

**AGREEMENT BY AND BETWEEN
THE CITY OF CENTRAL FALLS AND
ABM ENTERPRISES, INC. FOR A
MUNICIPAL DEMOLITION PROJECT
UTILIZING STATE AND FEDERAL FUNDS**

Contract No. _____

Project No. _____

Agreement made, effective as of October 15, 2015; and expiring sixty (60) days from the date of signing, by and between the City of Central Falls, a municipal corporation duly organized and existing under the laws of the State of Rhode Island, with an address of 580 Broad Street, Central Falls, R.I. 02863, referred to in this agreement as "Owner", and ABM Enterprises, Inc., a Rhode Island Corporation, with an address of 4 Dixie Avenue, Warwick, RI 02889 referred to in this agreement as "Contractor".

- A. Owner owns a certain property containing a 1-story building with a walkout basement located at 406 Hunt Street, Central Falls, Rhode Island 02863, Assessor's Plat 4, Lot No. 123 and a certain property containing a community park located at 0 Illinois Street, Central Falls, Rhode Island 02863, Assessor's Plat 4 Lot 486.
- B. Owner desires to have the above-described building and site improvements demolished and completely removed from its property.
- C. Contractor is qualified, able and willing to perform and complete the demolition work desired by Owner within thirty (30) days from the date of signing of this agreement.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this agreement, the parties agree as follows:

**SECTION ONE
SERVICES PROVIDED**

Contractor shall perform all of the following services for the compensation specified in Section Ten of this agreement and in accordance with all of the terms and conditions enumerated in the Request for Qualification and the October 2nd proposal submitted by Contractor on file with the Owner which are incorporated by reference into this agreement which shall include the following:

- A. Bilingual notification to adjoining property owners five (5) days prior to the start of demolition.
- B. Proper notification to all utility companies.
- C. Proper testing for hazardous materials in, on and around the structure to be demolished by the Contractor and said test results to be immediately submitted to the City's Building Inspector prior to demolition.
- D. Rodent and pest extermination to be performed by a licensed Exterminator with adequate time for extermination prior to demolition with appropriate proof of pest inspection and any necessary extermination provided to the City's Building Inspection Department prior to demolition.
- E. Proper removal from the site of any and all hazardous material including asbestos. Appropriate certification of disposal will be provided to the City's Building Inspection Department by the Contractor.

- F. The demolition and removal of a 1-story (masonry) structure.
- G. The removal and disposal of all building foundations, concrete slabs, footings, retaining walls, walkways and driveways located on the described properties.
- H. The removal and disposal of all materials resulting from the demolition.
- I. The filling of all excavations with bank run gravel, compacted every twelve inches (12”), and the grading of the site to match the elevation of the adjacent properties and roadways. The Contractor must get an approval from the Building Inspector prior to filling any holes.

SECTION TWO LABOR AND EQUIPMENT

Contractor will provide all labor and materials and furnish and erect, at its own expense, whatever equipment or works may be necessary for the expeditious, safe and proper execution of its duties under and pursuant to this agreement.

SECTION THREE SUBCONTRACTORS

Subcontractors may be hired at the discretion of the Contractor to complete the work. Preference is to be given to Central Falls-based businesses or those that hire Central Falls residents.

SECTION FOUR OBTAINING PERMITS

Contractor will secure, at its own expense, all permits, licenses, franchises, and consents required by law or necessary to perform the work under this agreement and will give all notices and pay all fees and otherwise comply with all applicable City, State and Federal Laws, Ordinances, rules and regulations pertaining to such work.

SECTION FIVE TERMINATION FOR DEFAULT

Should Contractor at any time refuse or neglect to supply a sufficient number or amount of properly skilled workers, materials, or equipment, or fail in any respect to prosecute the work with promptness and diligence, or fail to perform any of the conditions of this agreement, Owner may, at its election, terminate the employment of Contractor, giving notice to same in writing of such termination, and immediately enter on the premises and take possession, for the purpose of completing the work included under this agreement, of all materials, tools, and appliances belonging to Contractor, and to employ any other person or persons to finish the work and to provide the materials for such work at the expense of the Contractor.

SECTION SIX TERMINATION WITHOUT CAUSE

Owner shall have the right to terminate this agreement without cause by giving Contractor a five (5) day written notice thereof. Should this agreement be terminated without cause, Contractor will be

entitled to compensation for all services rendered through and including the date when notice of said termination was given.

SECTION SEVEN TERMINATION WITH CAUSE

Owner shall have the right to terminate this agreement with cause, including but limited to, the reasons set forth in Section Four hereof, by giving contractor written notice of termination. Contractor shall not be entitled to any compensation for any services rendered in the event of termination for cause, and may be further subjected to reimbursement for any damages or delay sustained by the Owner.

SECTION EIGHT INDEMNIFICATION OF OWNER

Contractor will indemnify and hold harmless Owner against any and all suits or claims arising out of Contractor's performance of its duties under this agreement, regardless of who makes the claim or whether it is based on the alleged negligence of the Contractor. Contractor will defend all such actions at its own expense, including attorney's fees, and will satisfy any judgment rendered against Owner in any such action.

SECTION NINE SURETY BONDS

Prior to commencing work, Contractor will furnish to Owner any and all surety company Bonds necessary, both the form of the bond and the surety company to be satisfactory to Owner:

- A. A bond conditioned on performance by Contractor of all its duties under this agreement, guaranteeing immediate payment to Owner of all expenses incurred by or judgments entered against Owner arising out of any claims or suits as referred to in Section Five, and
- B. A certificate of insurance must be provided to the City's Building Inspection Department for sufficient coverage for any and all injuries arising out of Contractor's performance of its duties under this agreement.

SECTION TEN ASSIGNMENT OF RISK

Contractor will bear any and all risk of damage to, or failure of, the work it has done under this agreement until such work has been completed and accepted by Owner.

SECTION ELEVEN PAYMENT TO CONTRACTOR

- A. For Contractor's satisfactory and timely performance of its duties under this agreement, Owner will pay Contractor \$40,000.00 plus the agreed upon cost for the removal of any additional hazardous materials found located on the site, upon completion of the work described herein, and satisfactory inspection by the City's Building Inspection Department of all work performed.

B. In addition to the compensation specified in Paragraph A of this section, all materials resulting from the demolition of the above-described buildings are to become the property of Contractor.

SECTION TWELVE NO WAIVER

The failure of either party to this agreement to insist upon the performance of any of the terms and conditions of this agreement, or the waiver of any breach of any of the terms and conditions of this agreement, shall not be construed as thereafter waiving any such terms and conditions, but these shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

SECTION THIRTEEN GOVERNING LAW

It is agreed that this agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Rhode Island.

SECTION FOURTEEN ATTORNEY FEES

In the event that any action is filed in relation to this agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorneys' fees.

SECTION FIFTEEN CONFLICT OF INTEREST

No elected or appointed State or municipal official (officer or member) shall, while serving as such, have any financial interest, direct or indirect, or engage in any business employment transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his/her duties or employment in the public interest and of his/her responsibilities as prescribed in Title 36, Chapter IV, of the General Laws of Rhode Island. No member of or Delegate to the Congress of the United States of America shall be admitted to any share or part thereof or to any benefit to arise therefrom.

The Contractor shall fully comply with CDBG Conflict of Interest provisions outlined at 24 C.F.R. Part 570.489(h) "Conflict of Interest" and 24 C.F.R. Part 85.36(b)(3) "Code of Conduct".

- 24 C.F.R. 570.489 - In general, no person (who is an employee, agent, consultant, official or elected/appointed official of the State, unit of general local government or of any designed public agencies or sub-recipients which are receiving CDBG funds) who exercise or have exercised any function or responsibilities with respect to CDBG activities assisted under this subpart or who are in a position to participate in a decision making process or gain inside information with regard to such activities may obtain a financial interest or benefit from the activity, or have any interest or benefit from the activity or have an interest in any contract,

subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or one year thereafter. Any requests for "exception" from this requirement, in accordance with the regulations, must be submitted in writing by the Contractor to the OHCD prior to the obligation of funds. As indicated, this regulation applies to the Contractor as well as sub-recipient entities funded.

- 24 C.F.R. Part 85.36 - In general, the Contractor must maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or sub-grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

SECTION SIXTEEN LABOR REGULATIONS

The contract for work under this proposal will obligate the Contractor and any subcontractor not to discriminate in employment practices and conform to Executive Order No. 11246. The Contractor shall also comply with the Labor Standards Provision for minimum wages and payroll certification.

The Contractor shall comply with the Copeland "Anti-Kick Back" Act (418 USC § 874) as supplemented in DOL regulations (29 C.F.R. Part 3).

Prior to the Pre-Construction Meeting, Contractor shall provide a list of all subcontractors who will perform work on the project and written signed statements from authorized agents of labor pools with which they will or may deal with for employees on the work, together with any information to the effect that such labor pools practices or policies are in conformity with Executive Order 11246; that they will affirmatively cooperate in or offer no hindrance to the recruitment, employment and performing work under this Contract; or a certification as to when such agents or labor pools have failed or refused to furnish them, prior to award of the contract.

The Contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Acts (40 USC §§ 327-330) as supplemented by DOL regulations (29 C.F.R. part 5).

This project is subject to Davis Bacon Wage Requirements. Contractor shall be required to submit certified payroll documentation when requested to certify that wages are in compliance with the current wage rate determination, included as Exhibit A, and incorporated by reference.

Because this project receives direct Federal financial assistance, compliance with Section 3 of the Housing and Development Act of 1968 and the regulation implementing that Section is required. The Contractor understands that this requires the project to make training, employment and contracting opportunities available, to the greatest extent feasible, to lower income city residents and businesses. All contracts between the Contractor and Subcontractor must include the following language:

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1988, as

amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Contractor agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under the Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

The Contractor will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The City will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 125 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

SECTION SEVENTEEN DAVIS BACON

The project is subject to Davis Bacon Wage Requirements. Contractor shall be required to submit certified payroll documentation when requested to certify that wages are in compliance with the current wage rate determination, included as Exhibit A, and incorporated by reference.

SECTION EIGHTEEN ENTIRE AGREEMENT

This agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated into this agreement.

It is expressly understood and agreed that the instruction to bidders, the notice inviting bids and contractor's proposal shall be incorporated into and constitute a part of this agreement, and each and all of the provisions of said documents upon its part to be performed.

In the event that any of the provisions of this agreement shall conflict with any of the terms contained in the documents referred to herein, the terms of this agreement shall control.

SECTION NINETEEN COMPLETION OF WORK

Contractor shall mobilize and begin demolition within ten (10) days of receiving a demolition permit. In the event that all of the work is not completed within the next ten (10) days, then

Contractor shall be deemed to be in default of this agreement and Owner may proceed in accordance with Section Four of this agreement.

**SECTION TWENTY
TIME OF THE ESSENCE**

It is specifically declared and agreed that time is of the essence in this agreement.

**SECTION TWENTY ONE
PRE-CONSTRUCTION MEETING AND SITE VISIT**

A Pre-Construction meeting shall be held between the Contractor and the Owner at a time before First Notice to Proceed at a time convenient for the Owner and Contractor. This meeting shall provide an overview of expectations and requirements from the Owner and State and Federal funding sources. Subsequently, the Owner may visit the site at any time for the purposes of confirming expectations or meeting requirements. The intent of these visits shall not be to unduly delay the work of the Contractor.

**SECTION TWENTY TWO
NOTICE TO PROCEED**

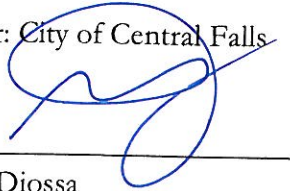
Contractor shall be given a First Notice to Proceed with testing for hazardous materials upon execution of this contract. Subsequent Notice to Proceed with the Demolition will be issued upon the receipt by the City's Building Inspection Department of hazardous material test results and consultation with the City Building Official and the Office of Planning and Economic Development.

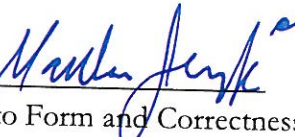
**SECTION TWENTY THREE
PATENTS AND COPYRIGHTS**

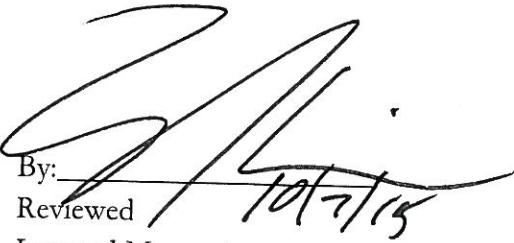
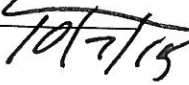
The U.S. Department of Housing and Urban Development and the City of Central Falls retain patent rights and copyrights on any project which involves research, developmental, experimental or demonstration work.

In witness whereof, each party to this agreement has caused it to be executed on the date indicated below:

Owner: ~~City of Central Falls~~

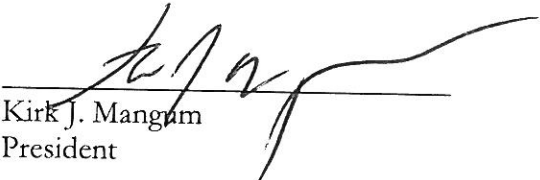
By: 
James Diossa
Mayor

By: 
As to Form and Correctness
Matthew Jerzyk
City Solicitor

By: 
Reviewed 
Leonard Morganis
Administrative and Finance Officer

Date: Oct. 8. 2015

Contractor: ABM Enterprise, LLC


Kirk J. Mangum
President

Date: 10/8/15

FED ID 47-3690896

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