

**MEMORANDUM OF AGREEMENT**

BOSTON HOUSING AUTHORITY AND

ASIAN AMERICAN CIVIC ASSOCIATION

JOB TRAINING PROGRAM

BHA JOB NO. 0636-01

This MEMORANDUM OF AGREEMENT (the "Agreement") dated as of this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between the BOSTON HOUSING AUTHORITY, a public body politic and corporate organized and existing under Chapter 121B of the General Laws of the Commonwealth of Massachusetts ("M.G.L.") and Chapter 88 of the Acts of 1989, with its principal office located at 52 Chauncy Street, Boston, Massachusetts 02111 (the "BHA"), and ASIAN AMERICAN CIVIC ASSOCIATION, INC., a Massachusetts not-for-profit corporation organized and existing under M.G.L. Chapter 180, with its principal office located at 87 Tyler Street, 5<sup>th</sup> Floor, Boston, Massachusetts 02111 (the "Contractor").

RECITALS

WHEREAS, the BHA is a public housing authority that provides housing to numerous low-income residents in public housing and through Section 8 leased housing vouchers ("BHA Residents");

WHEREAS, BHA Residents and other low-income individuals are eligible for certain training and employment opportunities pursuant to Section 3 of the HUD Act of 1968, as amended, and the Section 3 Regulations at 24 CFR Part 135 (collectively, "Section 3"); and

WHEREAS, the Contractor runs a Building Energy Efficient Maintenance Skills job training program ("BEEMS"), which is a 22-week training program designed to train "green-collar" building maintenance and weatherization workers; and

WHEREAS, the BHA and the Contractor desire to work together to recruit up to 12 BHA Residents and other low/very low income individuals eligible for Section 3 training and employment ("Section 3 Participants") as candidates for enrollment in BEEMS and to place at least 5 successful graduates of BEEMS into employment at the BHA as Contract Janitor Groundskeeper with a starting salary of \$10.48 per hour.

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt of which is hereby acknowledged by the parties, the parties agree as follows:

1. Term and Renewal. The initial term of this Agreement shall commence on April 1, 2011 and shall automatically terminate and expire on October 31, 2012 (the "Initial Term"). Within thirty (60) days of the expiration of the Initial Term or any renewal term thereafter, the parties may extend this Agreement for an additional twelve (12) month term (each, a "Renewal").

Term”) by written agreement between the parties specifically referencing this Agreement or any subsequent renewal thereof.

2. Scope of Services. Contractor shall provide BHA with the following services (the “Services”):

(a) Enroll and train in BEEMS up to twelve (12) Section 3 Participants during the Initial Term. In the initial enrollment, the Contractor will enroll and train five Section 3 Participants, at least three of whom shall be BHA Residents. In subsequent enrollments, there will be an additional seven slots for which Section 3 Participants will be eligible to apply. These subsequent enrollments are contingent on employer hiring commitments, either at BHA, BHA-affiliated maintenance contractors, or other ACA employer partners.

(b) Work closely with BHA staff to engage in outreach and recruitment activities of Section 3 Participants, with a focus on BHA Residents, for enrollment in BEEMS. This may include, but is not limited to, participation in career fairs, posting flyers, and giving presentations at development sites and community centers.

(c) Assess, interview, and select appropriate candidates from the Section 3 Participants for BEEMS.

(d) Provide training through BEEMS, which includes 17 weeks of technical and soft skills training and 5 weeks of internship.

(e) Provide case management services, and when necessary, coordinate case management services with BHA case managers.

(f) Work closely with BHA staff to facilitate screening, matching, and placement of successful BEEMS graduates into maintenance-related positions at BHA and elsewhere.

(g) Provide two years of post-placement retention services to BEEMS graduates to help ensure job retention and career growth.

(h) upon the written request of BHA, to the extent legally permissible under the terms, conditions, and funding stipulations of any applicable rule, law, administrative procedure, or grant, and as promptly as practicable, provide BHA with compiled information with respect to BHA Residents participating in BEEMS (including without limitation, statistics on placements, attendance, and assessments).

3. BHA Responsibilities. BHA shall:

(a) Work closely with the Contractor’s recruitment coordinator to outreach and recruit Section 3 Participants, with a focus on BHA Residents, for enrollment in BEEMS. This may include, but is not limited to, arranging meetings and presentations with resident services staff and tenant organizations and distributing flyers and other marketing materials.

(b) Notify the Contractor of upcoming Contract Janitor Groundskeeper job openings (not required to be filled pursuant to the Collective Bargaining Agreement between the Labor's Local Union #367 and BHA) and work closely with the Contractor's employment specialist to screen, match, and place successful BEEMS graduates into Contract Janitor Groundskeeper positions within BHA.

(c) Hire, at a minimum, five Section 3 Participants who are BEEMS graduates (at least three of whom shall be BHA Residents) into employment as Contract Janitor Groundskeeper with a starting salary of \$10.48 per hour. The hiring of BEEMS graduates is contingent upon the training schedule proceeding as outlined above.

(d) Work with the Contractor's staff to encourage additional employers, such as private management companies, particularly private management companies under contract with the BHA, to hire Section 3 Participants who are BEEMS graduates.

(e) When necessary, work with the Contractor's Case Manager to provide limited assistance in case management services to BHA Residents who are enrolled in BEEMS to ensure successful completion of BEEMS.

4. Reserved.

5. Reserved.

6. Termination. This Agreement may be terminated in any of the following ways: (a) by mutual agreement of the parties; (b) immediately upon written notice by either party in the event that the other party is no longer authorized to perform its obligations by any operation of law, including, without limitation, the filing of a petition in bankruptcy either by or against such party, or in the event that either party is causing immediate danger to the staff, residents, or property of the other; (c) upon thirty (30) calendar days written notice by either party for any reason; or (d) upon thirty (30) calendar days written notice by either party in the event of a material breach of this Agreement uncured upon thirty (30) days written notice thereof (the "Notice Period"). In the event of a breach pursuant to this Paragraph 6, the breaching party shall have the opportunity to cure such breach within the Notice Period; and, in the event that the breaching party either (x) effects a cure or (y) has undertaken promptly and continuously to effect a cure and such cure is effected within a reasonable time thereafter, then the notice of termination from the non-breaching party shall be without effect. For the purposes of this Paragraph 6, "breach" of this Agreement includes, without limitation, (a) the repeated violation or systematic failure to comply with any material term of this Agreement, or (b) the manifestation of an anticipatory intention not to perform the obligations imposed by this Agreement.

7. Designation of Representatives. The parties designate the following individuals as their representatives for the purpose of administering this Agreement:

(a) For BHA:

(b) For Contractor:

8. Notice. All notices and other communications required or permitted by this Agreement shall be in writing and shall be deemed given if delivered by hand or mailed by registered mail or certified mail, return receipt requested or by a nationally recognized overnight courier, to the appropriate party at the following address (or such other address for a party as shall be specified by notice pursuant hereto):

(a) If to BHA:

With copy to:

(b) If to Contractor:

With copy to:

For the convenience of the parties, either party may contact the other party by email or fax, but official notice shall require follow-up notice in writing pursuant to this paragraph 8.

9. Insurance Requirements. Contractor shall at all times throughout the term of this Agreement carry, and require its contractors and subcontractors to carry, the following insurance coverages in the stated form and/or amounts:

(a) Commercial General Liability. Contractor shall carry and maintain Commercial General Liability Insurance with limits not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate, covering all work performed under this Agreement. All policies affording such coverage shall name BHA as an additional insured.

(b) Commercial Automobile Liability. The Contractor represents that it and its students participating in the Project will not bring any motor vehicles onto the Developments. If, in the future, the Contractor determines that it needs to bring motor vehicles onto the Developments, it shall so notify the BHA, and it shall carry and maintain Commercial Automobile Liability insurance covering all owned, hired and non-owned autos with limits not less than \$1,000,000 per occurrence for bodily injury and \$1,000,000 per occurrence for property damage. All policies affording such coverage shall name BHA as an additional insured.

(c) Worker's Compensation/Employer's Liability Insurance. Contractor shall carry and maintain Workers' Compensation Insurance as provided by M.G.L. Chapter 152, as amended, covering all work performed by it under this Agreement and/or any other project plan initiated with the BHA. The Workers' Compensation insurance must also include Employer's Liability coverage.

(d) Subcontractor Insurance. In the event BHA authorizes Contractor to utilize any subcontractor and/or subconsultant to perform any of the Services, Contractor shall require any such subcontractor, subconsultant, and/or professional employed and/or engaged by Contractor to carry Commercial General Liability, Commercial Automobile Liability, and Workers' Compensation/Employer's Liability insurance with the same limits, scope of coverage and other provisions as described herein. The Commercial General Liability and Commercial

Automobile Liability coverage shall name Contractor and BHA as additional insureds. Contractor shall obtain and keep on file certificates of insurance that show that the subcontractor, subconsultant, and professional are so insured.

(e) Miscellaneous Requirements. All policies of insurance required hereunder shall be issued in a form and type acceptable to BHA. Concurrent with the execution of this Agreement, Contractor shall provide BHA with certificates of insurance, in forms satisfactory to BHA, evidencing the above required insurance coverages. Such certificates of insurance shall be attached to this Agreement as Exhibit A and made a part hereof. Concurrent with the expiration dates of any policies providing insurance coverage required under this Agreement, Contractor shall provide BHA with new certificates of insurance evidencing renewal or replacement of the required coverages. Certificates of insurance evidencing the Commercial General Liability and Commercial Automobile Liability coverages must indicate that the BHA is named as an additional insured on all policies providing such coverage. All certificates of insurance must be sent to: Boston Housing Authority, Risk Management Department, 52 Chauncy Street, Boston, MA 02111. Failure to maintain insurance coverage as required by this Agreement shall be deemed to be a material breach of this Agreement.

(f) Personal Property Insurance. Contractor may, at its own expense, carry and maintain insurance to cover its own personal property, furniture, fixtures, machinery, and supplies used in the performance of the Services.

10. Assumption of Risk. Contractor agrees to provide the Services at its own risk and liability. BHA shall have no responsibility or liability for any loss or damage to personal property or fixtures of Contractor or its subcontractors.

11. Release by Participants. BHA Residents enrolled in BEEMS shall provide a release to the BHA in the form attached to this Agreement as Exhibit B.

12. Release by Contractor. The Contractor, on its behalf and on behalf of its officers, employees, and agents acting on its behalf, hereby releases the BHA, its officers, employees, and agents from any and all actions, damages, and other claims, in law or in equity, which the Contractor, its officers, employees, and agents may have against the BHA, its officers, employees, and agents for loss of life, personal injuries, damage to real or personal property, or other loss arising, directly or indirectly, from any act or omission of the BHA with respect to this Agreement. The release under this Paragraph 12 shall survive termination or expiration of this Agreement.

13. Indemnification. The Contractor shall defend, indemnify, and hold harmless the BHA, its officers, employees, and agents from and against all claims, causes of action, suits, losses, damages, fines, and expenses arising from its performance under this Agreement. The foregoing express obligation of indemnification shall not be construed to negate or abridge any other obligation of indemnification running to each party that might exist. The obligations of indemnification under this paragraph 13 shall survive termination or expiration of this Agreement.

14. Holder Agreement. Contractor agrees that, as a result of its activities under this Agreement, Contractor and/or its employees, representatives, subcontractors, subconsultants, contractors, and/or agents (“Holders”) may be and become “holders” of “personal data” as such terms are defined by M.G.L. Chapter 66A, and that information containing any such personal data will be placed in a system which reasonably assures the confidentiality of the personal data. In its use and maintenance of personal data Contractor shall not disseminate or publish any data provided (except to BHA’s or Contractor’s designated officers and employees in the ordinary course of business) without the informed consent of the data subject and BHA, or as permitted by law. Contractor further agrees that, upon the expiration of this Agreement, any such data collected shall, as the BHA directs, be either returned to BHA or destroyed, provided, however, that Contractor may retain a copy of such tangible information for compliance and/or archival purposes. The requirements of this paragraph 14 shall remain in effect as long as the Holders are a holder of personal data under this Agreement. Contractor’s responsibilities under this Paragraph 14 shall survive the expiration or termination of this Agreement.

15. Binding Agreement. This Agreement is binding on the parties’ officers, employees, agents, principals, successors, and assigns.

16. Compliance with Law. Contractor shall comply with all applicable provisions of local, state, or federal law, regulation, or ordinance.

17. Authority. The parties hereto represent and warrant each to the other that they have the authority to enter into this Agreement and that the person executing this Agreement for each is duly authorized to do so.

18. No Assignment. This Agreement may not be assigned, or otherwise transferred by Contractor, without the express prior written consent of BHA.

19. Complete Agreement. This Agreement represents the final, complete and exclusive written expression of the intentions of the parties hereto with respect to its subject matter, and supersedes any and all previous communications, representations, agreements, promises or statements, either oral or written, by or between the parties.

20. No Modification. This Agreement may not be modified, except by written agreement executed by both the parties.

21. Independent Contractors. The parties are acting herein as independent contractors and independent employers. Nothing herein shall create or be construed as creating a partnership, joint venture, or agency agreement between the parties and no party shall have the power to bind the other in any respect.

22. Governing Law; Venue. It is the intention of the parties that the internal laws of the Commonwealth of Massachusetts shall govern the validity of this Agreement, and the interpretation of the rights and duties of the parties hereunder. All actions arising under or as a result of this Agreement shall be brought in the state or federal courts located in Boston, Massachusetts.

23. Counterparts. This Agreement may be executed in one or more counterparts (including by telecopy), each of which, when so executed and delivered, shall be deemed to be an original, but all of which shall together constitute one agreement.

*[The remainder of this page is intentionally left blank.]*

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as a sealed instrument as of the date first above written.

THE BOSTON HOUSING AUTHORITY

By: \_\_\_\_\_  
Name:  
Title: Administrator

ASIAN AMERICAN CIVIC ASSOCIATION, INC.

By: \_\_\_\_\_  
Name:  
Title: Executive Director



**EXHIBIT A**  
**CERTIFICATES OF INSURANCE**

**EXHIBIT B**  
**FORM OF PARTICIPANT RELEASES**

PARTICIPANT RELEASE  
BY BHA RESIDENTS

BOSTON HOUSING AUTHORITY AND  
ASIAN AMERICAN CIVIC ASSOCIATION  
BUILDING ENERGY EFFICIENT MAINTENANCE SKILLS (BEEMS)  
JOB TRAINING PROGRAM

I hereby release the Boston Housing Authority and Asian American Civic Association and their officers, employees, and agents from all liability in connection with any actual, potential, or possible loss of life, personal injuries, damage to real or personal property, or other loss arising, directly or indirectly, from any act or omission of the BHA or AACA related to my enrollment in BEEMS.

Participant Signature: \_\_\_\_\_

Participant Name: \_\_\_\_\_

Date: \_\_\_\_\_