

I. BUILD AMERICA, BUY AMERICA COMPLIANCE

Contractor acknowledges that the Project is subject to the Build America, Buy America Act (“BABA”), enacted as part of the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58, and Contractor agrees to comply with BABA. Pursuant to BABA, Contractor is required to apply a domestic content procurement preference (the “Buy America preference” or “BAP”) for all iron, steel, manufactured products, and construction materials incorporated into the Project. All iron, steel, manufactured products and construction materials incorporated into the Project must be produced in the United States, including such materials installed by any subcontractors or suppliers. Definitions of iron, steel, manufactured products, and construction materials can be found in 2 C.F.R. Part 184 and are incorporated herein by this reference. Additional information regarding BABA requirements and compliance may be found at: https://www.hud.gov/program_offices/general_counsel/build_america_buy_america and is incorporated herein by this reference.

A. Opinions and Estimates

All opinions and estimates relating to costs or expenses prepared or provided by Contractor relating to the Project shall incorporate, be consistent with, and reflect compliance with BABA requirements.

B. Confirmation of Compliance

From the date of this Agreement until three (3) years after the Project is completed, Contractor must obtain and maintain records sufficient to:

(1) track all product purchases relating to the Project in sufficient detail to identify the source of the funding for the purchase; and

(2) demonstrate compliance with BABA as follows:

(i) for products purchased in compliance with the BAP, obtaining and maintaining documentation that the product complied with BAP requirements; and

(ii) for products purchased pursuant to a waiver or other exemption from the BAP, obtaining and maintaining adequate information to validate that the purchase was covered by a waiver or other exemption.

For all iron, steel, manufactured products, and construction materials incorporated into the Project, Contractor shall, upon receipt of the same, obtain confirmation that the product or material was purchased in compliance with the BAP. Such confirmation must take one or more of the following forms:

(1) A certificate from the manufacturer or reseller stating that the product complies with BABA;

(2) For products that cost less than \$100 per product, a copy of a label that indicates the product was made in the United States; or

(3) For small purchases of product that are less than the Simplified Acquisition Threshold (see 2 CFR 200.320(a)(2), as may be adjusted from time to time, either a copy of a product specification that

provides sufficient detail to conclude that the product complies with the BAP or a certification from a manufacturer or reseller of a product that confirms that the product is BABA compliant.

C. Recordkeeping Requirements and Examination Rights

Contractor must keep and maintain all records it is required to obtain pursuant to this section for a minimum of three (3) years from the date the Project is completed. PHA shall have access to and the right to examine, at any time and at its sole discretion, any of Contractor's books, documents, papers, or other records relating to the Project including without limitation, products used, from the date of this Agreement until three (3) years from the date the Project is completed.

D. Termination for Failure to Comply

If at any time Contractor fails to comply with the BAP, BABA, or the terms of this section, Contractor shall notify PHA immediately. Any such failure shall constitute a material breach of this Agreement and shall constitute good cause for PHA to terminate this Agreement at its sole discretion, following any applicable cure period.

E. Indemnification by Contractor

Contractor shall hold defend, indemnify, and hold harmless PHA and its officers, employees, commissioners, servants, agents, successors, assigns, instrumentality entities, subsidiaries and related non-profit corporations, as well as the directors, officers, employees, commissioners, servants, agents, successors, and assigns of PHA's instrumentality entities, subsidiaries, and related non-profit corporations (collectively, "Indemnified Parties") from and against all claims, actions, lawsuits, complaints, demands, damages, liabilities, losses, obligations, taxes, settlements, judgments, audit expenses and costs, regulatory proceedings, costs, or expenses (including without limitation reasonable attorneys' fees and costs), whether or not involving a third-party claim, which arise out of, relate to, or result from any failure of Contractor or its subcontractors and suppliers to comply with the BAP, BABA, or this section.

F. Survival

The terms of this section shall survive the expiration or termination of this Agreement.