

NO LIEN

92075106

Capital Advance Program Construction Contract Cost Plus

U.S. Department of Housing and
Urban Development
Office of Housing
Federal Housing Commissioner

52219
LAWYERS TITLE INS. CORP.
ONE PROFESSIONAL CENTER
SUITE 215
CROWN POINT, IN 46301

Under Section 202 of the Housing Act of 1959 or Section
311 of the National Affordable Housing Act

GMB No 2502-0470 (rev 1-31-92)

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2502-0470), Washington, D.C. 20503.

This Agreement made the 15 29th day of November, 1992, between
Construction Planning and Management, Inc. (hereinafter called the Contractor),
and AHEPA 78, Inc. (hereinafter called the Owner).

FILED

NOV 30 1992

Witnesseth, that the Contractor and the Owner, for the consideration hereinafter set out, agree as follows:

Article 1 - Scope of Contract

A. The Contract between the parties is set forth in the "Contract Documents" which consists of this Agreement, the Drawings and Specifications, the current edition of AIA Document A201, "General Conditions of the Contract for Construction," except for any provisions concerning arbitration and Form HUD 2554, "Supplementary Conditions of the Contract for Construction." The provisions of this instrument and the said HUD Supplementary Conditions take precedence over all inconsistent provisions in the said AIA General Conditions. This Contract constitutes the entire agreement between the parties, and any previously existing contract concerning the work contemplated by the Contract Document is hereby revoked.

The Contractor shall furnish all of the materials and perform all of the work (within the property lines) shown on, and in accordance with, the Drawings and specifications entitled AHEPA 78, Inc.

HUD Project No. 073-EH333, dated May 18, 1992

The Drawings, which are numbered See Exhibit A attached, and the Specifications, the pages of which are numbered See Exhibit A attached, have been prepared by JSK Architects ("Design Architect"). The Architect administering the Construction Contract (hereinafter, and elsewhere in the Contract Documents, referred to as the "Architect" is JSK Architects

A master set of said Drawings and Specifications, identified by the parties hereto and by the Design Architect, the Architect, and the contractor's Surety or Guarantor have been placed on file with the Department of Housing and Urban Development ("HUD"), and shall govern in all matters which arise with respect to such Drawings and Specifications.

Changes in the Drawings and Specifications or any terms of the Contract Documents, or orders for extra work, or changes by altering or adding to the work, or which will change the design concept, may be effected only with the prior written approval of HUD under such conditions as HUD may establish.

Article 2 - Time

A. The work to be performed under this Contract shall be commenced within 10 days of this Agreement, and shall be completed by November 28, 1993. The time by which the work shall be completed may be extended in accordance with the terms of the said AIA General Conditions only with the prior written approval of HUD

The Contractor shall correct any defects due to faulty materials or workmanship which appear within one year from the date of substantial completion.

If the work is not substantially completed in accordance with the Drawings and Specifications, including any authorized changes, by the date specified above, or by such date to which the contract time may be extended, the contract sums stated in Article 3A below shall be reduced by the actual cost of taxes and insurance, as approved by HUD, for the period from the scheduled date of completion through the date construction was actually completed. This cost shall be reduced by an amount equal to the project's net operating income (as determined by HUD) for the period upon which the aforementioned actual costs are based.

STAT. OF INDIANA
FIDELITY & SECURITY
CORPORATION
RECORDS
NOV 30 10 12 AM '92
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The date of substantial completion shall be the date the HUD representative signs the final HUD Representative's Trip Report provided that the trip report is subsequently endorsed by the Chief Architect.

Article 3 - Contract Sum and Payments

(1) Subject to the provisions hereinafter set out, the Owner shall pay to the Contractor for the performance of this Contract the following items in cash:

(a) The actual cost of construction as defined in Article 10 below; plus:

(b) A fee of \$ 139,087.00

_____ . In no event, however, shall the total cash payable pursuant to this paragraph (1) exceed \$1,956,785.00

~~(2) If, upon completion, the Contractor shall have received cash payments in excess of (a) the actual cost of construction, plus (b) the cash fee specified in paragraph (1), all such excess shall be refunded to the Owner.~~

Each month after the commencement of work hereunder, the Contractor shall make a monthly request on Form HUD-92448 for payment by the Owner for work done during the preceding month. Each request for payment shall be filed at least 30 days before the date payment is desired. Subject to the approval of HUD, the Contractor shall be entitled to payment thereon in an amount equal to (1) the total value of classes of the work acceptably completed; plus (2) the value of materials and equipment not incorporated in the work, but delivered to and suitably stored at the site; plus (3) the value of components stored off-site in compliance with applicable HUD requirements less (4) 10 percent holdback and less prior payments. The "values" of (1), (2) and (3) shall be computed in accordance with the amounts assigned to classes of the work in the "Contractor's and/or Mortgagor's Cost Breakdown," attached hereto as Exhibit "B". The Contractor agrees that no materials or equipment required by the Specifications will be purchased under a conditional sale contract or with the use of any security agreement or other vendor's title or lien retention instrument.

The balance due the Contractor hereunder shall be payable upon the expiration of 30 days after the work hereunder is fully completed, provided the following have occurred:

(1) All work hereunder requiring inspection by municipal or other governmental authorities having jurisdiction has been inspected and approved by such authorities and by the rating or inspection organization, bureau, association or office having jurisdiction;

(2) All certificates of occupancy, or other approvals, with respect to all units of the project have been issued by State or local governmental authorities having jurisdiction; and

(3) Permission(s) To Occupy (Form FHA-2485) for all units of the project have been issued by HUD.

With its final application for payment by the Owner, the Contractor shall disclose, on a form prescribed by HUD, all unpaid obligations contracted in connection with the work performed under this contract. The Contractor agrees that, within 15 days following

receipt of final payment, it will pay such obligations in cash and furnish satisfactory evidence of such payment to the Owner.

Article 4 - Receipts and Releases of Liens

The Owner may require the Contractor to attach to each request for payment its acknowledgement of payment and all subcontractors' and materialmen's acknowledgements of payment for work done and materials, equipment, and fixtures furnished through the date covered by the previous payment. Concurrently with the final payment, the Owner may require the Contractor to execute a waiver or release of lien for all work performed and materials furnished hereunder, and may require the Contractor to obtain similar waivers or releases from all subcontractors and materialmen.

Article 5 - Requirements of Contractor

A. The Contractor shall furnish, at its own expense, all building and other permits, licenses, tools, equipment and temporary structures necessary for the construction of the project. The Contractor shall give all required notices and shall comply with all applicable codes, laws, ordinances, rules and regulations, and protective covenants, and with the current regulations of the National Board of Fire Underwriters, wherever applicable. The Contractor further shall comply with the provisions of the Occupational Safety and Health Act of 1970. The Contractor shall immediately notify HUD of the delivery of all permits, licenses, certificates of inspection, certificates of occupancy, and any other such certificates and instruments required by law, regardless of to whom issued, and shall cause them to be displayed to HUD upon request.

B. If the Contractor observes that the Drawings and Specifications are at variance with any applicable codes, laws, ordinances, rules or regulations, or protective covenants, it shall promptly notify the Architect in writing, and any necessary changes shall be made as provided in this Contract for changes in the Drawings and Specifications.

C. Upon completion of construction, the Contractor shall furnish to the Owner a survey showing the location on the site of all improvements constructed thereon, and showing the location of all water, sewer, gas and electric lines and mains, and of all existing utility easements. Such survey shall be prepared by a licensed surveyor who shall certify that the work is installed and erected entirely upon the land covered by the mortgage and within any building restriction lines on said land, and does not overhang or otherwise encroach upon any easement or right-of-way of others. In addition, the Contractor shall furnish additional surveys when required by the owner for any improvements, including structures and utilities, not theretofore located on a survey. The Contractor shall furnish copies of such survey required hereunder for HUD.

D. The Contractor shall assume full responsibility for the maintenance of all landscaping which may be required by the Drawings and Specifications until such time as both parties to this Contract shall receive written notice from HUD that such landscaping has been finally completed. The Owner hereby agrees to make available to the Contractor, for such purpose, without cost to the latter, such facilities as water, hose and sprinkler.

Construction Contract Incentive Payment

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner



Under Section 202 of the Housing Act of 1959, as amended by Sec
201 of HAMA or Section 811 of the National Affordable Housing Act

Must be executed prior to initial closing.

OMB Approval No. 2502-0470 (Exp. 03.31.92)

The Owner and the Contractor may amend the Construction Contract to provide for the payment of an additional sum to the Contractor as an incentive for completing the project earlier than the completion date specified in the contract, or by such date to which the contract completion may be extended.

The Construction Contract - Lump Sum (form HUD-92442-CA) may be amended by adding the following paragraph by rider:

Article 3. Contract Sum and Payments (cont.)

If the work is completed prior to the time for completion specified in the contract, the Owner shall pay the Contractor, in addition to the contract sum stated herein, an amount equal to 50% percent of the amount by which the sum of HUD's estimates of real estate taxes and insurance during construction, totaling the amount of ~~the~~ excess exceeds the Owner's certified cost of these same items as approved by HUD through the ~~substantial completion date.~~

The Construction Contract - Cost Plus (from HUD-92442-CA) may be amended by striking paragraph A(3) from Article 3 and adding the following paragraphs by rider:

Article 3 - Payments (cont.)

(3) If the work is completed prior to the time for completion specified in this contract, the Owner shall make an incentive payment to the Contractor. The amount of the payment shall be ascertained according to the instructions on the attachment entitled *Incentive Payment Computation* which is made a part hereof.

(4) If, upon completion, the Contractor shall have received cash payments in excess of (a) the actual cost of construction, plus (b) the cash fee specified in paragraph (1), plus the incentive payment under the provisions of paragraph (3), all such excess shall be refunded to the Owner.


Seal) _____
Attest: _____

AHEPA 78, Inc.
Owner

Witness _____

Dino Manolopoulos
By Dino Manolopoulos

Witness _____

President


Seal) _____

Construction Planning and Management, Inc.

Witness _____

Contractor

Witness _____

Jerome H. Williams
By Jerome H. Williams

Note: If Contractor or Owner is a corporation, Secretary should attest. President
Title

* Not to exceed 50%

** Insert here that portion of the sum of taxes and insurance that appear in Section C of form HUD-92264 that are attributable to the construction period. For example, if the construction period also shown in Section C of form HUD-92264 is estimated to be 15 months, taxes and insurance have been calculated for a 15 month period. Only a portion (15/17) may be included in the savings computation for these items.

Previous Editions are Obsolete

Incentive Payment Computation

To be completed at completion of the Project Construction (see Note 2)

Step 1. Soft Cost Computations

(a) Enter the sum of HUD's estimated cost of real estate taxes and insurance from Section G, form HUD-92264. ** (See other side) \$ _____

(b) Enter the Owner's certified cost of these same items as approved by HUD through the substantial completion date. \$ _____

(c) Subtract 1(b) from 1(a). If 1(b) exceeds 1(a) enter 0. \$ _____

Step 2. Construction Cost Computations

(a) Enter lesser of (1) HUD's estimated cost of physical construction (as defined in Note 1 below or (2) Cash upset price set out in Article 3(a) of the Construction Contract. \$ _____

(b) Enter HUD's estimated amount of the net increase in cost or net decrease in cost resulting from approved construction changes from the final form HUD-92437. \$ _____

(c) Enter sum of 2(a) and 2(b) if approved change orders resulting in construction cost increase. If approved changes resulted in a decrease in cost, subtract 2(b) from 2(a) and enter the difference. \$ _____

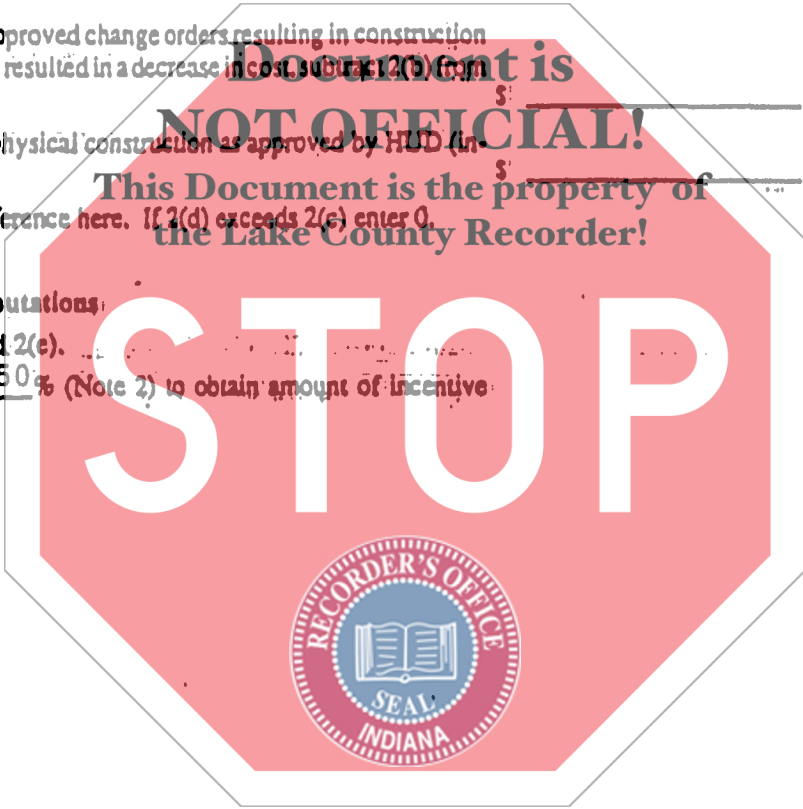
(d) Enter actual certified cost of physical construction as approved by HUD (including Builder's Profit). \$ _____

(e) If 2(c) exceeds 2(d) enter difference here. If 2(d) exceeds 2(c) enter 0. \$ _____

Step 3. Incentive Payment Computations

(a) Enter the sum of Step 1(c) and 2(e). \$ _____

(b) Multiply 3(a) by 50% (Note 2) to obtain amount of incentive payment. \$ _____



Note 1. HUD's estimate of the cost of physical construction shall be determined by adding together the following items that appear in Section G of form HUD-92264, Total Land Improvements, Total Structures, General Requirements, Builder's Profit, Builder's General Overhead, Bond Premium and Builder's Other Fees.

Note 2. This blank should be completed on or before initial closing of the loan and the percentage to be inserted must not exceed 50%.

Article 6 - Assurance of Completion

The Contractor shall furnish to the Owner assurance of completion of the work in the form of Performance-Payment Bond (Dual Obligee) in the sum of \$1,956,785

Such assurance of completion shall run to the Owner and HUD as obligees.

Article 7 - Waiver of Lien or Claim See Rider I attached

The Contractor shall file no mechanic's or materialman's lien or maintain any claim against the Owner's real estate or improvements for or on account of any work done, labor performed or materials furnished under this Contract, and shall include in each subcontract a clause which shall impose this requirement on the subcontractor.

Article 8 - Right of Entry and Interpretation

HUD, its agents or assigns, at all times during construction, has the right of entry and free access to the project and the right to inspect all work done and materials, equipment and fixtures furnished, installed or stored in and about the project. For such purpose, the Contractor shall furnish such enclosed working space as HUD may require and find acceptable as to location, size, accommodations and furnishings.

HUD shall also have the right to interpret the Contract Documents and to determine compliance therewith.

Article 9 - Assignments, Subcontracts and Termination

This Contract shall not be assignable by either party without prior written consent of the other party and HUD, except that the Owner may assign the Contract, or any rights hereunder, to HUD.

The Contractor shall not subcontract all of the work to be performed hereunder without the prior written consent of the Owner and HUD.

Upon request by the Owner, or HUD, the Contractor shall disclose the names of all persons with whom it has contracted or will contract with respect to work to be done and materials and equipment to be furnished hereunder.

D. The Contractor understands that the work under this contract is to be financed by a capital advance to be secured by a mortgage and subject to the terms of a Capital Advance Agreement between the Owner and HUD.

The Contractor further understands that said Capital Advance Agreement provides that in the event of the failure of the Owner to perform its obligations to HUD thereunder, HUD may, as attorney-in-fact for the Owner, undertake the completion of the project in accordance with this Contract. In the event HUD elects not to undertake such completion, the Contractor's obligations under this Contract shall terminate.

Article 10 - Certification of Actual Cost

A. The "actual cost of construction," as used in Article 3 above, shall include all items of cost and expense incurred by the Contractor in the performance of this Contract, including costs and expenses of labor, materials for construction, equipment and fixtures, field engineering, sales taxes, workmen's compensation insurance, social security, public liability insurance, job overhead expenses, and all other expenses directly connected with construction, and including general overhead expenses, but excluding kickbacks, rebate and discounts received in connection with the construction of the project, and excluding any return on or cost of the Contractor's working capital, such return on or cost of working capital being a part of or to be paid from the Contractor's fee or profit.

B. The Contractor shall keep accurate records of account of the said actual cost of construction, and shall upon demand, make such records and invoices, receipts, subcontracts and other information pertaining to the construction of the project available for inspection by the Owner and HUD.

C. With its final application for payment, the Contractor shall furnish to the Owner a completed "Contractor's Certificate of Actual Cost," which shall be accompanied and supported by an independent public accountant's certificate as to actual cost (in form acceptable to HUD).

D. The Contractor shall include in all subcontracts, equipment leases and purchase orders a provision requiring the subcontractor, equipment lessor or supplier to certify its costs incurred in connection with the project, in the event HUD determines there is an identity of interest between the Owner or the Contractor and any such subcontractor, equipment lessor or supplier.

Witness Whereof, the parties to these presents have executed this contract in six (6) counterparts, each of which shall be deemed an original, the year and day first above mentioned.

AHEPA 78, Inc.

Owner

Dino Manolopoulos
By Dino Manolopoulos

President

Title

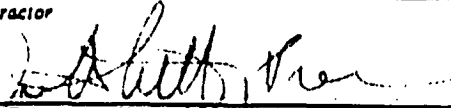
(Seal)

Witness

Witness

Construction Planning and Management, Inc.

Contractor



By, Jerome H. Williams

President

Title



STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned Notary Public, personally appeared AHEPA 78, Inc. by Dino Manolopoulos, President, who acknowledged the execution of the foregoing instrument as and for his voluntary act and deed of said corporation.

Witness my hand and Notarial Seal this 29th day of November, 1992.

Marilyn S. Rees
Printed MARILYN S. REES
Notary Public - HANCOCK County

Document is
NOT OFFICIAL!

My Commission Expires: 5-24-93
This Document is the property of the Lake County Recorder!

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

STOP

Before me, the undersigned Notary Public, personally appeared Construction Planning and Management, Inc. by Jerome H. Williams, President, who acknowledged the execution of the foregoing instrument as and for the voluntary act and deed of said corporation.

Witness my hand and Notarial Seal this 29th day of November, 1990.

Marilyn S. Rees
Printed MARILYN S. REES
Notary Public - HANCOCK County

My Commission Expires:
5-24-93

This instrument prepared by Robert H. Gullick, Attorney at Law, 1070 Market Tower, 10 West Market Street, Indianapolis, Indiana 46204 (317) 236-1040.

PROJECT MANUAL

AHEPA 78 Apartments
7208 W. 79th Place
Merrillville, IN 46410
Project No. 9016
HUD NO. 073-EH-333-L8-NP-WAH

AHEPA 78 INC.
800 MADISON STREET
MERRILLVILLE, INDIANA 46410

JSK ARCHITECTS, INC.
416 W. 11TH STREET
ANDERSON, IN 46016

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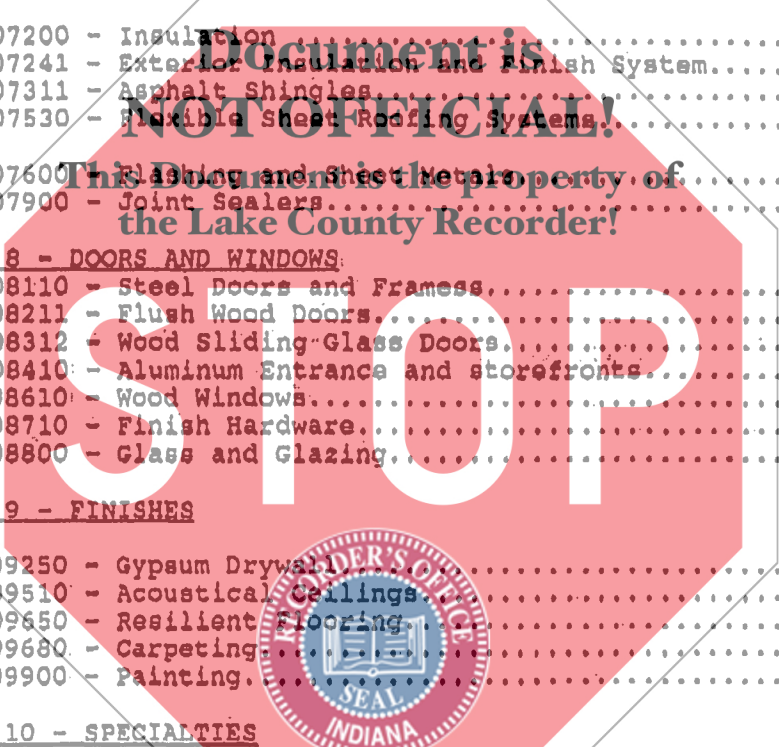
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END OF LIST OF DRAWINGS



11/2/92

**CONTRACTOR'S and/or MORTGAGOR'S
COST-BREAKDOWN
(SCHEDULES OF VALUES)**

Project No.

073-EH333

Building Identification

Mortg
Ahepa 78, Inc.

Name of Project
Ahepa 78 Apartments

Location
Merriville, Indiana

This form represents the Contractor's and/or Mortgagor's firm costs and services as a basis for disbursing dollar amounts when insured advances requested. Detailed instructions for completing this form are included on the reverse side.

Div	TRADE ITEM	COST	TRADE DESCRIPTION
3	Concrete	62,437	FTG Slab on Grade, slab on Deck
4	Masonry	80,795	Masonry Caulking
5	Metals	-	None
6	Rough Carpentry	230,051	R. Carp. Mat'l & Labor & Caulking
6	Finish Carpentry	66,598	F. Carp. Mat'l & Labor; Door Cabinet & Access
7	Waterproofing	-	None
7	Insulation	40,500	Batt. Insul. & Ext. Insul.
7	Roofing	13,900	Shingles
7	Sheet Metal	7,000	Gutters, Downspouts & Vents
8	Doors	72,761	Door Frames & Hardware
8	Windows	24,763	Windows
8	Glass	-	None
9	Lath & Plaster	-	None
9	Drywall	107,104	Drywall Walls Ceiling
9	Tile Work	-	None
9	Acoustical	7,085	Labor & Mat'l
9	Wood Flooring	-	None
9	Resilient Flooring	13,125	VCT & Base
9	Painting & Decorating	54,000	Labor & Mat'l
10	Specialties	32,890	Storage/C. Guards/P.O. Boxes/Entr. Mats/Access/IV A Sys/Fixure Jacks/T. Skute/Oper. Wall
11	Special Equipment	-	None
11	Cabinets	34,941	Cabinets & Counter Tops
11	Appliances	36,618	Ref/Stoves/Micro/Disp. Range Hoods
12	Blinds & Shades, Artwork	1,525	Curtain Rods
12	Carpets	31,850	Labor Mat'l
13	Special Construction	35,295	Sprinkler
14	Elevators	35,000	Labor Mat'l
15	Plumbing & Hot Water	165,144	Plumbing & Gas Piping
15	Heat & Ventilation	134,920	Thru-Wall gas Units
15	Air Conditioning	-	Sec. Line #29
16	Electrical	207,233	Labor Mat'l
	SUBTOTAL (Structures)	1,495,935	
	Accessory Structures	2,000	Pre-Manufactured Storage Bldg.
	TOTAL (Lines 32 & 33)	1,497,935	
2	Earth Work	45,600	Excavation T. Control
2	Site Utilities	13,037	IND/Sanitary/Water/Gas
2	Roads & Walks	42,223	Paving/Stone/Walks Curb
2	Site Improvements	1,080	Signs
2	Lawns & Planting	17,300	Seed & Planting
	Unusual Site Condition	None	
	TOTAL LAND IMPRVTS.	119,160	
	TOT. STRUCT. & LAND IMPRVTS.	1,617,095	
1	GENERAL REQUIREMENTS	121,500	DESCRIPTION EST. COST Off site water Main \$13,890
	SUBTOTAL (Lines 41 and 42)	1,738,595	
	BUILDER'S OVERHEAD	34,771	
	BUILDER'S PROFIT	139,087	
	SUBTOTAL (Lines 44 thru 46)	1,912,453	
	OTHER FEES		TOTAL \$
	Sanitary Tap	18,750	
	Water Tap	4,000	DEMOLITION
	Cost Car	3,000	(costs not included in trade item breakdown)
	TOTAL FOR ALL IMPROVEMENTS	1,956,785	DESCRIPTION EST. CO
	Builder's Profit paid by means other than cash	-	
	TOTAL FOR ALL IMPROVEMENTS LESS LINE 52		TOTAL \$ 25,750



Mortgagor: AHEPA 78, Inc. *Coordinator* By: *[Signature]* Date: 11/4/92
 Contractor: C.P.M., Inc. By: *[Signature]* Date: 11/4/92
 FHA: *[Signature]* 11/6/92 *[Signature]* 11/6/92

Lot 5, the Resubdivision of Lots 3, 4, 5 & 6, Lincoln Ridge, as shown in Plat Book 52, page 30, Lake County, Indiana.



EXHIBIT C

ARTICLE 7 (Continued)

The following shall be added as an additional paragraph of Article 7 of this Construction Contract: Contractor for itself and for all subcontractors, suppliers, laborers, materialmen and others who perform labor, furnish materials or machinery or lease machinery for property described in Exhibit C attached or for any improvement at any time located thereon, agrees that no lien shall attach to such real estate or to any such improvements by reason of the performing of any such labor or furnishings of materials or equipment or leasing of equipment and, for itself and all such third parties, waives any and all right to claim or assert any lien or claim of lien whatsoever against such real estate and improvements. Contractor agrees to execute such documents as required by Counsel for Owner to evidence that this is a no-lien contract under the terms of Indiana Code 32-8-3-1 and to comply with the provisions of such statute. Contractor further agrees that Owner may record this agreement for the purpose of complying with the Indiana No-Lien statute, and in consideration of the payments set forth in Article 3A(1)(b) agrees that there shall be no liens filed against the real estate by Contractor or any employee, subcontractor, mechanic, journeyman, laborer or person performing labor upon or furnishing materials and machinery for such property for the work to be performed on the real estate described on Exhibit C.