

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

AMENDMENT TO THE CONSTRUCTION CONTRACT
FOR PAYMENT FOR COMPONENTS STORED OFFSITE

The undersigned as Contractor and as Owner will abide by the following conditions to induce the Commissioner to release mortgage proceeds for the payment of components stored offsite.

1. The components stored offsite that will be recognized for payment under Article 3.B.(3) of the Contract are those listed and approved by HUD as an appendix to the Contractor's and/or Mortgagor's Cost Breakdown, Form HUD-2328, attached to the Contract as Exhibit "A." The appendix must provide an inventory of the "stored components" and a breakdown of the line item of which the stored components are a part. The breakdown must state:
 - a. Cost of Components (Invoice Value),
 - b. Cost of transportation from the offsite storage location to the construction site,
 - c. Cost of Installation, and
 - d. Costs of any other items included in the line item.
2. The Contractor is responsible for:
 - a. All direct and indirect costs associated with the storage and transportation of components stored offsite.
 - b. Obtaining a risk of loss insurance policy which covers the components during storage, in transit and until installed at the project site. The policy must name the Mortgagor, the Mortgagee and the Commissioner as their interest may appear. Evidence of the existence of this insurance must be submitted to HUD prior to the approval of any advance for components stored offsite.
 - c. Assuring to the satisfaction of HUD proper identification and segregation of components while in storage and protection of components while in storage and transportation.

- d. Securing from the mortgagor or mortgagee all necessary security agreements, copies of financing statement, and documentation pertaining to first lien warranties, and submitting them with the request for payment.
 - e. Providing corporate surety bonds for on-site improvements on Form FHA 2452 for payment and performance bonds, each equalling 100 percent of the HUD estimate of construction or rehabilitation cost.
2. All requests for payment for components stored offsite must be submitted by the Contractor on Form HUD-92448, Contractor's Requisition, accompanied by the following:
- a. A statement from the Architect certifying that:
 - (1) He/she has visited the storage site and inspected the components for which payment has been requested,
 - (2) The components are in good condition and they comply with the contract requirements,
 - (3) The components are properly stored and protected,
 - (4) The components are segregated, in an easily identified manner from other materials stored at the same site and are marked for identification.
 - b. A bill of sale accompanied by an itemized invoice transferring title of the components to the mortgagor.
 - c. A copy of the security agreement provided to the mortgagee by the mortgagor.
 - d. A copy of the financing statement filed by the mortgagee in accordance with the Uniform Commercial Code.
 - e. A warranty from the mortgagee that the security instruments represent a first lien on the building components.
 - f. An opinion from the mortgagee's attorney that he/she has reviewed the security agreement and associated documents relative to the components for which advances are sought and that the security agreement creates a valid security interest in the collateral and that when the financing

statement is duly filed, the secured party will have a first lien.

3. Restrictions.

- a. Payments for components stored offsite shall be limited to the cost of components (Invoice Value) identified in the HUD approved appendix to the Contractor's and/or Mortgagor's Cost Breakdown, Form HUD-2328, attached to the Contract as Exhibit "A," and shall be subject to a 10 percent holdback.
- b. In no case shall a payment be approved for components stored offsite to a contractor whose performance, in the judgment of the HUD Field Office Manager, is marked by serious deviations from the contract documents.
- c. At no time may the outstanding amount of insured advances for components stored offsite exceed 50 percent of the total estimated construction costs as specified in the construction contract.
- d. The minimum amount for any single advance is \$10,000.

OWNER

CONTRACTOR

DATE: _____ DATE: _____