work to be performed pursuant to this Agreement without the prior written consent of Owner and City.
17. Notices. Notices pursuant to this Agreement shall be given by personal service on the person to be noticed, or by deposit in the custody of the United States Postal Service, of any envelope containing the notices, sealed, certified, postage prepaid, and addressed as follows:

OWNER:

Apache Junction, Arizona 85120

CONTRACTOR:



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Such notice shall be deemed to be received within forty-eight (48) hours from the time of mailing, if mailed as provided for in this paragraph, proof being the return receipt.

18. Termination. If Contractor fails to complete the project in a workmanlike manner within the prescribed time frame or violates any other provisions of this Agreement he may be declared in default by Owner. Owner will provide Contractor with a two (2) working day written notice of default or failure to comply with the contract obligations. This notice shall contain the reasons for Owner's intent to declare Contractor in default and unless within forty-eight (48) hours after service of said notice, the violations shall cease or satisfactory arrangements shall be made for its correction, Contractor's right to proceed under the contract will be terminated. In the event Contractor is terminated, Owner shall have the right to hire another contractor to complete the project. The cost of having the work completed shall be deducted from the amount of this Contract. In the event that the costs to complete construction exceed the balance remaining on this contract, Contractor shall upon demand immediately pay City the difference. Contractor shall be entitled to payment, pro rated, for all work done through and including the effective date of termination, subject to the above limitations.
19. Lead Based Paint. Contractor and Owner agree that the use of any lead based paints is strictly prohibited pursuant to 24 C.F.R., Part 35, and shall not be used in this work, and agree to comply with the Lead Based Paint and Poisoning Prevention Act (42 U.S.C. 4831).
20. Performance in accord with all laws. Contractor shall carry out performance of the work in conformity with all applicable laws, including all applicable federal and state labor standards.
21. Third-Party Beneficiary. City is hereby deemed a third party beneficiary for valuable consideration of the terms and provisions of this Agreement. City shall have the right in its sole discretion, to exercise all rights and remedies, and to maintain any actions necessary to enforce a cure of any breach by Contractor.
22. Notices to City. No notice given pursuant to this section shall be effective for any purpose unless a copy thereof is also served to: City of Apache Junction, Development Services Director, 300 E. Superstition Blvd, Apache Junction, AZ 85119. Service of notice pursuant to this paragraph shall be deemed to have been given, if served in accordance with paragraph 18 of this Agreement.
23. Subcontractors. The names of subcontractors submitted at the time of the submission of the bid proposal to City shall be the subcontractors which Contractor shall use for work required to be done under the contract documents. Contractor shall make no substitutions for any subcontractor, person or entity previously selected without the approval of City.

Contractor shall not contract with any subcontractor to whom City has reasonable objection. Contractor shall not be required to contract with anyone to whom he has reasonable objection.
24. Arbitration, Governing Law and Venue. It is hereby agreed by all signatories to this Agreement that the Housing Rehabilitation Division of City shall act as arbitrator of all claims, disputes, altercations, misunderstandings, differences of opinion in the interpretations of rehabilitation work, work write-up and/or print contents and Illustrations.



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Any such claims, disputes, altercations, misunderstandings, or differences of opinion shall be made known to the City of Apache Junction Development Services Director, or his/her designee, at 300 East Superstition Boulevard, Apache Junction, Arizona 85119.

The Development Services Director, or his/her designee, is responsible for receiving, reviewing, and responding to all complaints including prequalification of applicant or contractor qualification. The City must issue a written response to any complaint within ten (10) working days of receipt.

If unsatisfactory to the complainant, a written appeal of the City's response shall be filed within ten (10) working days of receipt of the City's response. Appeals shall be made to the City Manager, by sending such appeal to 300 East Superstition Boulevard, Apache Junction, Arizona, 85119 Attn: City Manager. The City Manager shall be the final administrative decision maker. Further judicial appeals shall be in accordance with A.R.S. Title 12, 12-901.

Assistance from the City in preparing a grievance is available at no charge if needed due to either a disability or language limitation. Assistance will be provided through the Development Services Department at (480) 474-5090 TDD (480) 983-0095; FAX (480) 474-5102 or 300 East Superstition Boulevard, Apache Junction, Arizona 85119.

It should be clearly understood that in no instance will verbal agreements or commitments not in writing be accepted for consideration for the purpose of arbitration.

25. Enforced Delays (Force Majeure). Neither Owner or Contractor, as the case may be, shall be considered not to have performed its obligations under this Agreement in the event of enforced delay (an "Enforced Delay") due to causes beyond its control and without its fault or negligence or failure to comply with all federal, state and local laws, including, but not restricted to, acts of God, fires, floods, epidemics, pandemics, quarantine, restrictions, embargoes, labor disputes, and unusually severe weather or the delays of subconsultants or materialmen due to such causes, acts of a public enemy, war, terrorism or act of terror (including but not limited to bio-terrorism or eco-terrorism), nuclear radiation, blockade, insurrection, riot, labor strike or interruption, extortion, sabotage, or similar occurrence or any exercise of the power of eminent domain of any governmental body on behalf of any public entity, or a declaration of moratorium or similar hiatus (whether permanent or temporary) by any public entity directly affecting the Facility. In no event will Enforced Delay include any delay resulting from unavailability for any reason of labor shortages, or the unavailability for any reason of particular consultants, subconsultants, vendors or investors desired by Contractor in connection with the Project. Contractor agrees that Contractor alone will bear all risks of delay which are not Enforced Delay. In the event of the occurrence of any such Enforced Delay, the time or times for performance of the obligations of the Party claiming delay shall be extended for a period of the Enforced Delay; provided, however, that the Party seeking the benefit of the provisions of this Section shall, within thirty (30) calendar days after such Party knows or should know of any such Enforced Delay, first notify the other Party of the specific delay in writing and claim the right to an extension for the period of the Enforced Delay; and provided further that in no event shall a period of Enforced Delay exceed ninety (90) calendar days.
26. Records. Records of Contractor's labor, payroll and other costs pertaining to this Agreement shall be kept on a generally recognized accounting basis and made available to City for inspection on request. Contractor shall maintain records for a period of at least five (5) years after termination of this Agreement, and shall make such records available during that retention period for examination or audit by City personnel during regular business hours.



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27. Amendment. It is mutually understood and agreed that no alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the parties hereto, and that oral understandings or agreements not incorporated herein shall not be binding on the parties.
28. Severability. The Owner and City believe that the execution, delivery and performance of this Agreement are in compliance with all applicable laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring Owner or City to do any act in violation of any applicable laws, including any constitutional provision, law, regulation, or City Code), such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. Unless prohibited by applicable laws, the Parties further shall perform all acts and execute, acknowledge and/or deliver all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.
29. Conflicts of Interest. The provisions of Arizona Revised Statutes Annotated §38-511 relating to cancellation of contracts due to conflicts of interest shall apply to this Agreement. Both parties acknowledge that no members of the governing body of City nor any employee of City who exercises any functions of responsibilities in connection with the carrying out of the project to which this Agreement pertains, has any personal interest, direct or indirect, in this Agreement.
30. Rights and Remedies. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by Owner or Contractor shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any action or failure to act constitute an approval of or an acquiescence to any briefs thereunder except as may be specifically agreed to in writing.
31. Drug-Free Workplace. Contractor shall abide by all terms and conditions of the Drug-Free Workplace Act of City personnel rules, incorporated herein by reference.
32. Energy Conservation. Contractor shall be in compliance with the federal regulations regarding energy conservation where applicable.
33. Engineering and Construction Surveys. Contractor shall furnish all surveys as required under this Agreement unless otherwise specified.
34. Workmanship and Defects After Completion, Work Guarantee. The work provided hereunder by Contractor shall be executed as directed by the plans and specifications of the most sound, workmanlike and substantial manner; and all materials used in the construction, rehabilitation, renovating, remodeling, and improving shall be new unless otherwise expressly set forth in the specifications.

Contractor guarantees the work performed for a period of twenty four (24) months from the date of final acceptance of all work required by the Contract. Furthermore, Contractor shall furnish



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City in care of Owner with all manufacturers' and suppliers' written guarantees and warranties covering materials and equipment furnished under the Agreement. Any defects that appear within this twenty four (24) month period and arise out of defective or improper materials or workmanship shall upon instruction of City be corrected and made good by Contractor at his expense.

35. Communications and Status of City. It is hereby agreed that City shall represent Owner in control, supervision and direction of the work to be performed under this Agreement.
36. Effective Date. This Agreement shall not become a contract binding upon the parties concerned until these parties have properly signed this Agreement and the application for Housing Rehabilitation Assistance has been formally approved.
37. Warranty Information and Acceptance. All labor and materials furnished by the contractor are covered by a two (2) year warranty. This warranty relates only to faulty labor and materials specifically designated in the rehabilitation contract. The warranty does not apply to those items that become deficient after the work is completed, due to abuse or neglect. Examples of, but not limited to, the following:

WARRANTY ITEMS

- 1) Furnaces: controls, motors, pumps, heat exchanges by manufacturer after 1 yr.
- 2) Gutters: Not graded to drain or leaking at joints.
- 3) Plumbing: Leaking pipes from new installation, defective plumbing fixtures, defective hot water tank.
- 4) Painting: Paint that peels from existing protective surface due to improper surface preparation or faulty paint ingredients.
- 5) Roofs: Faulty flashings, improper sealing of roofing.
- 6) Floor Covering: Seam separation, underlayment improperly installed.

NON WARRANTY ITEMS

- 1) Furnaces: Filters, loss of prime due to lack of oil, pumps damaged from dirt or water, lack of regular maintenance.
- 2) Gutters: Clogged gutters, downspouts & disposal lines.
- 3) Plumbing: Clogged water closets, traps or drain lines.
- 4) Painting: Paint blistering to bare wood due to moisture problems.
- 5) Roofs: Roofing damaged by high winds or falling objects, such as tree limbs.
- 6) Miscellaneous: Broken glass, screens, physically damaged doors, locks, cabinets, etc.

Homeowners who request service for items that are not covered by the warranty will be billed by the contractor at the current rate of charge designated for the services rendered.

Contractor further certifies that all warranty information and documents have been provided to the homeowner.

IN WITNESS WHEREOF, all parties concerned acknowledge that they have read, understand, approve and accept all of the provisions of this Agreement and the attachments thereto.

The Contract is to between the homeowner and the contractor and is therefore signed by both parties.