

BOARD OF BEAVER COUNTY COMMISSIONERS

BEAVER COUNTY, PENNSYLVANIA

COMMUNITY DEVELOPMENT PROGRAM

OF BEAVER COUNTY

SPECIFICATIONS FOR

PROJECT NUMBER:

PROJECT NAME:

LOCATION:

DATE:

PREPARED BY:

Engineer's Seal

PHONE:

FOR:

Community Development Program of Beaver County

1013 Eighth Avenue

Beaver Falls, PA 15010

Phone: 724-847-3889

Fax: 724-847-3861

TDD: 724-847-2946

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INVITATION FOR BIDS
URBAN COUNTY COMMUNITY DEVELOPMENT PROJECT

SEALED BIDS shall be received at the Controller's Office, Beaver County Courthouse, 810 Third Street, Beaver, PA 15009 until 4:30 P.M. Monday _____ for providing all labor and material for the _____.

Bids will be publicly opened and read at a regularly scheduled Bid Opening Meeting at the Commissioners Conference Room, Beaver County Courthouse, Beaver, PA at 9:00 A.M. Tuesday, _____.

Bid Documents may be obtained at the office of _____.

Deposit and refund policy will be determined by the Architect / Engineer.

Bids must be submitted on prescribed forms, complete with instructions provided herewith. Bid Proposal must be accompanied by a Bid Security, as a Certified or Cashier's Check, or original Corporate Surety Bid Bond with original Power of Attorney, in the amount of 10% of the Bid Proposal, made in favor of the County of Beaver, Pennsylvania. Facsimiles will not be accepted.

Standard contract provisions of the Department of HUD Act of 1968 as amended and US Department of Labor for CDBG apply to this project, including Federal Prevailing Wage Rates, Civil Rights, EEO, Federal Public Works, Affirmative Action, Section 3 Requirements, and Section 504 of the Rehabilitation Act of 1973, EO 11246, 11625 together with all Standard Provisions of CDBG Programs.

The County of Beaver, Pennsylvania reserves the right to reject any or all proposals, to waive informalities, and to award Contracts in its best interest.

Beaver County Commissioners

Tony Amadio, Chairman
Joe Spanik
Dennis E. Nichols

INSTRUCTIONS

1. Scope of Work

Beaver County is reserving the right to not award certain bid items or portions thereof, based on available funding. Bidders are invited to submit unit price proposals for furnishing all work shown on the Drawings and described in the Specifications for the following project:

Special Instructions to Bidders:

Bid and Contracts

- a. Bids must be sealed and addressed to:

Office of Controller of Beaver County
Beaver County Courthouse
810 Third Street
Beaver, PA 15009

Identify on the envelope the project for which the bid is being submitted. Each bid must be submitted on the forms furnished to the bidders. Bids submitted after the bid closing time will not be accepted.

Bid documents must include those forms listed under Item 14 of the Instructions.

- b. **Contracts:** The successful bidder will be required to execute the contract for construction and return the contract accompanied by the Performance Bond, Labor and Material man's and Maintenance Bonds and Insurance Certificates herein described, within ten (10) calendar days after the documents are presented to him.
- c. **Corrections:** Erasures or other changes in the bid must be explained or noted over the signature of bidder.
- d. **Withdrawal of Bids:** Bids may be withdrawn on written or telegraphic requests received from bidder prior to the time fixed for opening. A bidder may also withdraw his proposal providing he does so according to Pennsylvania law.

2. Proposal Security

A bid security in an amount equal to at least ten percent (10%) of the bid shall be submitted with each bid. This shall be in the form of a certified check, or bid bond with good and sufficient surety. The payee in any instance shall be:

COUNTY OF BEAVER (PA)

Bid securities will be returned to all except the three (3) lowest bidders after the bid opening. The remaining bid securities will be returned when the executed contract is delivered to the successful bidder.

3. Investigation of Conditions and Errors in Bid

- a. It is required that firm visit the site and acquaint themselves with all available information concerning the condition of the site, the availability of labor, and the local conditions having a bearing on the transporting, handling, and storing of materials and equipment.
- b. Bidders or their authorized agents are expected to examine the drawings, specifications, schedules and all other instructions pertaining to the work which are supplied with this project.
- c. Failure to acquaint himself with all available information concerning the existing conditions will not relieve the successful firm of the responsibility for estimating the difficulties and costs of successfully performing the completed work as required, and he cannot secure relief on the pleas of error in his proposal.
- d. The County of Beaver, hereinafter referred to as the County, reserves the right to waive minor irregularities or minor errors in any proposal, if it appears to the County that such irregularities or errors so waived must be corrected on the proposal in which they occur prior to the execution of any contract, which may be awarded thereon.

4. Method of Award or Rejection of Proposals

- a. If proposals received are determined by the County to be satisfactory, contracts will be awarded to the lowest responsible firm within sixty (60) days after the date of opening proposals.
- b. The contract will be awarded to the lowest responsible bid conforming to the contract documents, whichever is most advantageous to the County, price and other factors considered.
- c. The County reserves the right to determine the lowest responsible bidder for contract award purposes based upon any combination of base bid items and/or alternate bid items depending upon project funding availability. Should the base bids received for this project be greater than projects funds available, the County reserves the right to reduce and/or eliminate the proposed project work items from the base bid with no other price adjustment consideration by the bidders.
- d. Should such successful firms fail or refuse to execute a contract and furnish satisfactory contract security within ten (10) days after a written notification of the award of the contract by the County, the firm shall be considered to have abandoned the proposal. The term "successful firm" shall be deemed to include any firm whose proposal is accepted after another firm has previously refused or been unable to execute the contract or to furnish satisfactory contract security.
- e. The County reserves the right to accept or reject any or all proposals as may be deemed in the best interest of the County.

5. Time of Performance

Work shall commence within ten (10) calendar days after a "Notice to Proceed" is issued. The contractor shall fully complete all the work within the time stated and under the conditions enumerated in the contract agreement.

6. Federal Occupational Safety and Health Act

The bidder's attention is called to Special General Conditions Section of the Specification, which concerns compliance with the Federal Occupational Safety and Health Act of 1970.

7. Prevailing Wages:

The minimum wage rates for each craft or classification of all workmen needed to perform this contract during the anticipated term hereof shall be governed by the Federal Minimum Wage Schedules. (Refer to the wage rate determination in Section V). Prevailing Wage: Davis-Bacon Act (40 U.S.C. 276a - 276a-5).

NOTE: Based on the bidder's bid, when the amount exceeds \$2,000, for this project work, bidders shall base their bid prices, using the prevailing wage determinations.

The Davis-Bacon Act (DBA) provides that contracts in excess of \$2,000 to which the United States is party for the construction, alteration, and/or repair, including painting and decorating, of public buildings or public works, which involve the employment of laborers and/or mechanics shall contain provision with respect to minimum wages, fringe benefits, payments without deductions or rebates, withholding funds from contractors to ensure compliance with the wage provisions, and terminations of the contract or debarment for failure to adhere to the required provisions. HUD construction covered by the DBA itself consists of Secretary acquired properties where repairs or improvements are being made under a construction contract between HUD and the contractor.

NOTE: To assure the County of Beaver compliance to the prevailing wage rates, payroll copies must be furnished with each and all requests for periodic estimate payments from the contractor.

8. Equal Employment Opportunity

Attention of bidders is particularly called to the requirement for ensuring the employees and applicants for employment are not discriminated against because of their race, color, religion, sex or national origin.

9. Taxes

Bid prices quoted must include furnishing of materials, delivery, and labor to install the items herein requested. All bid prices quoted for the finished project/product shall include taxes where applicable. In particular, all bidders shall comply with Act 45 of April 23, 1998, the Tax Reform Act of 1971, codified at 72 P.S. sections 7201, 7202, and 7204 relating to Pennsylvania's Sale and Use Tax. All bidders must indicate on which item(s) tax was included or excluded.

10. Other Federal Requirements

The contractor shall refer to the Supplemental General Conditions for any other Federal requirements for this contract.

Attention of bidders is particularly called to the requirement for ensuring compliance with Section 3. For bids of \$100,000 or more, the contractor or subcontractor shall, to the greatest extent feasible, hire low and very low income project area residents or contract with businesses owned by these persons or that substantially employ low and very low income project area residents.

11. Permits

It shall be the responsibility of the contractor to secure all permits required by all government agencies for all work performed under this contract.

12. Subcontracts

The bidder is specifically advised that any person, firm, or other party to whom it is proposed to award a subcontract under this contract:

- a. Must be acceptable to the County and the U. S. Department of Housing and Urban Development.
- b. May have to submit a Certification of Compliance with Executive Order 11246 and HUD Section 3 Requirements. Approval of the proposed subcontract award cannot be given by the County unless and until the proposed subcontractor has submitted the certification and/or other evidence showing that it has fully complied with any reporting requirements to which it is or was subject.

13. Guarantees

The following guarantees shall be required:

- a. A Performance Bond with good and sufficient surety or sureties for the protection of the County shall be executed in a penal amount of one hundred percent (100%) of the contract price.
- b. A Labor and Materialman's Bond with good and sufficient surety or sureties for the protection of persons furnishing material and labor of the work shall be executed in a penal amount of one hundred percent (100%) of the contract price.
- c. In addition to the contract sureties noted above, a Maintenance Bond with good and sufficient surety or sureties in a penal amount of one hundred percent (100%) of the contract price shall guarantee against defective or inferior materials or workmanship which may develop during the period of two (2) years from the date of the completion and acceptance of work performed under each contract.

14. Required Form Checklist

The forms listed below must be submitted, as indicated, with every proposal for any project funded by the Community Development Block Grant Program:

- o Form of Proposal
- o Bid Bond

All successful bidders, prior to contract execution, must submit the following forms, as appropriate:

- o Non-Collusion Affidavit of Prime Bidder
- o Certificate of Corporate Principal
- o Certificate of Bidder Regarding EEO (E.O. 11246)

- Certificate of Subcontractor Regarding EEO/Eligibility
- Section 3 Requirements (for contracts over \$100,000)
- Executive Order 11625
- Agreement
- Corporate Certificate
- Partnership Certificate
- No Lien Agreement
- Certificate of Owner's Attorney
- General Instructions for Bonds
- Performance Bond
- Labor and Materialman's Bond (Payment Bond)
- Maintenance Bond
- Workmen's Compensation Affidavit
- Insurance Certificate
- Minority Business Utilization (E.O. 11625)

Subcontractors may also be required to submit one or more of forms c. through g.

FORM OF PROPOSAL

FOR (Name of Project):

FROM (Official Company Name and Address):

PROJECT INTENTION:

1. The undersigned, having examined the existing conditions in the project area affecting the cost of the work and with the contract documents which includes but is not limited to the Invitation for Bids, Instructions to Bidders, Form of Proposal, the Form of Bid Bond, Form of Agreement, Form of Non-Collusion Affidavit, General Conditions, Special Conditions, Technical Specifications, and Drawings and Form of Surety Bonds; as prepared and prescribed by the County of Beaver and on file in the offices of the Community Development Program of Beaver County, hereby propose to furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment and services, including utility and transportation services and to perform and complete all work required for the referenced project all in accordance with the above listed documents, for the following unit prices:

Project Name & No:

Alternate Bid

Item No.	Description	Quantity	Unit	Unit Price In Figures	Unit Price Written	Total

TOTAL BID AMOUNT:

_____ (Print or type amount using alphabetical letters)

_____ (Print or type amount using numerical letters)

Signature

Title

In case of discrepancy, the written amount will govern.

2. In submitting this bid, the bidder understands that the right is reserved by the Commissioners of Beaver County to reject any or all bids. If written notice of the acceptance of this bid is mailed, telegraphed, or delivered, in writing, to the undersigned within sixty (60) days after the opening thereof, or at any time thereafter before this proposal is withdrawn, the undersigned agrees to execute and deliver an agreement in the prescribed form within ten (10) days after the agreement is presented to him for signature.

3. Security in the amount of:

Dollars (\$ _____), in the form of _____ is submitted herewith in accordance with the INSTRUCTIONS TO BIDDERS.

4. Attached hereto is an affidavit of proof that the undersigned has not colluded with any person in respect to this bid or any other bid for the contract for which this bid is submitted.

5. The bidder hereby acknowledges receipt of the following issues of addenda, if any, distributed by the engineer.

Addendum No.: _____ Date: _____ Initial: _____

6. The undersigned bidder is prepared to submit a financial and experience statement upon request by the County of Beaver.

If an individual, partnership, or non-incorporated organization

Signature of Bidder: _____

Title: _____

Address of Bidder: _____

Names and Addresses of Members of Firm:

If a Corporation

Signature of Bidder: _____

Title: _____

Business Address: _____

Incorporated under the laws of the State of: _____

Names of Officers: President: _____

Address: _____

Secretary: _____

Address: _____

Treasurer: _____

Address: _____

EXCEPTIONS ADDENDUM

7. The following addendum, to be completed in full compliance with the provisions of the specifications of this proposal, shall constitute all the exceptions which the undersigned bidder has taken to the specifications of this proposal; in every other respect, the bids herewith submitted are made in full conformity with the specifications of the proposal:

NON-COLLUSION AFFIDAVIT

State of: _____

Project No.: _____

County of: _____

I state that I am _____ of
(Title)

(Name of firm)

And that I am authorized to make this affidavit on behalf of my firm, and its owners, directors and officers. I am the person responsible in my firm for the price(s) and the amount of this bid.

I state that:

- 1. The price(s) and amount of this bid have been arrived at independently and without consultation, communication or agreement with any other contractor, bidder or potential bidder.
- 2. Neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor approximate amount of this bid, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before bid opening.
- 3. No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a bid higher than this bid, or to submit an intentionally high or noncompetitive bid or other form of complementary bid.
- 4. The bid of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit an intentionally high or noncompetitive bid or other form of complementary bid.

5. _____,it's affiliates,
(Name of firm)

subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not, in the last four years, been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to proposing on any public contract, except as follows:

I state that _____
(Name of firm)

Understands and acknowledges that the above representations are material and important, and will be relied on by the County of Beaver in awarding the contract(s) for which this bid is submitted.

I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from the County of Beaver of the true facts relating to the submission of bids for this contract.

Signature

Name

Title

SWORN TO AND SUBSCRIBED
BEFORE ME THIS _____ DAY

OF _____, 20____

Notary Public

My Commission expires: _____

INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT

1. This Non-Collusion Affidavit is material to any contract awarded pursuant to this bid. According to the Pennsylvania Anti Bid-Rigging Act, 73 P.S. SS 1611 et seq., governmental agencies may require Non-Collusion Affidavits to be submitted together with bids.
2. This Non-Collusion Affidavit must be executed by the member, officer or employee of the bidder who makes the final decision on prices and the amount quoted in the bid.
3. Bid rigging and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself/herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the bidder with responsibilities for the preparation, approval or submission of the bid.
4. In the case of a bid submitted by a joint venture, each party to the venture must be identified in the bid documents, and a Non-Collusion Affidavit must be submitted separately on behalf of each party.
5. The term "complementary bid" as used in the Non-Collusion Affidavit has the meaning commonly associated with that term in the bidding process, and includes the knowing submission of bids higher than the bid of another firm, an intentionally high or noncompetitive bid, and any other form of bid submitted for the purpose of giving a false appearance of competition.
6. Failure to file a Non-Collusion Affidavit in compliance with these instructions will result in disqualification of the bid.

BEAVER COUNTY AFFIDAVIT

As an authorized representative of _____, I do hereby swear and affirm that neither _____ or any of its agents or employees has given or assigned or has agreed to give or assign any affiliated work or agreed to give any assistance in receiving any affiliated work to any officer, agent, or employee of Beaver County or to any concern that is in any way affiliated with any officer, agent, or employee of Beaver County, with an agreement or understanding to receive consideration for county business in connection with the above project and contract.

Signed: _____

Title: _____

Date: _____

Witness: _____

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we,

As Principal, and _____, as Surety are held and firmly bound unto

(hereinafter called the County), in the sum of _____ Dollars,
Lawful money of the United States, for the payment of which sum will and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted the accompanying bid, dated _____, 20____ for _____.

NOW THEREFORE, if the Principal shall not withdraw said bid within the period specified therein after the opening of the same, or, if no period be specified, within sixty (60) days after said opening, and shall within the period specified therefore, or, if no period be specified, within ten (10) days after the prescribed forms are presented to him for signature, enter into a written contract with the County in accordance with the bid accepted, and give bond with good and sufficient surety, as may be required, for the faithful performance and proper fulfillment of such contract, or in the event of the withdrawal of said bid within the period specified, or the failure to enter into such contract and give such bond within the time specified, if the Principal or his Surety shall pay the County ten percent (10%) of the amount specified in said bid as liquidated damages, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-burden parties have executed this instrument under their several scale seals this _____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

IN PRESENCE OF:

Individual Principal

Address

SEAL

Address

SEAL

Business Address

Individual Principal

Business Address

ATTEST:

Corporate Principal

Business Address

By: _____
AFFIX CORPORATE SEAL

Corporate Surety

WITNESS:

Printed Name

Corporate Surety

Printed Name

Business Address

Power-of-Attorney for person signing for Surety Company must be attached to bond.

CERTIFICATE OF CORPORATE PRINCIPAL

I, _____ certify that I am the Secretary of the Corporation named as Principal in within Bond; that _____ who signed the said Bond on behalf of the Principal was then _____ of said Corporation; that I know his signature, and his signature thereto is genuine; and that said Bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing body.

Secretary

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY
INSTRUCTIONS**

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-15). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.

CERTIFICATION BY BIDDER

NAME AND ADDRESS OF BIDDER (Including ZIP Code)

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.
 Yes No
2. Compliance reports were required to be filed in connection with such contract or subcontract.
 Yes No
3. Bidder has filed all compliance reports due under applicable instructions, including SF-100.
 Yes No None Required
4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?
 Yes No

NAME AND TITLE OF SIGNER (Please type)

SIGNATURE _____

DATE _____

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**CERTIFICATION BY PROPOSED SUBCONTRACTOR REGARDING
EQUAL EMPLOYMENT OPPORTUNITY/ELIGIBILITY**

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-15). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the subcontractor has not filed a compliance report due under applicable instructions, such subcontractor shall be required to submit a compliance report before the owner approves the subcontract or permits work to begin under the subcontract.

SUBCONTRACTOR'S CERTIFICATION

NAME AND ADDRESS OF SUBCONTRACTOR (Including ZIP Code):

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.
 Yes No
2. Compliance reports were required to be filed in connection with such contract or subcontract.
 Yes No
3. Bidder has filed all compliance reports due under applicable instructions, including SF-100.
 Yes No None Required
4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?
 Yes No

NAME AND TITLE OF SIGNER (Please type)

SIGNATURE _____

DATE _____

SUBCONTRACTOR ELIGIBILITY VERIFICATION FORM

THIS FORM IS TO BE SUBMITTED PRIOR TO THE SUBCONTRACTOR BEGINNING WORK.

Project Number: _____

Project Name: _____

Prime Contractor: _____

Amount of sub-contract: \$ _____

SUBMIT THIS FORM TO:

Community Development Program of Beaver County
1013 EIGHTH AVENUE
BEAVER FALLS, PA 15010

SUBCONTRACTOR INFORMATION

Company Name: _____

Address: _____ City: _____ State: _____ ZIP: _____

Telephone: _____ IRS No.: _____ - _____ - _____ OR Federal ID No.: _____ - _____

PRINCIPAL(S):

TITLES(S):

Subcontractor Signature

Date

Section 3 Requirements

"Section 3" Compliance in the Provision of Training, Employment and Business Opportunities (for agreements in excess of \$200,000)

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR, part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR, part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR, part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR, part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR, part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR, part 135.
- F. Noncompliance with HUD's regulations in 24 CFR, part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

Contractor's Section 3
Certification of Compliance

County of Beaver, PA's Certification of Compliance with Regulations to Section 3 of the Housing and Urban Development Act of 1968 as required for Participation in all HUD Programs.

Purpose, Authority and Responsibility

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (hereinafter Section 3) requires that to the greatest extent feasible, opportunities for training and employment in a Section 3 covered project be given to lower income residents of the project area and that contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.

(Contractor's Name)

Hereinafter called the Contractor, upon awarded a contract for:

(Project Name)

In the County of Beaver, to the extent feasible, will make a good faith effort to train and employ lower income residents and shall make a good faith effort to utilize the services of businesses located in or substantially owned by persons who live within the project boundaries.

The Contractor has been informed by the County, that the HUD Area Office Director has determined that the project area boundaries for the Section 3 covered assistance are the corporate limits of the County.

To complete the project it is estimated that the Contractor's work force needs will be as reflected in the Table of Manpower Utilization Training and Work Force Needs.

To complete the project it is also estimated that the Contractor will be subcontracting for supplies and services for which certain business concerns eligible under Section 3 could provide. In order to comply with the regulations for utilization of businesses under Section 3, the Contractor will adopt an Affirmative Action Plan. The Contractor will also require each subcontractor, if any, to adopt an Affirmative Action Plan.

WORK FORCE NEEDS TABLE
(EMPLOYEES)

OCCUPATION/ CATEGORY	APPROX. NUMBER OF SKILLED EMPLOYEES REQUIRED	TOTAL NUMBER OF SKILLED EMPLOYEES PRESENTLY ON PAYROLL	TOTAL NUMBER OF SKILLED EMPLOYEES TO BE HIRED	TOTAL NUMBER OF LOWER INCOME RESIDENTS TO BE HIRED

The following are the occupational category classifications that should be inserted in the Table:

1. Professional
2. Technicians
3. Office/Clerical
4. Tradesman:
 - a. Carpenter,
 - b. Electrician
 - c. Laborer
 - d. Other

Employment Certification

- A. The Contractor certifies that the above table represents the approximate number of employee positions that are needed and which are not presently filled by regular and permanent employees, and which new employees will be required in the execution of the _____ contract and also represents the number of lower income County residents that the Contractor proposes to make a good faith effort to employ.
- B. The Contractor certifies that it will make a good faith effort to employ the number of lower income employees stated above by contacting such community based organizations and service agencies in addition to advertising through the County's newspapers and erecting signs on the project site contractor's employment posters.
- C. The Contractor, prior to subcontracting any portion of the work covered by this contract will require a Manpower Utilization Table to be prepared and certification similar to paragraph A, B, and C to be executed.

MANPOWER UTILIZATION TRAINING TABLE
(TRAINEES)

OCCUPATION/ CATEGORY	APPROX. NUMBER OF TRAINEES REQUIRED	TOTAL NUMBER OF TRAINEES PRESENTLY ON PAYROLL	TOTAL NUMBER OF TRAINEES TO BE HIRED	TOTAL NUMBER OF LOWER INCOME TRAINEES TO BE HIRED

The following are the occupational category classifications that should be inserted in the Table:

1. Professional
2. Technicians
3. Office/Clerical
4. Tradesman:
 - a. Carpenter
 - b. Electrician
 - c. Laborer
 - d. Other

Trainee Certification

- A. The Contractor certifies that the above table represents the approximate number of trainee positions required in the execution of the _____ contract and also represents the number of lower income County residents that the Contractor proposes to utilize in filling trainee positions.
- B. The Contractor certifies that it will make a good faith effort to fulfill the number of lower income trainees stated above by utilizing such community based organizations.
- C. The Contractor certifies that trainees to be utilized on this project in no event are less than the number of trainees determined by the Secretary of Labor for each building construction occupation.
- D. The Contractor, prior to subcontracting any portion of the work covered by this contract will require a Manpower Utilization Table to be prepared and certifications similar to paragraphs A, B and C to be executed.

Reporting

The Contractor will report to the County on a regular basis (monthly or quarterly) the results of employee and trainee employment of lower income residents of the County. The Contractor reports will include not only his efforts, but the efforts of subcontractors, if any.

_____, the Contractor will, to the greatest extent feasible, abide by the requirements of Section 3 of the Housing and Urban Development Act of 1968, 12, U.S.C. 1701u, in carrying out its contract.

Project Name

Contractor

Date

Signature

Title

CONTRACTOR'S SECTION 3
ACTION PLAN FOR BUSINESS UTILIZATION

- A. The Contractor shall utilize, to the maximum extent feasible, eligible Section 3 business concerns located in County of Beaver, PA in contracting for work to be performed in connection with the completion of the contract. Eligible Section 3 businesses are those which qualify as 'small' under the Small Business Administration size standards and which are socially and economically disadvantaged.

- B. The Contractor has established a goal of *_____% (*Minimum Goal 10%) of the total contract amount which he expects to award to eligible Section 3 business concerns. Table I, Business Utilization Table, sets forth the classification of subcontracts, the estimate of each subcontractor dollar amount, whether a Section 3 business is intended to be utilized and the dollar amount of proposed subcontracts to Section 3 businesses.

- C. To achieve the goal specified in paragraph "B", the Contractor shall:
 - 1. Make full use of minority business listings made available by the HUD Area Office, Small Business Administration, as compiled by the County.
 - 2. Take steps to insure that subcontracts which are typically let on a negotiated rather than a bid basis are also let on a negotiated basis, whenever feasible.
 - 3. Where competitive bids are solicited, include as part of the bid documents the Contractor's goals for Section 3 as it relates to the work for which bids are being solicited, require each bidder to submit their Utilization Goals and Affirmative Action Plan for achieving Section 3 Business Utilization.
 - 4. Insert the Section 3 contract language required by 24 CFR 135.38 in all subcontracts; and require to be executed by the subcontractor a certification of compliance with Section 3, similar to the Contractor's Certification of Compliance, Form S3-3, and an Affirmative Action Plan for Business Utilization, Form S3-4.

- D. The Contractor will report to the County on a regular basis (monthly or quarterly) the results of the affirmative efforts and undertakings per paragraphs A, B, and C above, including the efforts of its subcontractors.

Signature/Contractor

Date

Approved/County of Beaver

Date

TABLE I
BUSINESS UTILIZATION TABLE

PROPOSED SUBCONTRACTS	SUBCONTRACT DOLLAR AMOUNT ESTIMATE	USE OF SECTION 3 BUSINESSES		PROPOSED SUBCONTRACTS TO SECTION 3 BUSINESSES DOLLAR AMOUNT
		YES	NO	
TOTALS	\$			\$

The following are the examples of services, which may be required by Subcontractors and these classifications, should be inserted in the Table if applicable:

- | | |
|---|--|
| <ul style="list-style-type: none"> 1. Selling bricks 2. Selling lumber 3. Selling cement, sand & gravel 4. Making steel cast 5. Selling electric supplies 6. Selling kitchen appliances 7. Selling bathroom fixtures | <ul style="list-style-type: none"> 8. Window-installation 9. Air conditioning sales and/or installations 10. Floor tile sales and/or installations 11. Door sales and/or installations 12. Landscaping 13. Carpeting 14. Stationery and/or advertising 15. Other (Specify):_____ |
|---|--|

This list should also include professional services, and all of the construction trades, i.e., plumbing, electrical, drywall, carpenters, etc. which are intended to be subcontracted.

**CONTRACTOR'S MONTHLY PROGRESS REPORT
FOR SECTION 3 COMPLIANCE**

BUSINESS UTILIZATION

Date: _____

Contracting Agency: _____

Contract No.: _____

Date Executed: _____

Reporting Period: _____

Section 3 Goals established by Action Plan: _____

Month Ending Percent: _____ \$ _____

Name and Phone No. of Person Preparing Report

Name: _____ Phone No.: _____

	Name and Address of Subcontractors	Type of Subcontractors	Owners 50% + Live in County		Date of Award	Subcontracts Awarded (Dollar Amounts)		Section 3 Subcontracts Awarded (Dollar Amounts)	
			YES	NO		Report Period	Cumulative	Report Period	Cumulative
1.									
2.									
3.									
4.									
	Cumulative Totals								

Use appropriate letters for classification of subcontracts.

C - Construction, SP - Supplies, SV – Service

MONTHLY PROGRESS REPORT
Section 3 Reporting Requirements

- A. Project /Activity: _____
- B. Name of Third Party Contractor/Subcontractor: _____
- C. Amount of Contract/Subcontract: _____
- D. Amount of Section 3 Covered Assistance: _____
- E. Total of aggregate new hires related to this contract/project _____ (If new hires result from this contract, please answer F, G & H).
- F. New hires resulted from this contract, please indicate, using the Racial Ethnic Codes below:

<u>Job Category</u>	<u>No.</u>	<u>Race</u>	<u>Hispanic or Latino</u>
1. Professional	_____	_____	_____
2. Technicians	_____	_____	_____
3. Office/Clerical	_____	_____	_____
4. Tradesman			
a. Carpenter	_____	_____	_____
b. Electrician	_____	_____	_____
c. Laborer	_____	_____	_____
d. Other	_____	_____	_____
Total	_____	_____	_____

Racial Ethnic Codes:

- | | |
|---|---|
| 1. White | 7. Asian & White |
| 2. Black/African American | 8. Black/African American & White |
| 3. Asian | 9. American Indian/Alaska Native & Black/African American |
| 4. American Indian/Alaska Native | 10. Other Multi-racial |
| 5. Native Hawaiian/Other Pacific Islander | |
| 6. American Indian/Alaska Native & White | |

- G. Number of such hires who:
- Reside in public housing _____
- Reside in the metropolitan area _____
- Lower income _____
- TOTAL Section 3 hires _____

H. Percent of aggregate new hires classified as Section 3 (low income):

<u>Family Size</u>	<u>Income</u>
1 person	_____
2 person	_____
3 person	_____
4 person	_____
5 person	_____

Signature of Contractor/Subcontractor

EXECUTIVE ORDER 11625
AFFIRMATIVE ACTION PLAN FOR UTILIZATION OF MINORITY BUSINESS

Project Name & Number: _____

General Contractor: _____

Contracting

Prior to the signing of contracts, between the Sponsor and General Contractor, the General Contractor shall provide to the Sponsor a preliminary statement of Minority Business Utilization where known; where not known, such information shall be supplied prior to the signing of any contract between the General Contractor and subcontractor(s), and forwarded to HUD, EO Division, by the General Contractor within 30 days of the signing of said contract.

Utilization of Business

Each General Contractor and/or subcontractor undertaking work on this HUD project shall assure that, to the greatest extent feasible, contracts for work to be performed in connection with the project are awarded to minority business concerns.

The General Contractor and/or subcontractor shall to the greatest extent feasible, utilize minority business concerns for procurement (materials, supplies, services) to be performed in connection with this HUD project.

To this end, the General Contractor and/or subcontractor projects a Utilization Goal of
\$ _____ * (_____ %) of total project cost.
(6.3% Minimum Goal)

	Amount Available in Dollars	Amount Projected in Dollars
a. Minority Contractors	\$ _____	\$ _____
b. Minority Procurement	\$ _____	\$ _____

Good Faith Effort

The following minority business referral agencies will be contacted:
HUD, SBA, State OMBE and Others (List): _____

This is to certify that _____ will abide by and initiate in all our contracts, to the greatest extent feasible, the requirements of Executive Order 11625.

Signature

Title

Date

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 20_____, by and between the County of Beaver, hereinafter referred to as the "COUNTY", a Fourth Class County under the laws of the Commonwealth of Pennsylvania and _____ (A Corporation existing under the laws of the State of _____) (A Partnership consisting of _____) (An individual trading as _____) located in _____ in the State of _____ hereinafter referred to as the "CONTRACTOR".

WITNESSETH, that the parties hereto mutually agree as follows:

ARTICLE 1 - Contract Documents

The Contract Documents consist of this Agreement, Condition of the Contract (General, Supplementary General, and Special), Drawings, Specifications, all Addenda issued prior to execution of this Agreement, and all Modifications issued subsequent thereto. These form the Contract and all are as fully a part of the Contract as if attached to this Agreement or repeated herein. An enumeration of the Contract Documents appears in Article 10.

ARTICLE 2 – The Work

The CONTRACTOR shall perform all the work required by the Contract Documents for .

ARTICLE 3 – The Architect/Engineer

The Architect/Engineer for this project is:

ARTICLE 4 – Contract Sum

The COUNTY shall pay the CONTRACTOR for the performance of the work included under this Contract subject to additions and deductions provided herein, in current funds as follows: The aggregate for the amounts determined by applying the unit prices, submitted in the proposal, to the actual measured quantities, the estimated amount being _____ (\$ _____).

ARTICLE 5 – Time of Commencement and Completion

The work to be performed under this Contract shall be commenced within ten (10) calendar days after a "Notice to Proceed" and completed within _____ calendar days. This contract shall remain in effect 2/21/12 Construction K-1

administratively throughout the construction time of the project, not to exceed (18) eighteen months from the date of this original contract.

The parties agree that time is of the essence to complete this project, as delays in performance can effect the federal funding received by the COUNTY. The parties further agree that the calculation of actual damages would be difficult. Accordingly, the parties agree that the CONTRACTOR shall pay the COUNTY the sum of \$100.00/day as liquidated damages. This liquidated damages provision shall not preclude the COUNTY from pursuing a claim for actual damages should the COUNTY desire to pursue such claim in its sole discretion.

ARTICLE 6 – Progress Payments

Based upon applications for payment submitted to the Architect/Engineer by the CONTRACTOR and payment estimates issued by the Architect/Engineer, the COUNTY shall make progress payments on account of the Contract Sum to the CONTRACTOR as provided in the conditions of the Contract as follows:

On or about the first day of each month, ninety percent (90%) of the proportion of the Contract Sum properly allocated to labor, materials and equipment incorporated in the work and fifty percent (50%) of the portion of the Contract Sum properly allocable to materials and equipment suitably stored at the site or at some other location previously agreed upon in writing by the parties, less the aggregate of previous payment in each case; and upon substantial completion of the entire work, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract Sum, less incomplete work and unsettled claims.

ARTICLE 7 – Final Payment

Upon the completion of all work required by the Contract, the Architect/Engineer shall submit documentation certifying project completion to the COUNTY. Within thirty (30) days after filing of such documentation and a final payment estimate issued by the Architect/Engineer, the COUNTY shall pay to the CONTRACTOR the full Contract Sum, less all prior payments. All prior payments, including those related to Change Orders, shall be subject to correction by the final payment.

ARTICLE 8 – Insurance and Indemnification

The CONTRACTOR shall maintain a general liability insurance policy during the term of this Agreement with a minimum coverage amount of \$1,000,000.00 and shall name Beaver County as an additional insured.

The CONTRACTOR shall provide the name of the insurance carrier, the policy number, and the amount of coverage to the COUNTY prior to the start of this agreement.

The CONTRACTOR shall provide a certificate of insurance making certain that the certificate contains an original signature of an authorized representative and the holder is listed exactly as follows:

County of Beaver
Community Development Program of Beaver County
810 Third Street
Beaver, PA 15009

In addition, the project name and the CD project number should be noted on the certificate.

ARTICLE 9 – Choice of Law and Venue

Pennsylvania law shall govern this Agreement and the Court of Common Pleas of Beaver County, Pennsylvania shall be the venue for any legal action arising from or associated with this Agreement.

ARTICLE 10 – Miscellaneous Provisions

Terms used in this Agreement, which are defined in the General Conditions of the Contract, shall have the meanings designated in those General Conditions.

The Contract Documents, which constitute the entire Agreement between the COUNTY and the CONTRACTOR, except for modifications issued after execution of this Agreement, are enumerated as follows:

- Invitation for Bids
- Instructions to Bidder
- Form of Proposal
- Non-Collusion Affidavit of Prime Bidder
- Bid Bond
- Certificate of Corporate Principal
- Certificate of Bidder regarding EEO
- Certificate of Subcontractor regarding EEO/Eligibility
- Section 3 Requirements
- Executive Order 11625
- Agreement
- Corporate Certificate
- Partnership Certificate
- No-Lien Agreement
- Certificate of Owners Attorney
- General Instruction for Bonds
- Performance, Labor/Materialman's & Maintenance Bond
- Workmen's Compensation Affidavit
- Insurance Certificate
- Wage Rate Determination
- General Conditions
- Supplemental General Conditions
- Project Technical Specifications & Drawings

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in two (2) duplicate counterparts, each of which shall be considered as an original, as of the day and year first above written.

CONTRACTOR WITNESS:

CONTRACTOR:

BY: _____
(Printed Name)

(Signature)

TITLE: _____

CONTRACTOR ID (IRS) #: _____

TELEPHONE NO.: _____

WITNESS:

Chief Clerk

COUNTY OF BEAVER

BY: _____
Tony Amadio, Chairman

BY: _____
Joe Spanik

BY: _____
Dennis E. Nichols

CORPORATE CERTIFICATE

I, _____, certify that I am the Secretary of the Corporation named as Contractor in the foregoing Instrument, that _____, who signed the Instrument on behalf of the Contractor was then _____ of said Corporation; that said Contract was duly signed for and in behalf of said Corporation by authority of its governing body, and is within the scope of its corporate power.

Signature

PARTNERSHIP CERTIFICATE

State of _____)

ss

County of _____)

On this _____ day of _____ 20 _____, before me personally appeared _____
_____ known to me and known by me to be the person who executed the above
instrument, who being by me first duly sworn, did depose and say that he is a general partner in the firm of ____
_____; and that said firm consists of himself and
_____ and that he executed the foregoing
instrument on behalf of said firm for the uses and purposes stated herein.

Notary Public in and for the County

Of _____

State of _____

(NOTARY STAMP)

NO LIEN AGREEMENT

WHEREAS _____, with a mailing address of _____, has entered into an Agreement with the County of Beaver to provide labor, materials and equipment for the _____ Project, at the _____.

NOW, THEREFORE, it is hereby stipulated and agreed by and between the said parties, as part of the said contract and for the consideration therein set forth, that neither the undersigned contractor, any subcontractor, or materialman, nor any other person furnishing labor or materials to the said contractor under this contract shall file a lien, commonly called a Mechanic's Lien, for work done or materials furnished to the said project, or to the grounds adjacent thereto.

This stipulation is made and intended to be filed with the Beaver County Prothonotary within ten (10) days after date, in accordance with the requirements of the Commonwealth of Pennsylvania, in such case provided.

IN WITNESS WHEREOF, the said parties hereto have hereunder set their hands and seals.

CONTRACTOR:

BOARD OF COMMISSIONERS
COUNTY OF BEAVER:

Business Name

Tony Amadio, Chairman

By _____
(Printed Name)

Joe Spanik

(Signature)

Dennis E. Nichols

Title _____

CONTRACTOR'S WITNESS:

WITNESS:

Signature

Chief Clerk

Dated: _____
2/21/12 Construction N-1

TO BE COMPLETED BY THE COUNTY

CERTIFICATE OF OWNER'S ATTORNEY

I, _____, Chief Legal Officer for the **COUNTY** do hereby certify that I have examined the foregoing contract and surety bonds and the manner of execution thereof, and I am of the opinion that each of the aforesaid Agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing Agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions and provisions thereof.

Signature

Date: _____

GENERAL INSTRUCTIONS FOR BONDS

1. The "Bid Bond" form shall be used for the protection of the County in receiving bids. There shall be no deviation from this form.
2. The "Performance Bond" form shall be used for construction work on the furnishing of supplies whenever a bond is required. There shall be no deviation from this form.
3. The "Labor and Materialman's Bond (Payment Bond)" form, for the protection of persons supplying labor and material, shall be used on all contracts where such bond is required. This bond shall provide that every person, co-partnership, association or corporation who, whether as subcontractors or otherwise, has furnished material or supplied or performed labor in the prosecution of the work, as above provided, and who has not been paid therefore, may sue in assumpsit on said bond, in the name of the County, for his, their or its use, and prosecute the same to final judgment for such sum or sums as may be justly due him, them or it, and have execution thereon, but the County shall not be liable for the payment of any costs or expense of any suit. There shall be no deviation from this form.
4. The "Maintenance Bond" form for the protection of the County shall be used on all contracts where such bond is required. There shall be no deviation from this form.
5. The surety on each bond must be a responsible surety company, which is qualified to do business in Pennsylvania and satisfactory to the County.
6. If the principals are partners, their individual names will appear in the body of the bond, with the recital that they are partners composing a firm, naming it, and all the members of the firm shall execute the bond as individuals.
7. The signature of a witness shall appear in the appropriate place, attesting the signature of each individual party to the bond.
8. If the principal or surety is a corporation, the name of the state in which incorporated shall be inserted in the appropriate place in the body of the bond, and said instrument shall be executed and attested under the corporate seal, as indicated in the form. If the corporation has no corporate seal, the fact shall be stated, in which case a scroll or adhesive seal shall appear following the corporate name.
9. The official character and authority of the person or persons executing the bond for the principal, if a corporation, shall be certified by the secretary or assistant secretary, according to the form attached thereto. In lieu of such certificate, there may be attached to the bond, copies of so much of the records of the corporation as will show the official character and authority of the officer signing, duly certified by the secretary or assistant secretary, under the corporate seal, to be true copies.
10. The date of this bond must not be prior to the date of the contract in connection with which it is given.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENT, that we _____

As Principal, and _____ as Surety, and held and firmly bound unto

_____ (hereinafter called the Obligee), in the full and just sum of _____ DOLLARS (\$ _____), lawful money of the United States, for payment of which sum well and truly to be made, we bind ourselves, our heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents:

WHEREAS said Principal has entered into a certain contract with said

Obligee dated _____, 20_____ (hereinafter called the Contract) for:

_____ which contract and the specifications for said work shall be deemed a part hereof as fully as if set out herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall faithfully perform the contract on his part at the time and in the manner therein provided including any and all warranties and representations of Principal set forth in said contract, and satisfy all claims and demands incurred in or for the same, or growing out of the same, or for injury or damage to persons or property in the performance thereof, and shall fully indemnify and save harmless the said Obligee from any and all cost and damage which the said Obligee may suffer by reason of failure to do so, and shall fully reimburse and repay the said Obligee any and all outlay and expense which it may incur by reason of any such default, then this obligation shall be null and void; otherwise it shall remain in full force and virtue.

The said surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder of the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

Signed, sealed and delivered in two (2) counterparts this _____ day of _____,
20_____.

(Individual Principals Sign Here)

_____(SEAL)

_____(SEAL)

In the presence of:

_____(SEAL)

_____(SEAL)

(Corporate Principals Sign Here)

ATTEST:

By: _____

(Surety Sign Here)

By _____

LABOR AND MATERIALMAN'S BOND
(PAYMENT BOND)

KNOW ALL MEN BY THESE PRESENT, that we _____

_____ as Principal and _____

_____ as Surety are

held and firmly bound unto _____

_____ (hereinafter called the Obligee) in the penal sum of

_____ DOLLARS (\$ _____),

lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our

heirs, personal representatives, successors and assigns, jointly and severally, firmly by these present:

WHEREAS said Principal has entered into a certain contract with said Obligee dated _____

_____ (hereinafter called the Contract) for: _____

_____ which contract and

the specifications for said work shall be deemed a part hereof as fully as if set out herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if said Principal and all subcontractors to whom any portion of the work provided for in said contract is sublet and all assignees of said Principal and of such subcontractors shall promptly make payment for all labor performed, services rendered and materials furnished in the prosecution of the work provided for in said contract, or in any amendment or extension of or addition to said contract, then the above obligation shall be void; otherwise to remain in full force and effect. Provided, however, that this bond is subject to the following conditions and limitations:

- a. All persons who have performed labor, rendered services or furnished materials or machinery as aforesaid shall have a direct right of action against the Principal and Surety on this bond, which right of action shall be asserted in proceedings instituted in the state in which such labor was performed, services rendered or materials furnished. Insofar as permitted by the laws of such state, such right of action shall be asserted in a proceeding instituted in the name of the Obligee to the use and benefit of the person instituting such action and of all other persons having claims hereunder, and any other person having a claim hereunder shall have the right to be made a party to such proceeding (but not later than one year after the complete performance of said contract and final settlement thereof) and to have such claim adjudicated in such action and judgment rendered thereon.

- b. The surety shall not be liable hereunder for any damages or compensation recoverable under any workman's compensation or employer's liability statute.
- c. In no event shall the surety be liable for a greater sum than the penalty of this bond, or subject to any suit, action or proceeding thereon that is instituted later than one year after the complete performance of said contract and final settlement thereof.
- d. As used herein, the term "person" refers to any person, firm or corporation who has furnished materials or machinery to be used on or incorporated in the work or the prosecution thereof provided for in said contract, or in any amendment or extension of or addition to said contract, or of any assignee of said principal, or of any subcontractor, and also anyone so engaged who performs the work of a laborer or of a mechanic regardless of any contractual relationship between the principal, or any subcontractor or any assignee or said principal or of said subcontractor, and such laborer or mechanic but shall not include office employees not regularly stationed at the site of the work.

The said surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of this contract or to the work to be performed thereunder or the specifications accompanying the same, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

Signed, sealed and delivered in two (2) counterparts this _____ day of _____, 20____.

(Individual Principals Sign Here)

_____ (SEAL)

_____ (SEAL)

In the presence of:

_____ (SEAL)

_____ (SEAL)

(Corporate Principals Sign Here)

ATTEST:

By:

(Surety Sign Here)

ATTEST:

By:

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENT, that we _____

_____ As

Principal, and _____

_____ as

Surety, and held and firmly bound unto _____

(hereinafter called the Obligee), in the full and just sum of _____

_____ DOLLARS (\$_____), lawful money of the

United States, for payment of which sum well and truly to be made, we bind ourselves, our heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these present:

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain contract, hereto attached, with the Owner dated _____, 20__ for _____

_____.

NOW THEREFORE, if the Principal shall remedy without cost to the Obligee any defects which develop during a period of two (2) years from the date of completion and acceptance of the work performed under said contract provided such defects, in the judgment of the Obligee or his successor having jurisdiction in the premises, are caused by defective or inferior materials or workmanship, then this obligation shall be void; otherwise to remain in full force or virtue.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals this _____ day of _____, 20 __, the name and corporate seal of each corporate party being hereto affixed and these presented duly signed by its undersigned representative, pursuant to authority of its governing body.

IN PRESENCE OF:

Individual Principal

_____(SEAL)

Address

Business Address

Individual Principal

_____(SEAL)

Address

Business Address

ATTEST:

Corporate Principal

Title

Business Address

By:

Affix Corporate Seal

Corporate Surety

WITNESS:

Corporate Surety

By:

Business Address

Affix Corporate Seal

The rate of premium on this bond is _____ per thousand.

Total amount of premium charged, \$ _____.

(The above must be filled in by Corporate Surety).

WORKMEN'S COMPENSATION AFFIDAVIT

State of _____

ss:

County of _____

Name of Officer, if Corporation

Title of Officer, if Corporation

Name of Contractor

being duly sworn according to law, deposes and says that he/they/it has/have accepted the provisions of the Workmen's Compensation Act of 1915 of the Commonwealth of Pennsylvania, with its supplements and amendments, and has/have insured his/their/its liability thereunder in accordance with the terms of said Act with _____ Company.

Contractor

By: _____
Signature of Officer or Agent

Title

SWORN TO AND SUBSCRIBED BEFORE

ME THIS ____ DAY OF _____,

20 _____.

Notary Public

My Commission Expires:

CERTIFICATE OF INSURANCE

Insert your certificate of Liability Insurance as required on Pages GC3 and GC4.

Make certain that the certificate contains an original signature of an authorized representative and the holder is listed exactly as follows:

County of Beaver
Community Development Program of Beaver County
810 Third Street
Beaver, PA 15009

Also, please list the project name and the CD project number on the certificate in the “description” area, along with a statement naming the County of Beaver as additionally insured.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES <p>Wording to be added in Description of Operations box</p> <p>The County of Beaver is named as additional insured.</p>	
CERTIFICATE HOLDER <p>Certificate of Holder Information to be used</p> <p>County of Beaver Community Development Program of Beaver County 810 Third Street Beaver PA 15009</p>	CANCELLATION <p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p> <hr/> <p>AUTHORIZED REPRESENTATIVE</p> <p>Must be original signature</p>

Sample

WAGE RATE DETERMINATION

Appropriate Wage Rate Determination as required on Page B3.

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GENERAL CONDITIONS

1. Definitions

The following terms, as used in these contract documents are respectively defined as follows:

- a. "Additional Work" The term "additional work" as used herein, refers to and includes work required by the County, which involves changes or alterations.

- b. "Changes and Alterations" The term "changes and alterations" as used herein mean deviations from the Plans, Specifications, and Addenda in their present form, but only when ordered by the County or Engineer in writing, prior to the performance of any work affected by such changes or alterations. Increases or decreases in estimated quantities shall not be considered changes or alterations for any purpose whatsoever.

- c. "Contractor" The party designated as such in the agreement, acting directly or through agents, or employees or the surety in case of default.

- d. "County" County of Beaver, Pennsylvania.

- e. "Engineer" The term "Engineer" shall mean the Professional Architectural/Engineering firm or representative chosen by Beaver County to provide professional services for the project. Nothing contained in this contract shall create any contractual relationship between the engineer and the contractor.

- f. "Notice" Where in any of the contract documents there is any provision in respect to the giving of any notice, such notice shall be deemed to have been given to the County, when written notice shall be delivered to the County, or shall have been placed in the United States Mails, sent certified or registered mail, postage prepaid, addressed to the chief executive officer of the County at the place where the bids or proposals for the contract were opened; as to the contractor, when a written notice shall be delivered to the chief representative of the contractor at the site of the project or by sending via certified or registered mail, postage prepaid, such written notice in the United States Mails addressed to the contractor at the place stated in the papers prepared by him to accompany his proposal as the address of his permanent place of business.

- g. "Specifications" The directions, provisions and requirements contained herein, or in any of the contract documents pertaining to the method and manner of performing the work or to the method of measurement and the quality of materials to be furnished under the contract.

- h. "Subcontractor" Any person, firm or corporation undertaking the construction of a part of the work under the terms of the contract, by virtue of a separate agreement with the contractor, or with any other subcontractor.
- i. "Surety" The corporate body which is bound with and for the contractor for the satisfactory performance and maintenance of the work by him and the prompt payment in full for utility services, labor, equipment rental and materials as provided in the bonds.
- j. "Work" The term "work" as used herein, refers to any and all obligations, duties and responsibilities necessary to the completion of the project assigned or undertaken by the contractor, including all plant, labor, materials, supplies, equipment, and other facilities and things necessary or proper for or incidental to the carrying out and completion of the terms of this contract.

2. Specification Titles

Titles to sections and paragraphs in these contract documents are introduced merely for convenience and shall not be taken as part of the specifications, and furthermore, shall not be taken as a correct or complete segregation of the several units of material and labor. The sections and paragraphs shall not control the contractor in dividing the work among subcontractors.

3. Approval and Acceptance

Approval and acceptance in these specifications shall mean approval and acceptance by the Engineer, but no acceptance by the Engineer shall bind the County in case of proven defective work or other clear violations of the contract; nor will approval of material or equipment before same is brought on the premises be held to constitute acceptance, in case such items are found not to comply with specification requirements.

4. Special Conditions Take Precedence

The Special Conditions and/or special notes on the drawings may supplement or amend the General Conditions; therefore, the Special Conditions and/or special notes on the drawings shall take precedence over these General Conditions.

5. Provisions Required By Law Deemed Inserted

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, upon application of either party, the contract shall forthwith be then physically amended to make such insertions.

6. Contract Security

The contractor shall furnish a surety bond in an amount at least equal to one hundred percent (100%) of the contract price as security for the faithful performance of this contract. The contractor shall also furnish a separate surety bond in an amount equal to one hundred percent (100%) of the contract price for the protection of the clients supplying labor or materials to the contractor or to any of his subcontractors, in the prosecution of the work, and shall be continued for the prompt payment of all such material furnished or labor supplied or performed in the prosecution of the work. The contractor shall also furnish a two (2) year Maintenance Bond in an amount equal to one hundred percent (100%) of the contract price. The two (2) year maintenance period shall begin on the date of final acceptance of the work. For determination of the amount of the Maintenance Bond, the contract price shall mean the final amount of the contract including all change orders and modifications.

7. Additional Bonds

Should any surety upon any bonds become unsatisfactory to the County, or if for any reason any bond shall cease to be adequate security to the County, the contractor shall within five (5) days after notice from the County, furnish such additional bonds as may be required from time to time to protect the interest of the County and of persons, firms, or corporations supplying labor, material, equipment or services in the prosecution of the work contemplated by the contract. The additional bonds required shall be with other sureties as may be satisfactory to the County. The premiums on such additional bonds shall be paid by the contractor. No further payments shall be deemed due, nor shall further payments be made until the required additional bonds have been furnished by the contractor and approved by the County.

8. Insurance

The contractor shall not commence work under this contract until he has obtained all insurance required under this paragraph and such insurance has been approved by the County, nor shall the contractor allow any subcontractor to commence work in his subcontract until all similar insurance required of the subcontractor has been obtained.

The contractor shall be responsible for all injury to persons, or damage to property, either directly or indirectly, that may result from his operations. The contractor shall obtain and pay for such insurance as will protect him from claims under the Workmen's Compensation Act and from any other claims for damages for personal injury, including death, or for damages to property, either real or personal, which may arise from operations under this contract, whether such operations be by himself or anyone whether such operations be by himself or by anyone directly or indirectly employed by him. The contractor shall effect and maintain the following insurance in companies or through agents:

- a. "Workmen's Compensation Insurance" including Employer's Liability Insurance in accordance with the laws of the State of Pennsylvania. Employer's Liability Insurance shall have a limit of not less than \$100,000.
- b. "Comprehensive Bodily Injury Liability Insurance" not less One Million and Two Million Dollar limits (\$1,000,000/\$2,000,000).

- c. "Comprehensive Property Damage Liability Insurance" not less than One Million Dollar limits (\$1,000,000).
- d. "Comprehensive Automobile Bodily Injury and Property Damage Insurance" not less than One Million and Two Million Dollar limits (\$1,000,000/\$2,000,000) for personal injury and One Million Dollar limit (\$1,000,000) for property damage. This insurance shall cover all automotive vehicles owned or hired by the contractor and used on this contract, not otherwise so covered by insurance. Automatic coverage shall be provided for extensions of the contract.
- e. "Contractual Insurance".
- f. "Completed Operations Insurance".
- g. "XCU Hazards Insurance". The contractor shall deliver to the County before commencing work under this contract, certificates from insurance companies or their agents, certifying that such insurance is in effect and will not be canceled during the conduct of work without thirty (30) days written notice to the County. The contractor shall report and pay all Old Age Benefit and Social Security Taxes and other insurance as required by State and Federal laws.

9. Subletting or Assigning of Contracts

The contractor shall not sublet, assign, sell, transfer, or otherwise dispose of this contract or any part hereof or any interest herein or any monies due or to become due hereunder without the prior written consent of the County. The consent to any subletting, assignment or transfer shall not operate to relieve the contractor or his sureties of any of his or its obligations under this contract. Nothing contained herein shall be construed to hinder, prevent or affect an assignment of monies due or to become due hereunder made for the benefit of the contractor's creditors pursuant to law.

10. Subcontractors

The contractor shall notify the County in writing of the names of all subcontractors proposed for the work and the extent and character of the work to be done by each subcontractor.

If requested by the County, the contractor shall supply proof that the proposed subcontractor is particularly equipped and capable to perform such work. Proof of qualifications and capability of proposed subcontractors shall include the following:

- a. A financial statement certified by its accountants.
- b. A list of contracts successfully and satisfactorily carried to completion on work of a similar nature.
- c. A list of contracts presently underway, the percentage of completion of each contract and the name and address of the County.
- d. A list of equipment for the work.

It is understood, however, that any approval by the County for the subcontracting of any of the work under the contract in no way relieves the contractor from his full obligations under the contract. The contractor shall be responsible for all acts or omissions of any subcontractor or supplier and shall be liable for all

damages caused by the acts or omissions of any subcontractor or supplier.

Subletting by subcontractors shall be subject to the same conditions as aforesaid. Nothing contained in this contract shall create any contractual relation between the subcontractor and the County.

11. Subcontracts

The applicable provisions of the contract shall be incorporated into each subcontract entered into by this contractor.

12. Specifications and Drawings

- a. Interpret As Completed Work. The contractor shall keep on the work site a copy of the drawings and specifications, and the engineer shall at all times have access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown and mentioned in both. In case of difference between the drawings or specifications, the engineer shall determine which governs. Omissions from the drawings or specifications or of details of work which are manifestly necessary to carry out the intent of the drawings and specifications or which are customarily performed, shall not relieve the contractor from performing such omitted details of work but they shall be performed as if fully set forth and described in the drawings and specifications.
- b. Checking of Drawings and Dimensions. The contractor shall check all drawings furnished him immediately upon their receipt and shall promptly request of the engineer such interpretation and clarification as may be required. Figures marked down on drawings shall in general be followed in preference to scale measurements. Large-scale drawings shall in general govern small-scale drawings. The contractor shall compare all drawings and verify the figures before laying out the work and will be responsible for any errors, which might have been avoided thereby. When measurements are affected by conditions already established, the contractor shall take measurements notwithstanding the giving of scale or figure dimensions in the drawings.
- c. Deviations. Deviations from the drawings and the dimensions therein given shall be made only after written authority is obtained from the engineer. Prior to issuing written authority allowing any deviation, the engineer must obtain the County's concurrence.

- d. Interpretation and Instructions. All questions regarding the figures, drawings, plans and specifications and the interpretation thereof and the resolving of conflicts and inconsistencies therein shall be determined by the engineer and such determination shall be final.
- e. Where reference is made throughout the Technical Specifications to the Pennsylvania Department of Transportation (PENNDOT) Specifications Form 408, Latest Revision, or the PENNDOT Construction Standards, the sections or drawings referenced shall be as much a part of the specifications and contract drawings as though they were attached hereto. Where reference is made to the PENNDOT Form 408, all work and materials shall conform to the sections so referenced except as otherwise specified in the Technical Specifications, which take precedence.

14. Ownership of Drawings

All drawings, specifications and copies thereof furnished to the contractor by the engineer are the property of the County and are to be returned to the County on request at the completion of the work.

15. Surveys, Lines and Grades

Unless specified otherwise in the SPECIAL CONDITIONS, the County will furnish only basic reference lines and bench marks from which the contractor shall establish such other points as he may need. The contractor shall be responsible for protecting and preserving such lines and benchmarks. All reference lines and benchmarks destroyed by the contractor during the progress of his work shall be replaced by the contractor at his own expense.

16. Work in Inclement Weather

All work, which cannot be properly protected, must cease during inclement weather. The engineer shall be the sole judge as to the adequacy of protective measures taken by the contractor.

17. Inspection of Work

- a. Defective Workmanship or Material. All material and workmanship (if not otherwise designated by the specifications) shall be subject to inspection, examination, and test by the County's representatives at any and all times during manufacture and/or construction is carried on. The County shall have the right to reject defective material and workmanship or require its correction. Rejected workmanship shall be satisfactorily corrected, and rejected material shall be satisfactorily replaced with proper material without charge therefore, the contractor shall promptly segregate and remove the rejected material from the project. The contractor shall bear all costs of correcting rejected work, including the cost of the engineer's additional services thereby made necessary.

If the contractor fails to proceed at once with the replacement of rejected material and/or the correction of defective workmanship, the County may, by contract or otherwise, replace such material and/or correct such workmanship and charge the cost thereof to the contractor, or may terminate the right of the contractor to proceed as provided in these General Conditions, the contractor and surety being liable for any damage to the same extent as provided elsewhere in these General Conditions for termination thereunder.

- b. Tests. The contractor shall furnish promptly, without additional charge, all reasonable facilities, labor, and materials necessary for the safe and convenient inspection and test that may be required by the engineer. All inspection and tests shall be performed in such a manner as to not

unnecessarily delay the work. Special, full size and performance tests shall be as described in the specifications.

- c. Final Inspection. Should it be considered necessary or advisable by the County at any time before final acceptance of the entire work to make an examination of work already completed, by removing or tearing out same, the contractor shall on request promptly furnish all necessary facilities, labor, and material. If such work is found to be defective in any material respect, the contractor will bear all expenses of such examination and of satisfactory reconstruction.

If, however, such work is found to meet the requirements of the contract, the contractor will be allowed payment on a "force account" basis in accordance with Section 37 of these General Conditions, and he shall, in addition, if completion of the work has been delayed thereby, be granted a suitable extension of time on account of the additional work involved.

18. Standard of Quality

Whenever in these specifications an equipment item, article or material is defined by describing a proprietary product or by using a trade name of a manufacturer or vendor, the term "or equal" if not inserted therewith shall be assumed as signifying that the specifications will be interpreted liberally, except that on products which are an addition to an existing facility, system, equipment, item or article, the engineer shall specify, when in his opinion such is necessary for reasons of compatibility and standardization, specific equipment, item, article or material by a trade name of a manufacturer or vendor including catalog number, size and type. Accordingly, it is to be understood that any reference to a particular manufacturer's product either by name or by limiting description, except as noted herein, has been made solely for the purpose of more clearly indicating the minimum standard of quality desired. Any other make, except as noted herein, substantially similar and performing as effectively the duties imposed by the general design, performance and space allowed by the plans may be submitted for approval by the engineer provided. However, for any major substitutions, such approval is obtained prior to awarding the contract, otherwise it shall be assumed that the contractor will furnish the materials, articles, or equipment items specified herein. No substitution shall be made without the written approval of the engineer who shall be the judge of the standard of quality.

19. Labor, Materials and Equipment

- a. Unless otherwise stipulated, the contractor shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation, and other facilities necessary for the execution and completion of the work.
- b. Unless otherwise specified, all materials and equipment shall be new and both workmanship and materials shall be of good quality. The contractor, shall, if required, furnish satisfactory evidence as to the kind and quality of materials and equipment.

20. Samples and Descriptive Data

- a. Any samples and descriptive data required shall:
 - 1) Be submitted within the time specified in these specifications, or if a time is not specified, within a reasonable time before use to permit inspection and testing.
 - 2) Be shipped prepaid and delivered as specified in these specifications, or as directed by the

engineer.

- 3) Be properly marked to show the name of the material, trade name of manufacturer, place of origin, name and location of the work where the material represented by the sample is to be used, and the name of the contractor submitting the sample.
 - 4) Be checked and stamped with the approval of the contractor.
- b. Samples not subjected to destructive tests may be retained until completion of the work but thereafter will be retained to the contractor, at his expense, if he so requests in writing. Failure of any sample to pass the specified requirements will be sufficient cause for refusal to consider further any samples from the same manufacturer whose materials failed to pass the tests.

21. Proof of Compliance With Specifications

When testing of any material or product is not specified as a responsibility of the County, satisfactory proof of compliance with the specifications shall be submitted by one or more of the following methods.

Where testing of any material or product is a responsibility of the County, satisfactory proof of compliance with the specifications will be submitted in accordance with method (a) or (b) below, before a sample will be tested.

The method of proof of compliance shall be subject to the approval of the engineer, and all costs thereof shall be at the expense of the contractor unless otherwise specified.

- a. **Manufacturer's Certificate of Compliance:** In the case of standard labeled stock products of standard manufacture which has a record of satisfactory performance in similar work over a period of not less than two (2) years, the engineer may accept a notarized statement from the manufacturer certifying that the product conforms to the applicable specifications.
- b. **Mill Certificates:** For materials where such practice is the usual standard, the engineer may accept the manufacturers' certified mill and laboratory certificate.
- c. **Testing Laboratory Certification:** The engineer may accept a certificate from a commercial testing laboratory satisfactory to him certifying that it has tested the product submitted within a period acceptable to the engineer and that the product conforms to the requirements of the specifications.
- d. **Report of Actual Laboratory Tests:** The engineer may require that the contractor make actual tests of any material, product or end item and submit a report of the specific tests. Such tests shall be made by a commercial testing laboratory approved by the engineer. Test samples shall be selected by or under the supervision of the engineer. The method of testing shall comply with the method specified, or when not specified, with a standard approved method. Certified copies in quadruplicate, of the results of the tests, shall be submitted to the engineer for approval and in such form as he may direct. The results of tests in the required form shall be submitted well in advance of the time when the material or product shall be used in the work.
- e. **Re-testing:** Where testing is specified herein to be performed by the County, the County will perform the testing or will have the testing performed at a commercial laboratory at the expense of the County. Where items or additional samples from items which have been previously tested and approved at the expense of the County are required to be retested, the County will bear the costs of

such re-testing Where re-testing is required because of the failure of previously tested samples, the expense of all such re-testing shall be borne by the contractor at no expense to the County. The contractor shall pay for all additional re-testing required due to subsequent test failures. Where so required for original testing, re-testing will be performed at such laboratories as may be approved by the engineer.

22. Superintendence, Supervision

The contractor shall keep on his work, during its progress, a competent superintendent satisfactory to the County. The superintendent shall not be changed without written notice to the County except in an emergency. The contractor's superintendent shall have authority to act for the contractor in all matters concerning the work. All communications given to the superintendent shall be binding on the contractor.

23. Engineer's Authority

The engineer is the County's representative during the performance of the work. He shall at all times have access to the work whenever it is in preparation and progress. The engineer will make periodic visits to the site and observe the progress of construction and the quality of the work to determine, in general, if the work is proceeding in accordance with the contract documents.

The engineer will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work. The engineer will not be responsible for the construction means, methods, techniques, sequences or production or for the safety precautions and programs in connection with the work and he will not be responsible for the contractor's failure to carry out the work in accordance with the contract documents.

The engineer shall render a decision on all questions and disputes submitted to him in writing relating to the execution and progress of the work or the interpretation of the contract documents. Either the County or the contractor may demand arbitration of any such matter, notwithstanding the decision of the engineer.

The engineer's authority to act under this Section or any other provision of the contract documents, shall not give rise to any duty or responsibility of the engineer to the contractor or any subcontractor.

24. Protection of Persons and Property

a. The contractor shall be responsible for initiating, maintaining the supervising of all safety precautions and programs in connection with the work. The contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to (i) employees, (ii) all other persons who may be affected, (iii) the work and all materials and equipment to be incorporated, (iv) other property at the site or in the vicinity thereof.

b. The contractor shall comply with all applicable laws, ordinances, rules, regulations, and orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. He shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent utilities.

25. Royalties and Patents

The contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the County and engineer harmless from all loss, expense and damage including attorneys' fees, on account thereof, except the County shall be responsible for all such loss when a particular process or the product of a particular manufacturer or manufacturers is specified; but if the contractor has information that the process or article specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives notice to the County and engineer.

26. Permits and Regulations

- a. Permits, licenses and all certificates for inspection that may be required by the authorities for each contractor's particular work shall be secured and paid for by the contractor unless specified otherwise in the SPECIAL CONDITIONS.
- b. The contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the contractor observes that the drawings and specifications are at variance therewith, he shall promptly notify the engineer in writing, and any necessary changes shall be adjusted. If the contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the engineer, he shall bear all costs arising wherefrom and shall save the County harmless from any fines, or loss arising in connection therewith.
- c. Contractors must provide receipts indicating that all demolition materials from the demolition project have been disposed of at the approved landfill site. Failure to dispose of all demolition project debris at an approved PA DER landfill site will be deemed as just reason to terminate this contract.

27. Other Contracts

The County may award other contracts for additional work, and the contractor shall fully cooperate with such other contractors and carefully fit his own work to that provided under other contracts. The contractor shall not commit or permit any act, which will interfere with the performance of work by any other contractor. If any part of the contractor's work depends for proper execution or results upon the work of any other contractor, the contractor shall inspect and promptly report to the engineer in writing any defects in such work that makes it unsuitable for such proper execution and results. If he fails to so inspect and report such defects, it shall constitute his acceptance of the other contractor's work as fit and proper for the execution of his work, except such defects that may develop in the other contractor's work after the execution of his work. To insure the execution of his work, the contractor shall measure work already in place and shall report at once to the engineer any discrepancy between the executed work and the drawings.

28. Mutual Responsibility of Contractors

If the contractor should cause damage to any separate contractor on the work, the contractor agrees upon due notice to settle with such contractor by agreement or arbitration if he will so settle. If such separate contractor commences arbitration or suit against the County on account of any damage alleged to have been so sustained, the County shall notify the contractor, who shall defend such proceedings at his own expense and, if any judgment against the County shall arise wherefrom, the contractor shall pay or satisfy it and pay all costs incurred by the County.

29. Use of Premises (By Contractor)

The contractor shall confine his apparatus, the storage of materials and the operations of his workmen to limits indicated by law, ordinances, permits or the contract documents and shall not unreasonably encumber the premises with his materials or equipment.

The contractor shall not load or permit any part of any structure to be loaded with a weight, or cause pressures or stresses, which will endanger its safety.

The contractor shall not, at any time, store materials or equipment on any of the existing roadways nor shall he perform any construction operation or work on any of the existing roadways unless it is deemed necessary for construction by the engineer.

The contractor shall conduct his hauling operations in such a manner as not to unduly interfere with traffic. At points where the contractor's equipment or trucks enter, leave or cross existing pavements, he shall erect and maintain suitable signs and warning devices. If the engineer so orders, the contractor shall station flagmen at such points.

30. Responsibility and Risk

The contractor shall assume all risk and bear any loss or injury to property or persons occasioned by neglect or accident during the progress of work, until the same shall have been completed and accepted by the County. He shall also assume all blame or loss by reason of neglect or violation of any state law or local ordinance, or encroachment upon neighbors. He shall make good any injury that may have occurred to any adjoining building in consequence of the erection of this work or during its progress.

31. County's Right to Terminate Contract

If (a) the contractor shall be adjudged bankrupt or make an assignment for the benefit of creditors, or (b) a receiver or liquidator shall be appointed for the contractor or for any of his property and shall not be dismissed within 20 days after such appointment, or the proceeding in connection therewith shall not be stayed on appeal within the said 20 days, or (c) the contractor shall refuse or fail, to provide enough properly skilled workmen or proper materials, or (d) the contractor shall refuse or fail to prosecute the work or any part thereof with such diligence as will insure its completion within the period herein specified (or any duly authorized extension, thereof) or shall fail to complete the work within said period, or (e) the contractor shall fail to make prompt payment to persons supplying labor or materials for the work, or (f) the contractor shall fail or refuse to regard laws, ordinances or the instructions of the engineer, or otherwise be guilty of a substantial violation of any provision of this contract, then, in any such event, the County, without prejudice to any other rights or remedy it may have, within ten (10) days' notice to the contractor, terminate the employment of the contractor and his right to proceed, either as to the entire work or (at the option of the County) as to any portion thereof as to which delay shall have occurred, and may take possession of the work and complete the work by contract or otherwise, as the County may deem expedient. In such case, the contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the compensation to be paid the contractor hereunder shall exceed the expense of so completing the work (including compensation for additional managerial, administrative and inspection services and any damages for delay) such excess shall be paid to the contractor. If such expense shall exceed such unpaid balance, the contractor and his sureties shall be liable to the County for such excess.

32. Contractor's Right to Stop Work or Terminate Contract

If the work shall be stopped by order of the Court or any other public authority for a period of ninety (90) days without act or fault of the contractor or any of his agents, servants, employees or subcontractors, the contractor may, upon ten (10) days' notice to the County, terminate the contract, in which event the County shall pay for all work completed and any expense sustained, plus a reasonable profit.

33. Method of Payment

On lump sum contracts (and on unit price contracts if so directed) the contractor shall submit to the engineer for approval, immediately following the receipt of an executed copy of the Agreement, a schedule of work which will consist of an itemized breakdown on all items of work to be performed under the contract with the quantities in applicable units as square feet, square yards, cubic yards, linear feet, tons, on each, and unit prices thereof arranged in order in which the contractor proposes to carry on the work. Unit prices shall include all labor, materials, equipment, overhead and profit and shall be the sum total compensation payable for such items of work. Attached to this schedule and as a part thereof shall be a construction schedule which will give the contemplated dates for the start, progress and completion of the major items of work to be performed under this contract.

The contractor shall, between the first and fourth day of each month, submit to the engineer a statement in detail showing the amount of work performed in the preceding month. Months shall end on the calendar day specified by the engineer which day shall be established to provide an orderly sequence of approval by the engineer and County of the statement submitted. Approval shall be made on the valuation of work performed based on the "Schedule of "work" approved by the engineer or on unit prices, whichever is applicable. Payments shall be made on the basis of ninety percent (90%) of the approved monthly statement.

The County may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any certificate to such extent as may be necessary to protect:

- a. Defective work not remedied.
- b. Claims filed or reasonable evidence indicating probable filing of claims.
- c. A reasonable doubt that the contract can be completed for the current unpaid balance.
- d. Correction or completion of work by the County.
- e. Failure of the contractor to make payments for replacement of surveys, lines and grades.

Payments shall be made of amounts withheld when the above grounds have been removed.

No certificate given on payment made under this contract, except the final certificate on final payment, shall be conclusive evidence of the performance of this contract, either wholly or in part, and that no payments shall be construed to be an acceptance of defective work or improper materials.

Upon the completion of all work whatsoever required on the contract and after such time as may be required for the engineer to determine final quantities, the engineer shall file a written certificate with the County and with the contractor as to the entire amount of work performed and the compensation earned by

the contractor, including extra work and compensation therefore. Within thirty (30) days after the filing of such certificate of completion, the County shall pay to the contractor the amount therein stated, less all prior payments and advances whatsoever to or for the account of the contractor. All prior estimates and payments including those related to extra work, shall be subject to correction by this payment, which is throughout this contract called Final Payment.

34. Estimate of Quantities

The estimated quantities of work to be done and materials to be furnished under this contract, shown in the contract documents and the proposal, are given only for use in comparing bids and to indicate approximately the total amount of the contract, and the right is especially reserved to increase or diminish them as may be deemed reasonably necessary or desirable by the County to complete the work contemplated by this contract, and such increase or diminution shall not give cause for claims of liability for damages.

The County and the engineer do not expressly or by implication assume any responsibility that the quantities shall obtain strictly in the construction of the project, nor shall the contractor plead misunderstanding or deception because of such estimate of quantities or of the character of the work location or other conditions pertaining thereto.

35. Subsurface Conditions - Contractor's Representative

a. General

By executing the contract, the contractor represents that he has visited the site, familiarized himself with the location conditions under which the work is to be performed and correlated his observation with the requirements of the specifications.

b. Subsurface Conditions

The contractor further represents that he understands that subsurface information has been obtained for the project for engineering design purposes. This information has also been used in the preparation of estimates of quantities for bidding purposes. However, it is the obligation of the contractor to make his own investigation of subsurface conditions prior to submitting his proposal. The contractor has reviewed all available subsurface information, including but not limited to, boring logs, core recovery, test results and soils reports. The contractor's review has been in great detail through qualified and experienced representatives.

The determination of subsurface materials and conditions to be encountered is a matter of judgment and opinion. All of the information available to the County and the engineer is available to the contractor upon request.

36. Unexpected Subsurface Conditions

The contractor will promptly notify the County and engineer in writing of any subsurface or latent physical conditions at the site differing materially from those indicated in the contract documents. The engineer will promptly investigate those conditions and advise the County in writing if further surveys or subsurface tests are necessary. Promptly thereafter, the County will obtain the necessary additional surveys and tests and furnish copies to the engineer and the contractor. If the engineer finds that the results of such surveys or tests indicate subsurface or latent physical conditions differing significantly from those indicated in the

contract documents, a change order shall be issued incorporating the necessary revisions.

37. Changes and Alterations

- a. The County or engineer may make such minor changes in the drawings as are deemed necessary by them to complete more fully the project or any part thereof, provided that they are of a character as not to affect materially the cost of the work involved.
- b. The contract documents may be modified and changed from time to time in a manner not materially affecting the substance thereof, if such changes are necessary to carry out and complete the work agreed to be done and performed. In the event the County orders a change in the work, and the estimated cost of the work covered by such change, is equal to or greater than twenty-five percent (25%) of the total bid listed in the proposal of the total contract sum set out in the agreement, and if such change materially increases the cost of the work, the increased expense will be paid by the County. If such change diminishes the cost of the work, the amount of said diminution may be retained by the County. No consequent loss or anticipated profit on work not executed will be paid to the contractor.
- c. The contractor shall do such additional work other than that designated by the contract documents as may be ordered in writing by the County, to complete fully the work as planned and contemplated. No claim for an addition to the contract sum shall be valid unless so ordered in writing. Where the work is of such character as provided in (a) above, the contractor will receive in full payment for such additional work the unit prices shown in the contract, and in the same manner as if such has been included in the original contract. Any work for which there is no quantity and unit price in the contract, and additional work as provided in (b) above, will be done at a price to be agreed upon previously in writing by the contractor and the engineer and approved by the County. Where a unit price or lump sum cannot be agreed upon by both parties or where this method of payment is impracticable, the County may order the contractor to do such additional work on a "force-account" basis.
- d. Force-Account Work: All additional work done on a "force-account" basis shall be paid for as follows:

Actual net cost in money to the contractor of the materials and of the wages of applied labor (including premiums for Workmen's Compensation Insurance), required for such changes and alterations, plus such rental for plant and equipment (other than small tools) required and approved for such changes and alterations, plus twenty percent (20%) of the cost of materials and labor as compensation for all other items of profit and costs or expenses, including administration, overhead, superintendence, insurance (other than Workmen's Compensation Insurance), materials used in temporary structures, allowances made by the contractor to the subcontractors, additional premiums upon the Performance Bond of the contractor and use of small tools. The provision hereof shall not affect the power of the contractor to act in case of emergency as herein provided. The County shall have the right to examine the books and records of the contractor relative to the cost figures in the work referred to above. Equipment rental rates shall be negotiated prior to the commencement of the work.

38. County's Right to Occupy Works

The right to occupy the whole or any portion of the works at any time prior to completion of the contract is reserved by the County. In case of said occupation of the works, the contractor shall proceed with the completion of the contract in such a manner as to cause the least possible interference with the County's employees, or others having business on the works.

The installation of equipment or work under other contracts shall not be interpreted as occupation of the works.

39. Delays and Extension of Time

If the contractor is delayed at any time in the progress of the work by any of the following, the time of completion shall be extended for a reasonable time:

- a. By any act or neglect of the County, its agents or employees.
- b. By any separate contractor employed by the County.
- c. By changes ordered in the work.
- d. To unforeseeable cause beyond the control and without the fault of negligence of the contractor including, but not restricted to, acts of God or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather.
- e. To any delays of subcontractors occasioned by any of the causes specified in the above items (a), (b), (c) and (d).

Any claim for extension of time shall be made in writing to the County and engineer within seven (7) days of the occurrence of the event giving rise to the claim.

40. Guarantee of Work

- a. All work shall be guaranteed by the contractor against defects resulting from the use of inferior or defective material, equipment, or workmanship for two (2) years from the date of final completion of the contract, or from full occupancy of the project by the County, whichever is earlier.
- b. If, within the guarantee period, repairs or changes are required in connection with guaranteed work rendered necessary as the result of the use of materials, equipment or workmanship which are inferior, defective, or not in accordance with the terms of the contract, the contractor, promptly upon receipt of written notice and without expense to the County, shall place in satisfactory condition in every particular all such guaranteed work, correct all defects therein and make good, in a reasonable manner, all damage to the project.
- c. If the contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee, the County may have the defects corrected and the contractor shall be liable for all expense incurred.
- d. All work covered by special guarantees applicable to definite parts of the work that may be stipulated in the specifications or other papers forming a part of the contract shall nevertheless be subject to the terms of this section during the life of such special guarantee.

41. Indemnification

The contractor shall indemnify and save harmless the County and the engineer and their agents, officers and employees from and against all claims, damages, losses, liability and expenses including attorney's fees arising out of or resulting from the performance of the project, provided that any such claim, damage, loss, liability or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the project itself) including the loss of use resulting there from and (b) is caused in whole or in part by any negligent act or omission of the contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

In any and all claims against the County or the engineer or any of their agents, officers or employees by any employee of the contractor and subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the contractor or any subcontractor under Workmen's Compensation Acts, Disability Benefit Acts or other Employee Benefit Acts.

The obligation of the contractor under this section shall not extend to the liability of the engineer, his agents, officers or employees arising out of (a) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications or (b) the giving of or the failure to give directions or instructions by the engineer, his agents, officers or employees provided such giving or failure to give is the primary cause of injury or damage.

42. Cleaning Up

The contractor shall at all times keep the premises free from accumulations of waste material or rubbish caused by his employees or work, and at the completion of the work he shall remove all his rubbish from and about the site and all his tools, equipment and surplus materials and shall leave his work broom-clean or its equivalent, unless more exactly specified. In case of dispute, the County may remove the rubbish and charge the cost to the contractor as the engineer shall determine to be just.

43. Uncorrected Work

If the County or engineer deems it inexpedient to correct work not done in accordance with the contract, an equitable deduction from the contract price shall be made therefore.

44. Liens

Neither the final payment or any part of the retained percentage shall become due until the contractor, if required, shall deliver to the County a complete release of all liens arising out of this contract, or receipts in full in lieu thereof and, if required in either case, an affidavit that so far as he has knowledge or information the releases and receipts include all the labor and material for which a lien could be filed; but the contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the County, to indemnify him against any lien. If any lien remains unsatisfied after all payments are made, the contractor shall refund to the County all monies that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

45. Contractor's Claim

Neither the contractor nor the surety shall be entitled to present any claim or claims to the County either during the prosecution of the work or upon completion of the contract, for additional compensation for any work performed which was not covered by the approved drawings, specifications, and/or contract, or for any other cause, unless he shall give the County due notice of his intention to present such claims as hereinafter designated. The written notice, as above required, must have been given to the County, with a copy to the engineer, prior to the time the contractor shall have performed such work or that portion thereof giving rise to the claim or claims for additional compensation; or shall have been given within ten (10) days from the date the contractor was prevented, either directly or indirectly by the County or his authorized representative, from performing any work provided by the contract, or within ten (10) days from the happening of the event, thing or occurrence giving rise to the alleged claim.

46. Arbitration

All claims, disputes and other matters in question arising out of, or relating to, this contract or the breach thereof, except for claims which have been waived by final payment in accordance with Section 48, shall be decided by arbitration.

The Board of Arbitrators shall consist of three members. Each party shall appoint one arbitrator and shall advise the other party thereof in writing, sent by registered mail. Thereafter, a third member shall be selected by the two so appointed.

The arbitrators shall proceed with diligence to hear the matter and the parties shall have a full opportunity to present testimony. The award shall be made by the arbitrators, or a majority of them, and shall be binding upon the parties, subject to appeal to the courts as provided by the laws of Pennsylvania.

The arbitrators shall fix their own compensation, unless otherwise provided by agreement, and shall assess the costs and charges of the proceedings upon either or both parties. The contractor will carry on the work and maintain the progress scheduled during any arbitration proceedings unless otherwise agreed by the parties in writing.

47. Acceptance of Final Payment Constitutes Release

The acceptance by the contractor of the Final Payment shall be and shall operate as a release to the County of all claims and of all liability to the contractor for all things done or furnished in connection with this work and for every act and neglect of the County and others relating to or arising out of this work, excepting the contractor's claims for interest upon the Final Payment, if this payment is improperly delayed. No payment, however final or otherwise, shall operate to release the contractor or his sureties from any obligation under this contract or the performance bond.

48. No Waiver of Legal Rights

The County or the engineer shall not be precluded or stopped by any erroneous measurements, estimate or certificate, made or given by them, or any agent or employee of the County or engineer, under any provision or provisions of the contract at any time, either before or after the completion and acceptance of the work and payment therefore, from showing the true and correct amount and character of the work performed and materials furnished by the contractor, or from showing at any time that any such measurement, estimate, or certificate is untrue or incorrectly made in any particular, or that the work or

materials, or any part thereof do not conform in fact to the specifications and contract. The County shall have the right to reject the whole or any part of the work or materials, should any measurements, estimates, certificate, or payment be found or be known to be inconsistent with the terms of the contract, or otherwise improperly given. The County shall not be precluded or stopped notwithstanding any such measurement, estimated, certificate, or payment in accordance therewith, from demanding and recovering from the contractor and/or his surety such damages as it may sustain by reason of his failure to comply with the terms of the specifications and contract, or on account of any overpayment or overpayments made on any estimate or certificate. Neither the acceptance of the County, the engineer, or any agent or employee of the County or engineer, nor any estimate or certificate by the engineer, for any payment of money, nor any payment for, nor acceptance of the whole or any part of the work by the County or engineer, nor any extension or remission of time, nor any possession taken by the County or its employees, shall operate as a waiver of any portion of the contract of any power herein reserved by the County, or any right to damages herein provided, nor shall any waiver of any breach of the contract be held to be a waiver of any other or subsequent breach.

49. Liquidated Damages

The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and Owner that the time for the completion of the work described herein is reasonable, taking into consideration the average climatic conditions prevailing in this locality. If the said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, then the Contractor does hereby agree, as a part consideration for the awarding of this Contract, to pay to the Owner the amount of \$100.00 per day, not as a penalty but as liquidated damages for such breach of Contract, for each and every consecutive calendar day, including Saturdays, Sundays, and Holidays, that the Contractor shall be in default after time stipulated in the Contract for completing the work. The said amount is fixed and agreed upon between the Contractor and Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain and said amount shall be retained by the Owner from any payment(s) due to the Contractor.

To enforce the provisions under this paragraph, the Owner will unilaterally conduct a review of the Contractors work progress taking into consideration Change Orders, increase/decrease of unit quantities, revisions to work items, availability of material, etc. and any other information which the Contractor may wish to submit. Should the unilateral review find that there were no justifiable cause for the delay(s) the Owner shall impose the stipulated penalty in accordance with the provisions of this paragraph. Should the review indicate that the delay(s) are caused by circumstances beyond the control of the Contractor then the Owner shall grant a reasonable amount of time to the Contractor for the successful completion of the project.

50. American Made Steel

The successful bidder/contractor for this project agrees to utilize "American Made Steel" as defined in PA Act 1978-3, Steel Products Procurement Act, Section 6.

51. Electrical Service Specification

The successful bidder agrees that the electrical services to be performed for the County, under this contract, shall be performed by a certified journeyman electrician or a certified residential wireman, and assisted by a certified apprentice electrician, if necessary.

Definitions:

- a. "Journeyman Electrician" - Has four (4) or more years experience in the trade, and have passed a journeyman wireman's examination, or have been certified as a journeyman wireman by any joint apprenticeship and training committee, or by the Pennsylvania Apprenticeship and Training Council.
- b. "Residential Wireman" - The same as a journeyman electrician, except he has two (2) years experience.
- c. "Apprentice Electrician" - Is registered with the National Joint Apprenticeship Registration Agency, and the Pennsylvania Apprenticeship and Training Council.

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1. Equal Employment Opportunity Provisions

- a. Activities and contracts not subject to Executive Order 11246, as Amended. (Applicable to federally assisted construction contracts and related subcontracts \$10,000 and under).

During the performance of this contract, the contractor agrees as follows:

- (1) In accordance to Title VII of the Civil Rights Act of 1964, as amended, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex (including pregnancy), or national origin. The contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- (2) The contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by contracting officer setting forth the provisions of this non-discrimination clause. The contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (3) Contractor shall incorporate foregoing requirements in all subcontracts.

- b. Activities and contracts subject to Executive Order 11246, as Amended. (Applicable to federally assisted construction contracts and related subcontracts \$10,000 and under).

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.

- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the contract compliance officer advising the said labor union or worker's representatives of the contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 - (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and others.
 - (6) In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 - (7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the contractor may request the United States to enter into such litigation to protect the interest of the United States.
- c. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity Executive Order 11246). (Applicable to contracts/subcontracts exceeding \$10,000).
- (1) The offeror's or bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
 - (2) The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

<u>Covered Group</u>	<u>Timetables</u>	<u>Goals</u>
Women	From 4/1/82 until further notice	6.9%
All Other Minorities	From 4/1/81 until further notice	6.3%

These goals are applicable to all the contractor's construction work (whether or not it is federal or federally assisted) performed in the covered area. The contractor's compliance with the Executive Order and regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed.

The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

- (3) The contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
 - (4) As used in this notice, and in the contract resulting from this solicitation, the "covered area" is: Beaver County.
- d. Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246).
- (1) As used in these specifications:
 - (a) "Covered Area" means the geographical area described in the solicitation from which this contract resulted;
 - (b) "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - (c) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

(d) "Minority" includes:

Black (all persons having origins in any of the Black African racial groups not of Hispanic origin;

Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race);

Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(2) Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

(3) If the contractor is participating (pursuant to 41 CFR 60-4.5) in the Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the plan area (including goals and timetables) shall be in accordance with that plan for those trades which have unions participating in the plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO Clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees.

The overall good faith performance by other contractors or subcontractors toward a goal in an approved plan does not excuse any covered contractor's or subcontractor's failure to make good faith efforts to achieve the plans and goals and timetables.

(4) The contractor shall implement the specific affirmative action standards provided in paragraphs (8) (a) through (q) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

(5) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

(6) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during

the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

- (7) The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
- (a) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - (b) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - (c) Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to a union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefore; along with whatever additional actions the contractor may have taken.
 - (d) Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.
 - (e) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled above.
 - (f) Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel

and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

- (g) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as superintendents, general foreman, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- (h) Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.
- (i) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority female recruitment and training organizations serving the contractor's recruitment area and employment needs. No later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above describing the openings, screening procedures, and tests to be used in the selection process.
- (j) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.
- (k) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-a3.
- (l) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or prepare for, through appropriate training, etc., such opportunities.
- (m) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.
- (n) Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

- (o) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - (p) Conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's EEO policies and affirmative action obligations.
 - (q) Covered construction contractors performing contracts in geographical areas where they do not have a federal or federally assisted construction contract shall apply to the minority and female goals established for the geographical area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from federal procurement contracting officers.
- (8) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (8) (a) through (q). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under (8) (a) through (q) of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation shall not be a defense of the contractor's non-compliance.
- (9) A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially desperate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive Order if a specific group of women is under-utilized).
- (10) The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- (11) The contractor shall not enter into any subcontract with any person or firm debarred from government contracts pursuant to Executive Order 11246.
- (12) The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

- (13) The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph (8) of these specifications, as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
- (14) The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
- (15) Nothing herein provided shall be construed as a limitation upon the application of other laws, which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

2. Certification of Non-segregated Facilities (Over \$10,000)

- a. By the submission of this bid, the bidder, offeror applicant or subcontractor certifies that she/he does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and that she/he does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. She/he certifies further that she/he will not maintain or provide for employees any segregated facilities at any of his/her establishments, and she/he shall not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing area, *transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. She/he further agrees that (except where she/he has obtained identical certifications from proposed subcontractors for specific time periods) she/he will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that she/he will retain such certifications in his/her files; that she/he will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

3. Civil Rights Act of 1964

- a. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

4. Section 109 of the Housing and Community Development Act of 1974.
 - a. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or part with funds made available under this title.

5. Section 3
 - a. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended. 12 U.S.C. 1701u (Section 3).

The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall to the greatest extent feasible be directed to low and very low income persons, particularly persons who are recipients of HUD assistance for housing.
 - b. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
 - c. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
 - d. The contractor will include this Section 3 Clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the subcontractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
 - e. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed were not filled to circumvent the contractor's obligations under 24 CFR part 135.
 - f. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
 - g. With respect to work performed in connection with Section 3 covered Indian Housing Assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract.

Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training

and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

6. Certification of Compliance with Air and Water Acts

(Applicable to Federally assisted construction contracts and related subcontracts exceeding \$100,000)

- a. Compliance with Air and Water Acts During the performance of this contract, the contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner the following:

- (1) A stipulation by the contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA pursuant to 40 CFR 15.20.
- (2) Agreement by the contractor to comply with all requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued there under. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.
- (3) Agreement by the contractor that he will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every non-exempt subcontract and requiring that the contractor will take such action as the government may direct as a means of enforcing such provisions.

7. Hazards, Safety Standards, and Accident Prevention

- a. Lead-Based Paint Hazards (Applicable to contracts for construction rehabilitation of residential structures)
- (1) The construction or rehabilitation of residential structures is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35. The contractor and subcontractors shall comply with the provisions, as amended for the elimination of lead-base paint hazards under subpart B of said regulations. The County will be responsible for the inspections and certifications required under Section 34.14(f) thereof.

b. Use of Explosives

- (1) When the use of explosives is necessary for the prosecution of the work, the contractor shall observe all local, state and federal laws in purchasing and handling explosives. The contractor shall take all necessary precaution to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable timber, steel or rope mats. The contractor shall notify all owners of public utility property of intention to use explosives at least eight hours before blasting is done, close to such property. Any supervision or direction of use of explosives by the engineer does not in any way reduce the responsibility of the contractor or his surety for damages that may be caused by such use.

c. Danger Signals and Safety Devices

- (1) The contractor shall take all necessary precautions to guard against damages to property and injury to persons. He shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case the contractor fails or neglects to take such precautions, the County may have such lights and barricades installed and charge the cost of this work to the contractor. Such action by the County does not relieve the contractor of any liability incurred under these specifications or contract.

8. Federal Labor Standards Provisions HUD-4010 (7-2003)

a. Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages.

All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section l(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided

that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination; and the classification is utilized in the area by the construction industry; and
2. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 12150140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 12150140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1) (ii) (b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have

been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I (b) (2) (B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section I(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a) (3) (i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

1. That the payroll for the payroll period contains the information required to be maintained under 29 CFR 5.5 (a)(3)(i) and that such information is correct and complete;
2. That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;
3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i). Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid

at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 of this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (and any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a) (1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration makes, utters or publishes any statement knowing the same to be false shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the

Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable only where the amount of the prime contract exceeds \$100,000.

- (1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.
- (2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

The Contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

9. Federal Occupational Safety and Health Acts

- a. The contractor shall conform to the Requirements of the Federal Occupational Safety and Health Act of 1970.

10. Environmental Quality Control

- a. The contractor and his subcontractors shall perform their work in a manner which shall minimize the possibility of air, water and land pollution.
- b. The contractor shall comply with the regulations and standards of the Department of Environmental Resources, Sanitary Water Board, Water and Power Resources Board and Solid Waste Management Act, all as amended to date. All contractors will be solely responsible for any violations and shall be responsible for securing permits, when required.
- c. The bidder shall thoroughly acquaint himself with the terms of the statutes, rules, and regulations enumerated in this Special Conditions, and shall include in the bid prices all cost of complying with the terms of the listed statutes, rules, and regulations. No separate or additional payment will be made for such compliance. In the event that the listed statutes, rules and regulations are amended, or if new statutes, rules or regulations become effective, which cause the contractor to perform additional work, the engineer will issue a change order setting forth any additional work that must be undertaken. This change order will not invalidate the contract. The change order will specify the amount of additional payment, if any, that will be made to the contractor. No payment will be made

for work performed without written authorization to do so.

- d. The bidder shall determine what, if any, local ordinances, codes, and regulations apply to his work and comply with all such ordinances, codes and regulations.