



# Davis Bacon Labor Relations

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Your, "Instructions to Bidders Packet" for your pre-bid meeting should contain the following documents:

1. Instructions to Bidders Cover Sheet
2. Instructions to Bidders
3. Construction/Rehabilitation Contract
4. Description of Work (scope you have prepared)
5. Proposal and Bid Form
6. Section 3, Woman, and Minority Owned Business Certification
7. A Copy of the project specific Federal Wage Determination
8. A copy of the HUD 4010 Rules and Regulations  
(obtain this copy from the live link on our website or at the following URL:  
<http://www.hud.gov/offices/adm/hudclips/forms/files/4010.pdf>)
9. General Specifications or Technical Specifications  
(where applicable)
10. Drawings (where applicable)

Instructions  
to Bidders  
Packet

\*Please note that all documents can also be found online and filled in electronically at [www.slcgov.com/hand/davisbacon/psbi](http://www.slcgov.com/hand/davisbacon/psbi)



# Davis Bacon Labor Relations

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This packet contains the following items:

Cover Sheet

1. Instructions to Bidders
2. Construction/Rehabilitation Contract
3. Description of Work
4. Proposal and Bid Form
5. Section 3, Woman, and Minority Owned Business Certification
6. A Copy of the project specific Federal Wage Determination
7. A copy of the HUD 4010 Rules and Regulations
8. General Specifications or Technical Specifications (where applicable)
9. Drawings (where applicable)

\*Please Note that both of the "Proposal and Bid Form" as well as the "Section 3, Woman, and Minority Owned Business Certification" can be downloaded and filled in electronically at [www.slcgov.com/hand/davisbacon](http://www.slcgov.com/hand/davisbacon) (signatures still required)

# Davis Bacon Labor Relations

## *Instructions To Bidders*



1. If you desire to bid on this Construction/Rehabilitation Contract you must return the *Proposal and Bid Form* as well as the *Section 3, Minority & Woman Owned Business Certification* form to:

Owners Address \_\_\_\_\_

Or Owners Email Address \_\_\_\_\_

*On Or Before:* \_\_\_\_\_ a.m. *Date:* \_\_\_\_\_

Property to be rehabilitated is located at:

\_\_\_\_\_

Owner(s) Name: \_\_\_\_\_

2. All bids should be based upon the following:
  - A. Instructions to Bidders
  - B. Construction/Rehabilitation Contract and General Conditions
  - C. Description of Work
  - D. Proposal and Bid Form
  - E. Federal Wage Determination (Copies may be obtained from property owner)
  - F. HUD 4010 Rules and Regulations
  - G. General Specifications or Technical Specifications  
(Copies may be obtained from property owner where applicable)
  - H. Drawings, (Copies may be obtained from property owner where applicable)

3. Special Instructions:

- A. This property is being rehabilitated under the supervision of the owner and must meet the minimum code requirements of the International Building Code as it applies in Salt Lake City, when all work is completed. *The required work as specified on the "Description of Work" must be accomplished in accordance with the above-mentioned code before payment can be made to the Contractor.* The contractor shall submit in writing with this *Bid* any work not specified in the *Description of Work* but necessary to meet the above requirements. If this necessity arises, the additional work required shall be specified, detailed and itemized on a separate form, provided by the Owner. The Owner shall determine the validity of all submittals prior to acceptance of the *Bid* and *Proposal*.
- B. The Owner, reserves the right to reject any or all bids, and to award the *Contract* to other than the low bidder, according to its judgment of the *Owner(s)* best interest.
- C. Bidders must determine for themselves the quantities of work required and the conditions under which the work will be performed, by such means as they prefer, and shall assure all risks as to variation in quantities of work. Bidders shall not at any time after the submission of this proposal, dispute or complain of the schedule of quantities or assert that there was any misunderstanding as to the amount or character of the work to be done, and shall not make any claim for damages or for loss of profits or for extension of time because of a difference between the approximate quantities of the work stated, and the quantities of work actually performed.
- D. The successful *Contractor* shall furnish all necessary drawings, sketches, bonds, permits or plans as required for approval by the **Owner and the Department of Housing Services of Salt Lake City.**
- E. All material will be installed as per manufacturer's recommendation. If the manufacturer's recommendation is in conflict with the *Specification*, the *Contractor* will immediately notify the Owner and not proceed without a *Change Order* to clarify any apparent discrepancy.
- F. Contractor must register with [www.sam.gov](http://www.sam.gov) and obtain a DUNS number. This is free of charge and required for all federal work.

# Davis Bacon Labor Relations Construction/Rehabilitation Contract



THIS CONTRACT AGREEMENT (hereinafter referred to as the "*Contract*"), entered into this \_\_\_\_ day of \_\_\_\_, 200\_\_ by and between \_\_\_\_\_ (hereinafter referred to as the "*Contractor*"), having an office for business at \_\_\_\_\_, UTAH, and \_\_\_\_\_ (hereinafter referred to as the "*Owner*").

## RECITALS

Whereas, the *Owner* desires to undertake certain construction and rehabilitation work on the *Owner's* Premises located in Salt Lake City, Utah (hereinafter referred to as "*Premises*") and described as follows:

Also known as: [Property Address] \_\_\_\_\_, Salt Lake City, Utah

Whereas, the *Contractor* is a licensed independent contractor in the State of Utah and desires to contract with the *Owner* to undertake and perform construction and rehabilitation services on the *Premises* and the *Owner* is willing to pay the *Contractor* for labor and materials furnished; and

NOW, THEREFORE, in consideration of the *Premises* the mutual agreements and promises, and of the respective undertaking of the parties, it is hereby agreed as follows:

### **1. General Conditions**

#### **A. Bid Submittal**

The *Contractor's* BID AND PROPOSAL for the *Work* has been submitted effective at [Time] \_\_\_\_\_ P.M. on [Date] \_\_\_\_\_, to the *Owner*, Attention: [Name of Contact Person] \_\_\_\_\_ *Project Manager*, [Recipient's Office Address] \_\_\_\_\_, Salt Lake City, Utah, 84111, a copy of which is attached hereto and incorporated herein by reference.

#### **B. Acceptance**

The *Owner* shall accept the BID AND PROPOSAL for the *Work* within thirty (30) calendar days from the date of its submittal. This *Contract* is conditional upon the issuance of an ORDER TO PROCEED by the *Owner*, and no *Work* shall be commenced by the *Contractor* on the *Premises* until the *Contractor* receives a written ORDER TO PROCEED.

#### **C. Order to Proceed**

The *Owner* shall issue a written ORDER TO PROCEED on the *Work* within sixty (60) calendar days from the effective date of the *Contractor's* BID AND PROPOSAL as set forth in

PARAGRAPH 1.A. hereinabove. If the ORDER TO PROCEED is not received by the *Contractor* within this time period, the *Contractor*, at its option, may withdraw its BID AND PROPOSAL.

**D. Commencement of Work**

The *Contractor* agrees to furnish all labor, materials, supervision and services necessary to complete the *Work* as hereinafter described located on the *Owner's Premises* in accordance with this *Contract* and the CONTRACT DOCUMENTS. The *Contractor* shall commence *Work* on the *Premises* within ten (10) calendar days of receipt of the ORDER TO PROCEED, providing that the *Contractor* has first obtained the necessary building permits for the *Work*, the performance and payment Bonds required under PARAGRAPH 5 herein, and has filed a copy of the said Bonds with, and the Bonds have been approved by, the *Owner* and the *City*. Upon commencement of the *Work*, the *Contractor* shall continue to make usual, reasonable and customary progress towards the completion of the *Work* so that the *Work* may be completed within the time period specified in this *Contract*.

**E. Completion**

The *Contractor* shall satisfactorily complete all *Work* on the *Premises* within \_\_\_\_\_ calendar days after the date of the issuance of the ORDER TO PROCEED, unless the time period specified in the *Contract* is extended as permitted by PARAGRAPH 1 (F).

**F. Extensions**

Time is of the essence. All dates and time periods stated in the *Contract* shall be strictly followed. If performance by *Contractor* is prevented or delayed as a direct result of riot, insurrection, fire, an act of God, labor disputes, prolonged transportation delays, injuries, or other causes beyond his control which justify a delay in the time periods stated in the *Contract*, the *Contractor* may request in writing an extension. One working day in the time period for completion on the *Work* may be allowed for each working day lost from such cause, provided, however, that the *Contractor*, within five (5) calendar days after the beginning of such delay, gives written notice to the *Owner* of such delay and the reason or reasons for the delay.

**2. Access To Records**

The *Owner* shall, at all reasonable times (including normal business hours), permit Salt Lake City Corporation, HUD, the Comptroller General of the United States, and their designees to have full and free access to its records with respect to the utilization of the Grant proceeds, and when applicable, to the income and expenses incurred through rental, and shall permit Salt Lake City Corporation, HUD, the Comptroller General and their designees to audit, examine, and make copies, excerpts or transcripts from his/her records and to review, inspect, and make audits of all rehabilitation work financed in whole or in part by the Grant, and all records described above.

**3. Payment(s)**

The *Contractor* covenants and agrees to furnish all materials and performing all labor for the *Work* on the *Owner's Premises* described herein in accordance with the provisions of this *Contract*. The *Owner* covenants and agrees to pay to the *Contractor*, pursuant to the provisions of this *Contract*, the *Contract Price* as shown in PARAGRAPH 10. The *Contract Price* shall be paid in one lump amount after the *Work* is satisfactorily completed, unless the *Contractor* requests progress payment(s) to be made as the *Work* progresses. Progress payments shall be limited to two

payments. When progress payments are requested, the *Contractor* shall submit to the *Owner* and *Project Manager* a list of the *Work* for which payment is requested, the percentage of *Work* completed, and the dollar amount of the *Contract Price* to be paid for the *Work* satisfactorily completed. (Progress payments shall not exceed 95% of the value of the *Work* satisfactorily completed, and, at least 40% of the total *Contract* amount must be completed before the first progress payment is requested.) Progress payments, as well as the final payment due the *Contractor*, shall be paid within twenty (20) calendar days after the *Owner* and *Project Manager* receives the *Contractor's* request, a written release from the *Owner* that the *Work* for which payment is requested has been satisfactorily performed and completed, and all lien waivers or release of liens for the *Work* by *Contractor*, sub-contractors, laborers, and material suppliers have been submitted to the *Owner*.

Payments may be withheld if:

(1) In the opinion of the *Owner*, the *Contractor's Work* is found to be defective and is not timely remedied, or the *Work* is not progressing satisfactorily; or

(2) The *Owner* does not find the *Work* performed to be satisfactory in accordance with the *Contract*; or

(3) The *Owner* determines the Federal Labor Standards or any other federal, state or local requirements have not been met.

The payment and acceptance of the final *Contract Price* due and the adjustment and payment for any *Work* done in accordance with any alterations of the same, shall release the *Owner* from any and all claims of *Contractor* on account of *Work* performed under this *Contract* or any modification thereof, except for those claims specifically agreed to as reserved and unresolved by the *Owner*.

#### **4. Termination of Contract**

##### **A. Termination by Owner**

The *Owner* shall have the following specific rights and remedies under this *Contract*:

(1) If, for any reason other than those specified in PARAGRAPH 1 (F), the *Contractor* at any time fails to supply sufficient skilled workers or satisfactory materials to complete the *Work* in a timely manner, neglects to prosecute the *Work* properly or to a timely completion, or having commenced the *Work*, neglects or abandons the *Work*, then the *Owner*, may, in addition to other remedies granted herein, give written notice to the *Contractor* terminating the *Contract*.

(2) The following acts shall be a breach or default of the terms of this *Contract*: If the *Work* to be performed under the *Contract* is: (a) assigned by the *Contractor* without the expressed written consent of the *Owner*; or (b) if the *Contractor* should be adjudged bankrupt; or (c) if a general assignment of his assets be made for the benefit of his creditors; or (d) if a receiver should be appointed for the *Contractor* or any of his property; or (e) if at any time the performance of the *Work* under the *Contract* is, in the opinion of the *Owner*, being unnecessarily delayed; or (f) if the *Contractor* is willfully violating any of the conditions, provisions, or covenants of the *Contract* or *Plans* or *Specifications*; or (g) if the *Contractor* is executing the *Work* in bad faith or otherwise not in accordance with the terms of the *Contract*; or (h) if the *Work* is not fully completed within the *Contract* time period or any extension of time made in accordance with the provisions of PARAGRAPH 1 (F); or (i) if the *Contractor* fails to obtain or maintain the required insurance coverage, then the *Owner* may give ten (10) calendar days written notice to the *Contractor* at its place of business to correct or remedy the breach or default. If the *Contractor* does not, within the

time period set forth in such notice, correct the breach or default, the *Owner* may declare the *Contract* terminated effective on the day following the date specified in such notice.

In the event of termination, the *Contractor* shall immediately discontinue all *Work* under the *Contract*, shall cease to have any right to go on the *Owner's Premises*, and shall forfeit all rights in the *Contract*. Upon such termination, the *Owner* may take possession of all such materials as may be on the *Owner's premises* and required or necessary for completion of the *Work*, and the *Owner* may take over the *Work* and prosecute the same to completion for the account and at the expense of the *Contractor*. The *Contractor* shall be liable to the *Owner* for any and all costs and expenses in excess of the *Contract Price* or prices sustained by the *Owner* by reason of such prosecution and completion, including all administrative or legal costs and attorney fees in connection therewith.

## **B. Liquidated Damages**

In the event of termination of this *Agreement* as a result of *Contractor's* breach or default, the *Contractor* shall be liable to the *Owner*, as agreed upon liquidated damages and not as a penalty, in the amount of \$50.00 for each and every calendar day that the *Contractor* fails to substantially complete the *Work* in accordance with the *Contract* provisions. The *Owner* shall give to the *Contractor* written notice that the *Owner* intends to invoke the provisions of liquidated damages if the *Work* is not substantially completed within ten (10) days from the date of receipt of the written notice. If the *Work* is not substantially completed within the ten (10) day notice period, the *Owner* shall have the right to deduct the amount of liquidated damages from any amount due or that may become due to the *Contractor* under the *Contract*. In the event that a dispute arises between the *Owner* and the *Contractor* relative to the amount of liquidated damages to be paid under this provision of this *Contract*, the *Owner* and the *Contractor* shall follow PARAGRAPH 7 for a resolution of the dispute.

## **5. Contractor's Obligations**

The *Contractor* covenants and agrees as follows:

### **A. Insurance**

(1) The *Contractor* and all subcontractors permitted by the *Contractor* to perform *Work* on the *Premises* shall obtain and maintain until the *Work* is completed and at all times thereafter when *Contractor* or any subcontractors may be correcting, removing or replacing defective work, an insurance policy providing comprehensive public liability and property damage insurance coverage protecting the *Contractor*, the *Owner* and any subcontractor performing work covered by this *Contract* in an amount of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate and \$2,000,000.00 products/completed operations aggregate from claims for damages for personal or bodily injury, including accidental death, and from claims for property damage which may arise out of the *Work* performed by the *Contractor* or by any Subcontractor or by anyone directly or indirectly employed by either of them under this *Contract*. The policy shall provide that coverage thereunder shall not be cancelled or reduced without at least thirty-(30) days prior written notice to *Contractor* and the *Owner*. Certificates evidencing such insurance coverage shall be filed with the *Contractor* and the *Owner* upon execution of this *Contract*. All policies of insurance provided herein shall be issued by insurance companies licensed to do business in the State of Utah and shall be either (a) listed in the Federal Register, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds," or (b)



rated with an A- or better rating in the most current edition of Best's Key Rating Guide to Property-Casualty Insurers in the United States.

The *Contractor* shall also provide and maintain during the life of this Contract insurance or other coverage as required by the *State of Utah* governing workers' compensation for all of Contractor's employees employed at the site of the Work, and in case any Work is subcontracted, the Contractor shall require the subcontractor similarly to provide worker's compensation insurance for all of the latter's employees.

Evidence of public liability insurance and workers' compensation insurance coverage shall be furnished to the *Owner* before commencing the Work in the form of a certificate of insurance satisfactory to the *Owner*. The *Contractor* shall not perform the Work until such time as the insurance coverage is provided.

(2) The *Contractor* and all subcontractors permitted by the *Contractor* to perform Work on the *Premises* shall obtain and pay for all permits, payment and performance Bonds and licenses necessary for the completion and execution of the Work and labor to be performed. The payment and performance Bonds in favor of the *Owner* which the *Contractor* is required to obtain pursuant to SECTION 14-2-1 et seq., SECTION 14-1-18 et seq., U.C.A. or their successor sections, and other applicable statutes and laws, shall be given to the *Owner* and shall be acceptable to the *Owner* prior to the commencement of the Work. Each of the said Bonds shall be in the sum of not less than 100 percent of the *Contract Price*, and said bond sum shall be increased to match any increase in the Contract Price resulting from any change order or modification of this *Contract*. The Bonds shall be executed by the *Contractor* and secured by a company duly and regularly authorized to do a general surety business in the State of Utah and either (i) named in the current list of Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies as published in current Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department, with an underwriting limitation equal to or greater than the Contract Price which the Bond guarantees, or (ii) with a current performance "A-" rating or better in A.M. Best Co., Inc's, *Best Insurance Reports, Property and Casualty Edition*.

The Performance Bond shall guarantee the faithful performance of this Construction Contract by the *Contractor* and the payment Bond shall guarantee the payment of labor and materials. The Bonds shall inure by their terms to the benefit of the *Owner*. Neither this nor any other provision requiring a performance Bond shall be construed to create any rights in any third party Claimant as against *Owner* for performance of the Work under the Construction Contract.

If the surety on any Bond furnished by *Contractor* is subject to any proceeding under the Bankruptcy Code (Title 11, United States Code) or becomes insolvent or its right to do business is terminated in the State of Utah or it ceases to meet the requirements of this PARAGRAPH, *Contractor* shall, within 15 days thereafter, substitute another Bond and surety, both of which must be approved by the *Owner*.

## ***B.     Negligence***

The *Contractor* shall be liable to the *Owner* and shall assume full responsibility for acts, negligence, or omissions of all its officers, partners, joint ventures, agents, representatives and employees relating to the Work as well as the officers, partners, joint ventures, agents, representatives and employees of all subcontractors and all other persons connected with the Work or which *Contractor* permits to perform Work on the *Owner's Premises*.

## ***C.     Codes***

The *Contractor* shall perform all Work in conformance with all applicable Codes as adopted by *Salt Lake City*, and all applicable *Federal, State and Local* laws, regulations, executive orders, codes, ordinances and requirements, (hereinafter referred to collectively as "building

requirements"), whether or not covered by the specifications and drawings for the *Work*. If CONTRACT DOCUMENTS are at variance with the above said building requirements, the *Contractor* shall notify the *Owner* in writing immediately upon the discovery of such variance.

#### ***D.     Regulations***

In addition to the building requirements applicable to the *Work* described in PARAGRAPH 5 (C) above, the *Contractor* covenants and agrees to comply with the following specific *Federal* or *State* laws, rules, regulations and requirements for the Community Development Block Grant Program applicable to the *Work*:

(1)     (a) Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity" as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of labor regulations (41 CFR Part 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees).

(b) The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (24 CFR Part 3). (All contracts and subgrants for construction or repair).

(c ) The Davis-Bacon Act (40 U.S.C. 276a to a7) as supplemented in Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of \$2,000).

(d) Section 103 and 107 of the Contact Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented in Department of Labor regulations (29 CFR Part 5).

(e) All applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Air Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15). (Contracts, subcontracts and subgrants of amounts in excess of \$100,000).

(f) Mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

(2)     Copyrights. The *Contractor* agrees that if the agreement results in a book or other copyrightable material the author shall copyright the same but the *City* and HUD shall have a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, all copyrighted material.

(3)     Patents. Any discovery or invention arising out of or developed in the course of the performance of this agreement shall be promptly and fully reported by the *Contractor* to the *City*. The *City* in conjunction with HUD, shall determine whether patent protection on such invention or discovery shall be sought and how the right therein shall be administered or disposed of. All matters regarding rights to inventions and materials generated under this agreement are subject to the regulations of HUD. The *Contractor* shall contact *the Housing & Neighborhood Development Division* Representative of the *City* for additional information in this area if it is applicable under this agreement.

(4)     Reporting. *Contractor* shall comply with awarding agency requirements and regulations pertaining to reporting.

(5) Access. Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts and transcriptions.

(6) Retention. Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

***E. Conditions of Work Premises***

The *Contractor* shall keep the *Premises* clean, orderly and safe during the course of the *Work* and remove all debris from the *Premises* at the completion of the *Work*. Materials and equipment that have been removed and replaced as part of the *Work* shall belong to the *Contractor*, unless otherwise specified in the *Contract*.

***F. Assignments***

The *Contractor* shall not assign this *Contract* without the prior written consent of the *Owner*. Requests for assignment and subcontracting must be submitted in writing to the owner.

***G. Third Party Contract Provisions***

All contracts or other agreements between the *Contractor* and its subcontractors shall conform to the provisions of this CONTRACT DOCUMENTS. All subcontract agreements between the *Contractor* and its subcontractors shall incorporate the relevant provisions of this *Contract*, including, but not limited to the specific provisions of PARAGRAPH 1, (General Conditions) and PARAGRAPH 5, (*Contractors* Obligations).

***H. Guarantees***

The *Contractor* guarantees all *Work* against defects of material and workmanship for a period of one year, except all roofing *Work* which shall be guaranteed for a period of two years, from the date of the *Owner's* final acceptance of all *Work* required to be performed by this *Contract*, unless otherwise specified. If any *Work* is found to be defective during this guarantee time period, *Contractor* shall promptly, without cost to the *Owner*, and in accordance with the *Owner's* written instructions, correct such defective *Work* at *Contractor's* sole expense and in a timely manner. If *Contractor* does not promptly comply with terms of this *Contract* provision or the *Owner's* reasonable instructions as to when the defective *Work* is to be corrected, the *Owner* may have the defective *Work* corrected, and the *Contractor* agrees to pay for all direct and indirect costs of such correction.

***I. Warranties***

The *Contractor* warrants that all *Work* shall be done in good workmanlike manner in accordance with good trade practices and using materials as specified. The *Contractor* shall provide the *Owner*, with the original copies of all manufacturers' and suppliers' written guarantees and warranties covering materials and equipment furnished under this *Contract*. A copy of all manufacturers' and suppliers' written guarantees and warranties shall be provided to the *Owner*.

***J. Supervision***

The *Contractor*, in its absence from the *Owner's* *Premises*, shall provide a competent person to be on the job to supervise the *Work* during progress of the *Work*.

***K.     Inspection and Audit***

The *Contractor* shall, at the request of the *Owner* or its designee, examine and inspect the rehabilitation *Work*, furnish copies of all documents relating to the *Work* and copies of all subcontracts for services, labor and materials pertaining to the *Work*, and to audit all contract documents. The *Contractor* acknowledges that it has made a physical on site inspection of the *Owner's Premises* in the company of either the *Owner* and/or a representative of the *Owner* before submitting its Bid for the *Work*.

***L.     Indemnification***

The *Contractor* agrees to indemnify, hold harmless and defend the *Owner* and their officers, agents and employees from and against all claims, damages, losses, and expenses, including court costs and attorney's fees, arising out of or resulting from the performance of the *Work* herein, or caused in whole or in part by *Contractor's* negligent act or omission, or that of its subcontractor, his officers, agents or employees, including anyone employed by them or for whose acts a *Contractor* or subcontractor may be liable. Nothing herein shall require the *Contractor* to indemnify the *Owner* for the *Owner's* sole negligence.

***6.     Owner's Obligations***

***A.     Utilities***

The *Owner* shall permit the *Contractor* to use, at no cost or expense to the *Contractor*, the existing utility services on the *Owner's Premises* such as heat, power and water as may be necessary to the carrying out and completion of the *Work*.

***B.     Cooperation and Non-Interference***

The *Owner* shall cooperate with the *Contractor* to facilitate the performance of the *Work*. Neither the *Owner* nor any member of the *Owner's Employees, Tenants, or Clients*, or other person lawfully occupying the *Work Premises* shall hinder the *Contractor* in the *Work*.

***C.     Change Orders***

Neither the *Owner* nor the *Contractor* shall permit or make any change, addition or deletion to the plans or specifications for the *Work* without the written approval of the other party. All approved changes shall be described in writing on a CHANGE AUTHORIZATION FORM provided by the *Owner* and signed by the *Owner* and *Contractor*. All such *Work* shall be performed under the conditions and provisions of the CONTRACT DOCUMENTS. If any change order authorization causes an increase or decrease in the *Contract Price*, or an extension or shortening of the *Contract* time period, an equitable adjustment shall be made to this *Contract* in writing by mutual consent of the *Owner* and *Contractor*.

***D.     Occupancy During Construction***

The *Owner's Premises* where the *Work* is to be performed shall be occupied by the *Owner* during the course of the *Work* unless otherwise specified herein. The *Owner* and the *Contractor*, to the extent reasonably possible, shall accommodate the needs of each other in having the *Work* performed while the *Premises* are occupied by the *Owner*.

## 7. **Resolution of Disputes**

In the event that a dispute arises between the *Owner* and the *Contractor* relative to provisions of this *Contract* which is not resolved to their mutual satisfaction, the *Owner* and the *Contractor* agree to resolve the dispute in the following manner:

Upon the written request of either the *Owner* or the *Contractor* to the other party, with a copy, mailed or hand delivered, to the CDBG Funding Provider, the parties shall request that the CDBG Funding Provider attempt to resolve the dispute by allowing each party to submit its final position in writing to the CDBG Funding Provider and the other party. The CDBG Funding Provider may, at its option, agree to consider the dispute and recommend to each party a non-binding settlement which the CDBG Funding Provider believes is fair and equitable. If the parties fail to mutually accept the settlement recommendation of the CDBG Funding Provider, in writing, or if the CDBG Funding Provider declines to attempt to resolve the dispute, either side may pursue litigation in the appropriate Utah state judicial district. .

Ambiguities in or between CONTRACT DOCUMENTS shall be construed in favor of the *Owner*.

Notwithstanding the pendency of any protest or appeal, *Contractor* shall, if so ordered by the *Owner*, proceed with the *Work* under the CONTRACT DOCUMENTS according to the *Owner's* direction and according to the decision on any appeal. The existence of a claim or protest shall not excuse *Contractor* from the requirements of the CONTRACT DOCUMENTS, including, but not limited to, the *Contract* time.

## 8. **Conflict of Interest**

The *Owner* and *Contractor* covenant and agree that no officer, employee, or no members of its governing body who exercise any function or responsibilities with respect to the *Owner's* program during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this *Contract* or any subcontract hereunder or the proceeds thereof, or for the *Work* to be performed in connection with this *Contract*.

The *Owner* and *Contractor* represent that they have not: (1) provided an illegal gift or payoff to the *Owner* or employee or former *Owner* or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business.

## **Contract Documents**

The *Contract* consists of the following documents, referred to as the CONTRACT DOCUMENTS, which are incorporated herein by reference:

CONSTRUCTION CONTRACT and :

INSTRUCTION TO BIDDERS, attached as EXHIBIT A.

DESCRIPTION OF WORK, attached as EXHIBIT B.  
(drawings and general specifications if applicable)

PROPOSAL AND BID, attached as EXHIBIT C.

PROJECT SPECIFIC FEDERAL WAGE DETERMINATION, attached as EXHIBIT D.

EQUAL OPPORTUNITY CLAUSE, attached as EXHIBIT E.

SECTION THREE CLAUSE, attached as EXHIBIT F.

FEDERAL LABOR STANDARDS PROVISIONS FORM HUD-4010, as applicable, ATTACHED AS EXHIBIT G.

10. **The Contract Price is the sum of:** \_\_\_\_\_ ( \$     ).  
The *Contract Price* shall be paid as more fully described in PARAGRAPH 3.

Acceptance of Contractor

\_\_\_\_\_  
Contractor's Name

\_\_\_\_\_  
Signature of Contractor

\_\_\_\_\_  
Street Address of Contractor

\_\_\_\_\_  
Contractor's City, State and Zip Code

\_\_\_\_\_  
Date of Proposal and Bid

Acceptance by Owner

\_\_\_\_\_  
Owner's Name

By: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Street Address of *Owner*

\_\_\_\_\_  
Applicant's City, State and Zip Code

\_\_\_\_\_  
Date of Acceptance

State of Utah :  
: SS.

County of Salt Lake:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
200\_ by \_\_\_\_\_ the \_\_\_\_\_ of  
\_\_\_\_\_.

\_\_\_\_\_  
My commission expires: \_\_\_\_\_  
Utah

Notary Public  
Residing at Salt Lake County,

State of Utah :  
: SS.

County of Salt Lake:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
200\_ by \_\_\_\_\_ the \_\_\_\_\_ of  
\_\_\_\_\_.

\_\_\_\_\_  
My commission expires: \_\_\_\_\_  
Utah

Notary Public  
Residing at Salt Lake County,

G:\Attorney\Agreement 00\ HAND Construction Contract for nonprofit grantees Final 2-18-00.doc

#### **EXHIBIT E: Equal Opportunity Clause**

*The following equal opportunity clause shall be applicable in contracts of \$10,000.00 and above: During the performance of this Contract, the Contractor agrees as follows:*

- (1) The *Contractor* shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The *Contractor* shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising; lay-off 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 contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The *Contractor* shall, in all solicitations or advertisements for employees placed by or on behalf of the *Contractor*, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex or national origin.
- (3) The *Contractor* shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the *Contractor's* commitments under SECTION 202 of EXECUTIVE ORDER 11246 OF SEPTEMBER 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The *Contractor* shall comply with all provisions of EXECUTIVE ORDER 11246 OF SEPTEMBER 24, 1965, and of the rules, regulations, and relevant orders of the *United States Secretary of Labor*.
- (5) The *Contractor* shall 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 shall permit access to its books, records, and accounts by the *United States Department of Labor* and the *Secretary of Labor* for the purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (6) In the event of the *Contractor's* noncompliance with the nondiscrimination clauses of this *Contract* or with any of such rules, regulations, or orders, this *Contract* 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.
- (7) The *Contractor* shall include the provisions of paragraphs (1) through (7) 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 each provision shall be binding upon each subcontractor or vendor. The *Contractor* shall take such action with respect to any subcontract or purchase order at the *Department* may direct as a means of enforcing such provisions including sanctions for noncompliance. 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 *Department*, the *Contractor* may request the *United States* to enter into such litigation to protect the interest of the *United States*.



### **EXHIBIT F: Section 3 Clause**

*The following Section 3 Clause shall be applicable:*

(1) 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 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. 170u. SECTION 2 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.

(2) The parties to this *Contract* shall comply with the provisions of said SECTION 3 and the regulations issued pursuant thereto by the *Secretary of Housing and Urban Development* set forth in 24 CFR, and all applicable rules and orders of the *Department* issued thereunder prior to the execution of this *Contract*. The parties to this *Contract* certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

(3) The *Contractor* shall send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this SECTION 3 CLAUSE and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

(4) The *Contractor* shall include this SECTION 3 CLAUSE in every subcontract for work in connection with the project and shall, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the *Secretary of Housing and Urban Development*, 24 CFR. The *Contractor* shall not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR, and shall not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

(5) Compliance with the provisions of SECTION 3, the regulations set forth in 24 CFR, and all applicable rules and orders of the *Department* issued thereunder prior to the execution of the *Contract*, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.

# Davis Bacon Labor Relations *Proposal & Bid Form*



Project Address: \_\_\_\_\_

Project Owner: \_\_\_\_\_

The undersigned Contractor proposes to furnish all materials and accomplish all work as described in and in accordance with:

1. Instructions To Bidders
2. Construction/Rehabilitation Contract and General Conditions.
3. Description of Work
4. Proposal and Bid, pages 1 through \_\_\_\_
5. Federal Wage Determination
6. HUD 4010
7. Section 3 and Woman or Minority Owned subcontracting and hiring practices
8. General Specifications/Technical Specifications (where applicable)
9. Drawings, (where applicable)

For the lump sum price of \$\_\_\_\_\_

## Certification

\_\_\_\_\_  
Company Name                      Business License #                      DUNS #

\_\_\_\_\_  
Street Address                      Telephone

\_\_\_\_\_  
City, State and Zip Code                      Social Security or Tax Number

\_\_\_\_\_  
Signatory Name (Print)                      Signature                      Date

# Davis Bacon Labor Relations

## Section 3, Minority, and Woman Owned Business Certification



The undersigned bidder/contractor certifies as part of its bid or contract that it is a section 3 business as indicated below (check applicable box):

- ☐ Category 1 Business: A business that is owned by 51% or more Section 3 Residents
- ☐ Category 2 Business: A business whose current full time employees, either temporary, seasonal or permanent, consist of at least 30% Section 3 Residents or whose current permanent, full time employees were Section 3 Residents when they were first hired and the period from the date they were first hired to the date of certification does not exceed three (3) years

*A Section 3 resident is defined as any low or very low income person residing within Salt Lake County. Low income is defined at 80% of the area median income based on family size.*

<u>Family Size</u>	<u>Maximum Income</u>
1 PERSON	38,500
2 PERSONS	44,000
3 PERSONS	49,500
4 PERSONS	54,950
5 PERSONS	59,350
6 PERSONS	63,750
7 PERSONS	68,150
8 PERSONS +	72,550

- ☐ Category 3 Business: A business that provides sufficient evidence to assure a commitment to subcontract more than 25% of the total dollar amount of all subcontracts to Section 3 Businesses
- ☐ Is not a Section 3 Business

The undersigned bidder/contractor certifies as part of its bid or contract that it is a woman or minority owned business as indicated below (check applicable box):

- ☐ Minority Owned Business: A business that is owned by 51% or more by a minority resident  
Race: \_\_\_\_\_
- ☐ Is not a Minority Owned Business
- ☐ Woman Owned Business: A business that is owned by 51% or by a woman resident
- ☐ Is not a Woman Owned Business

### Certification

Business Name

Project Name

Business Address

DUNS #

Signatory Name (Print)

Signature

Date

Last Updated 6/16/2014