

CONTINGENT PAY CLAUSE

Subcontractor:

Pursuant to Texas Business & Commerce Code §56.054, IE² Construction, Inc. has requested financial information from the owner in regards to this project. A sample of the requested information is listed below. Once this information is provided by the owner, it will be available upon written request. Any financial information provided by IE² Construction, Inc. shall be kept strictly confidential. All requested shall be made in writing to:

IE² Construction, Inc.
Attn: Mike Nieft
2205 W. Braker Lane
Austin, TX 78758

Re: Texas Business & Commerce Code §56.054 Compliance

Dear Owner:

We are writing you to let you know about several changes to Texas Law relating to Construction Management Contracts and Construction Contracts signed after September 1, 2007. Recent Texas Legislation now requires we obtain personal information about you and your property. While we understand the information may not seem related to the contract or information we require; however, it is now required by law for us to have this information on file and to provide this information to subcontractors if requested. We now need the following personal information:

1. The Owner's identity and contact information.
2. Surety identity and contact information.
3. A legal description of the property.

Additionally, this legislation requires we obtain the following financial information:

How the project will be funded

- a) If internally, substantiation of ability including the amount of the funds as well as the source and location of the funds.
- b) If by loan, then:
 - i. Amount borrowed;
 - ii. Summary of loan terms; and
 - iii. Identity of Lender and all borrowers.

If you have any questions, please contact us; otherwise; please complete the attached form and return it to us at your earliest convenience.

Thank you,

IE² Construction, Inc.

TO: _____ (Owner)

FROM: _____ (Contractor)

PROJECT: _____

Date of Contractor's Request: _____

Pursuant to the requirements of the Texas Business & Commerce Code §35.521, please provide us, within thirty (30) days from the date you receive this request the following information to be furnished to Contractor's subcontractors to demonstrate the financial viability of the Owner as the Primary Obligor, and the availability of the funding and the existence of adequate financial arrangements to pay for the improvements for the Project:

I. OWNER INFORMATION

Owner's Full LegalName: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone: (____) _____ Fax: (____) _____

II. LEGAL DESCRIPTION OF PROPERTY

Please state below or attach the legal description of the real property on which the improvements are to be constructed, together with the volume and page number of the county real property records where Owner's title is recorded.

Check here if you prefer to attach a copy of Owner's recorded title to the real property, containing its property legal description.

III. SURETY INFORMATION

Surety/Guarantor Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone: (____) _____ Fax: (____) _____

IV. LOAN INFORMATION

If one or more loans have been arranged to fund the Project, please state the following for *each* loan. For any loans that have not been arranged but are anticipated to fund the Project, please provide as much of the following information as is currently known or anticipated for *each* such loan.

Bank/Lender Name: _____

Bank/Lender Contact: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: (____) _____ Fax: (____) _____

Amount Borrowed: \$ _____ OR

See attached true and correct copy of loan agreement furnished in lieu of summary.

Summary of loan terms, e.g. repayment terms, equity funding requirements, financial covenants or conditions which may give rise to default, and other terms relevant to availability of funding:

Are funds available and has funding been authorized for the full contract amount for the construction of the improvements? _____ Yes _____ No

If *no* please explain: _____

Is the loan in default or are you aware of any circumstance indicating a default under the loan agreement is foreseeable? _____ Yes _____ No

If yes, please explain: _____

Name of Borrower: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: (____) _____ Fax: (____) _____

For each partnership or limited liability company involved in a borrower's organization, please provide contact information for each member or general partner, as applicable

Please attach a copy of each lender's loan commitment letter or other written statement confirming the existence and amount of each loan disclosed above. OR

- See attached true and correct copy of loan agreement(s) furnished in lieu of summary.

To the extent the Owner will not finance the entire amount from the loan(s) described above, please attach a statement or indicate below the (a) amount, (b) source, and (c) location of all other funds available to pay for the Project:

LOCATION

SOURCE

AMOUNT

Please attach a written confirmation from each bank or other depository institution of all other funds available for construction.

Owner is hereby releasing this information to contractor in compliance with Texas statutory requirements and acknowledges that contractor and its subcontractors will be relying upon such information. Moreover, Owner acknowledges Contractor will be providing this information to subcontractors and other parties that require such information. Owner hereby indemnifies and holds IE2 Construction, Inc., its subsidiaries and affiliated companies harmless from any claim, damage or suit from the release of such information.

Owner's Printed Name

Signature

Date

Owner's Printed Name

Signature

Date

SAMPLE