

**LIMESTONE RUN  
FLOOD RESILIENCY  
CONTRACT  
DOCUMENTS DIRT  
HAULING**

**for**

**COMMUNITY DEVELOPMENT  
BLOCK GRANT  
PROGRAM**

Revised January 26, 2024  
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## **PART I - INVITATION FOR BIDS**

Lewisburg Borough will receive sealed bids, one (1) original and two (2) copies, for Limestone Run Flood Resiliency project, at Lewisburg Borough Offices until 2PM prevailing time on April 29, 2024, at 55 South Fifth Street, Lewisburg, PA 17837, at which time and place, all bids will be publicly opened and read aloud.

The scope of work includes hauling dirt and/or tree removal on the west bank of Limestone run (bounded by Cherry Alley, Limestone (Bull) Run, the Buffalo Valley Rail Trail and Lynn Alley).

Copies of the Contract Documents may be obtained by picking up paper copies at Lewisburg Borough at 55 South Fifth Street, Lewisburg, PA 17837 for a set, or by contacting Angie Hunselman at SEDA-Council of Governments via email at [akemberling@seda-cog.org](mailto:akemberling@seda-cog.org) for an electronic copy.

A certified check or bank draft payable to the order of Lewisburg Borough, or a satisfactory Bid Bond executed by the Bidder and an acceptable surety in an amount equal to ten percent (10%) of the total of the Bid, shall be submitted with each bid. The Bidder shall include the fully completed Non-Collusion Affidavit with the bid.

In addition to the Equal Employment requirements of Executive Order 11246 regarding discrimination, the CONTRACTOR must establish a 6.9% goal for female participation and a 1% goal for minority participation in his/her aggregate on-site construction workforce for contracts in excess of \$10,000.

Lewisburg Borough is utilizing federal funds for this project, and Union County has adopted a Minority and Women Business Enterprise (MBE/WBE) plan in accordance with Executive Orders 11625, 12138, and 12432 and a Section 3 Action Plan in accordance with Title 24 Part 75 Code of Federal Regulations. As such, the bidders/offerors must submit documentary evidence of minority and women business enterprises and Section 3 business concerns who have been contacted and to whom commitments have been made. Documentation of such solicitations and commitments shall be submitted with the bid.

Moreover, the CONTRACTOR shall strive to meet the MBE goal of 5% and the WBE goal of 3% for contracts of \$25,000 or more. For projects which the amount of HUD or CDBG funding exceeds \$200,000 the CONTRACTOR must attempt to meet the minimum numerical goals of which 25% or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers, per 24 CFR Part 75.19; and 5% or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined in 24 CFR Part 75.21. Union County, in accordance with its Section 3 Action Plan, may provide a bid preference to a bidder who is a Section 3 business concern. MBE/WBE and Section 3 business concerns shall be afforded full opportunity to bid without discrimination. Davis-Bacon and Related Acts apply to this Project.

Bids may be held by Lewisburg Borough for up to 60 days from the date of opening for the purpose of reviewing the bids and investigating the qualifications of bidders prior to awarding the contract. Lewisburg Borough reserves the right to reject any or all bids, to waive any irregularities, or to negotiate contract amounts.

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## PART II - INSTRUCTIONS TO BIDDERS

### 1. BIDS

- A. All bids must be submitted on forms supplied by Lewisburg Borough, the Owner, and shall be subject to all requirements of the Contract Documents, including the product descriptions, and these INSTRUCTIONS TO BIDDERS. All Bids must be regular in every respect and no inter-lineations, excisions, or special conditions shall be made or included in the Bid Form by the Bidder.
- B. Bid Documents, including the completed Bid Forms, Certification of Non-Segregated Facilities, Public Works Employment Verification Form, Certification of Bidder Regarding Equal Employment Opportunity, Identification of Individual, Partnership, or Corporate Principals, MBE/WBE Contract Solicitation and Commitment Statement, Minority and Women Business Enterprise Bidder Certification, Section 3 Workforce Needs Table, Section 3 Contract Solicitation and Commitment Statement, Contractor's Certification of Compliance – Section 3, Bid Bond, and the Non-Collusion Affidavit shall be completed and submitted, sealed, and clearly labeled with the words "Limestone Run Flood Resiliency Dirt Hauling."
- C. The Owner may consider irregular any Bid on which there is an alteration of or departure from the Bid Form hereto attached and at its option may reject or accept same.
- D. If the Contract is awarded, it will be awarded by the Owner to a responsible Bidder on the basis of the lowest responsible bid.
- E. In the event that deduct(s), add alternate(s), or optional line items are included on the project bid form, the OWNER reserves the right to remove deduct(s) from the project or award individual add alternates or optional line item(s) at its sole discretion, based upon, but not limited by available grant funding.

In the event that the OWNER awards a combination of add alternate(s) or optional line item(s), the lowest apparent bidder shall be calculated by totaling the combined amount of the base bid with any alternate(s), or optional line item(s) that are to be awarded.

- F. Each Bidder shall include in his/her Bid the following information:

Firm Name  
Federal Employer Identification Number  
Address  
City, State, and Zip Code  
Principals' Names

- G. Each bidder will submit one (1) original bid as well as two (2) additional copies.

### 2. ALTERNATIVE BIDS

No alternative bids will be considered.

3. COLLUSIVE AGREEMENTS

Each Bidder submitting a Bid to the Owner shall execute and attach hereto, an affidavit substantially in the form herein provided, to the effect that they have not colluded with any other person, firm, or corporation in regard to any Bid submitted.

4. TIME FOR RECEIVING BIDS

Bids received prior to the advertised hour will be securely kept and sealed. The officer whose duty it is to open them will decide when the specified time has arrived, and no Bid received thereafter will be considered.

5. OPENING OF BIDS

At the time and place fixed for the public opening of Bids, the Owner, or their agent will cause to be opened and read aloud the Bid(s) received within the time set for receiving Bids, irrespective of any irregularities therein. Bidders and other persons properly interested may be present, in person, or by representative.

6. AWARD OF CONTRACT: REJECTION OF BIDS

The Contract will be awarded to the lowest responsible Bidder complying with the conditions of the Invitation for Bids. The Bidder to whom the award is made will be notified at the earliest possible date. Bidders agree to honor their bid for not less than 60 days from the date of bid opening. The Owner reserves the right to reject any and all Bids and to waive any irregularity in Bids received whenever such rejection or waiver is in its interest.

7. WARRANTY

A warranty of at least one year on all parts and labor is to be provided with no exceptions. There shall be no charge to the buyer for any travel, parts, or labor during this warranty period.

8. EQUAL EMPLOYMENT OPPORTUNITY

Attention of Bidders is particularly called to the requirement for ensuring that employees and applicants for employment are not discriminated against because of race, sex, color, national origin, or religion. Each Bidder must submit a completed Certification of Bidder Regarding Equal Employment Opportunity.

9. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS

Attention of Bidders is particularly called to the necessity of complying with all Federal, State, and Local Laws and regulations.

10. W-9 FORM

The Bidder to Whom the award is made shall complete the W-9 Form prior to issuance of the Notice to Proceed.



## **PART III – SIGNATURE DOCUMENTS**

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**BID**

To Lewisburg Borough 55 South Fifth Street, Lewisburg, PA 17837

Gentlemen:

1. The undersigned, having familiarized (himself/herself/themselves) with the existing conditions on the Project area affecting the cost of the Work, and with the Contract Documents, including the Invitation for Bids, Signature Documents, the form of Bid, the form of Bid Bond, the form of Contract, the Non-Collusion Affidavit, the form of Surety Bond or Bonds, the Contract Conditions, Federal Requirements, State Requirements, Specifications, and Addenda, as prepared by Lewisburg Borough, and on file in the office of 55 South Fifth Street, Lewisburg, PA 17837, hereby proposes to furnish all supervision, technical personnel, labor, materials, machinery, tools, appurtenances, equipment, and services, including utility and transportation services required to construct and complete Dirt Hauling for the Limestone Run Flood Resiliency Project. Bidder will complete the Base Bid work for the following price(s). Bidder Shall bid both the Base Bid.

Item No.	Item & Description	Unit Price	Estimate	Total Price
1	Hauling of dirt to 820 Voris Road, Danville PA 17821	/Per 20-ton load	778.5 Cubic Yards or 55 loads	
2	Hauling of dirt to 820 Mount Zion Drive, Milton PA 17847	/Per 20-ton load	778.5 Cubic Yards or 55 loads	
3	Total Base Bid			

2. In submitting this Bid, the bidder understands that the right is reserved by Lewisburg Borough to reject any and all Bids. If written notice of the acceptance of this Bid is mailed, telegraphed, or delivered to the undersigned within sixty (60) days after the opening thereof, or at any time thereafter before this Bid is withdrawn, the undersigned agrees to execute and deliver an agreement in the prescribed form and furnish the required bond or bonds within ten (10) days after the Agreement is presented to him/her for signature.
3. Security in the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), in the form of \_\_\_\_\_, is submitted herewith in accordance with the Instructions to Bidders.
4. Attached hereto is an affidavit in proof that the undersigned has not entered into a collusive agreement with any person in respect to this Bid or any other Bid or the submitting of Bids for the Contract for which this Bid is submitted.
5. The bidder is prepared to submit financial and experience statements upon request.
6. The undersigned represents that he/she is in receipt of the following number of Addenda. (If no Addenda are issued, insert the word "none" in the following space.)  
\_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name, Title (Please Print)

\_\_\_\_\_  
Date

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## STATEMENT OF BIDDER'S QUALIFICATIONS

All questions must be answered, and the date given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate, attached sheets. The bidder may submit any additional information he/she desires.

1. Name of bidder.
2. Permanent main office address.
3. When organized.
4. If a corporation, where incorporated.
5. How many years have you been engaged in the contracting business under your present firm or trade name?
6. Contracts on hand: (Schedule these, showing amount of each contract and the appropriate anticipated dates of completion.)
7. General character of work performed by your company.
8. Have you ever failed to complete any work awarded to you? If so, where, and why?
9. Have you ever defaulted on a contract? If so, where, and why?
10. List the more important projects recently completed by your company, stating the approximate cost for each, and the month and year completed.
11. List your major equipment available for this contract.
12. Experience in construction work similar in importance to this Project.
13. Background and experience of the principal members of your organization, including the officers.
14. Credit Available: \$\_\_\_\_\_
15. Give bank reference:\_\_\_\_\_
16. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the (OWNER)?
17. The undersigned certifies for itself, it has no unsatisfied tax liabilities or other Commonwealth obligations.
18. The undersigned certifies for itself and all of its subcontractors and suppliers that it is not under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority.
19. The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the (OWNER) in verification of the recitals comprising this Statement of Bidder's Qualifications.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Name of Bidder)

By: \_\_\_\_\_

Title: \_\_\_\_\_

State of \_\_\_\_\_)

County of \_\_\_\_\_)

\_\_\_\_\_, being a duly sworn representative of \_\_\_\_\_  
deposes and says that all statements herein contained are true and correct.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_ Notary Public

My commission expires \_\_\_\_\_, 20\_\_.

**STATEMENT OF BIDDER'S QUALIFICATIONS (continued)**

Certifications:

I, \_\_\_\_\_, certify that I  
am the \_\_\_\_\_ of the Corporation named as  
CONTRACTOR herein; that \_\_\_\_\_ who  
signed this Agreement on behalf of the CONTRACTOR, was the  
\_\_\_\_\_ of said Corporation; that  
said Agreement was duly signed for and on behalf of said Corporation by authority of  
its governing body and is within the scope of its corporate powers.

\_\_\_\_\_  
Title: \_\_\_\_\_

(Corporate Seal)



**BID BOND**

KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED

\_\_\_\_\_ as PRINCIPAL; and

\_\_\_\_\_ as SURETY,

are held and firmly bound unto \_\_\_\_\_, hereinafter called the "OWNER," in the penal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), lawful money of the United States of America, for the payment of which sum will and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

The CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the accompanying bid, dated \_\_\_\_\_, \_\_\_\_\_, for \_\_\_\_\_ (description of work).

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 the said opening, and shall within the period specified therefore, or if no period be specified, with ten (10) days after the prescribed forms are presented to him/her for signature, enter into a written Contract with the OWNER in accordance with the Bid as accepted, and give bond with good and sufficient surety or sureties, 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 time specified, if the Principal shall pay the OWNER may procure the required Work or supplies or both, if the latter be in excess of the former, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bounded 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 presentees signed by its undersigned representative, pursuant to authority of its governing body.

**INDIVIDUAL OR PARTNERSHIP PRINCIPALS**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (SEAL)

In the presence of:

**CORPORATE PRINCIPAL**

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
BY: \_\_\_\_\_ (SEAL)

SURETY

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
BY: \_\_\_\_\_ (SEAL)

Countersigned:

BY: \_\_\_\_\_

Attorney-in-fact,

State of \_\_\_\_\_

**CERTIFICATE AS TO CORPORATE PRINCIPAL**

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_, Principal in the within bond; that \_\_\_\_\_, who signed the said bond on behalf of the Principal, was then \_\_\_\_\_ of said Corporation; that I know his/her signature, and his/her signature thereto is genuine; and that said bond was duly signed, sealed, and attested to for and on behalf of said Corporation by authority of his/her governing body.

\_\_\_\_\_  
Title: \_\_\_\_\_

(CORPORATE SEAL)

**NON-COLLUSION AFFIDAVIT OF PRIME BIDDER**

State of \_\_\_\_\_)

County of \_\_\_\_\_)

\_\_\_\_\_, being first duly sworn, deposes and says that:

- 1) He/She is (Owner, Partner, Officer, Representative or Agent) of \_\_\_\_\_, the bidder that has submitted the attached Bid;
- 2) He/She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- 3) Such Bid is genuine and is not a collusive or sham Bid;
- 4) Neither the said bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other bidder firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted, or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the attached Bid or of any other bidder, or to fix any overhead, profit, or cost element for the Bid prices or the Bid price of any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the \_\_\_\_\_ or any person interested in the proposed Contract; and
- 5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the bidder or any of its officers, partners, agents, representatives, owners, employees, or parties in interest, including this affiant.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Title

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Title: \_\_\_\_\_

My commission expires: \_\_\_\_\_

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**CERTIFICATION OF NON-SEGREGATED FACILITIES AND NON-EMPLOYMENT OF ILLEGAL ALIEN LABOR**

The Bidder certifies that he/she does not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she does not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The Bidder agrees that a breach of this certification will be a violation of the Equal Employment Opportunity Clause in any contract resulting from acceptance of this Bid. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, 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. The Bidder agrees that (except where he/she has obtained identical certifications from proposed subcontractors) prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Employment Opportunity Clause, that he/she will retain such certifications in his/her files.

The Bidder further certifies in accordance with Act 43 (PL May 11, 2006) that he/she shall not knowingly employ, or knowingly permit any of its subcontractors to knowingly employ, the labor services of an illegal alien.

In the event that the Bidder

- (a) knowingly employs or knowingly permits any of its subcontractors to knowingly employ, the labor services of an illegal alien; and
- (b) the Bidder or any of its subcontractors are sentenced under Federal law for an offense involving knowing use of labor by an illegal alien,

The Bidder shall be subject to penalty as prescribed in Pennsylvania Act 43 (PL May 11, 2006).

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. § 1001.

Date: \_\_\_\_\_, 20\_\_ \_\_\_\_\_  
(Name of Bidder)

Official Address \_\_\_\_\_  
(including ZIP CODE): \_\_\_\_\_  
By: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(Title)

Employer Identification Number: \_\_\_\_\_

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COMMONWEALTH OF PENNSYLVANIA  
PUBLIC WORKS EMPLOYMENT VERIFICATION FORM

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

Business or Organization Name (Employer) \_\_\_\_\_

Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code: \_\_\_\_\_

Contractor     Subcontractor (check one)

Contracting Public Body Lewisburg Borough

Contract/Project No \_\_\_\_\_

Project Description Limestone Run Flood Resiliency

Project Location West bank of Limestone Run

As a contractor/subcontractor for the above referenced public works contract, I hereby affirm that as of the above date, our company is in compliance with the Public Works Employment Verification Act ('the Act') through utilization of the federal E-Verify Program (EVP) operated by the United States Department of Homeland Security. To the best of my/our knowledge, all employees hired post January 1, 2013 are authorized to work in the United States.

It is also agreed to that all public works contractors/subcontractors will utilize the federal EVP to verify the employment eligibility of each new hire within five (5) business days of the employee start date throughout the duration of the public works contract. Documentation confirming the use of the federal EVP upon each new hire shall be maintained in the event of an investigation or audit.

I, \_\_\_\_\_, authorized representative of the company above, attest that the information contained in this verification form is true and correct and understand that the submission of false or misleading information in connection with the above verification shall be subject to sanctions provided by law.

\_\_\_\_\_  
Authorized Representative Signature

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**CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY**

**INSTRUCTIONS**

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). 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 Employment 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 (7) calendar days after bid opening. No contract shall be awarded unless such report is submitted.

**CERTIFICATION BY BIDDER NAME**

AND ADDRESS OF BIDDER (Include ZIP code)

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1. Bidder has participated in a previous contract or subcontract subject to the Equal Employment 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

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## **MINORITY AND WOMEN'S BUSINESS ENTERPRISE BIDDER INSTRUCTIONS**

This Project is funded in part with Community Development Block Grant (CDBG) funds. In accordance with CDBG rules and regulations, municipalities must uphold the conditions of the Minority/Women's Business Enterprise (MBE/WBE) Action Plan. The objective of the plan is to facilitate the strengthening and expansion of MBE/WBE business concerns. Complete copies are available by contacting SEDA-COG Community Development Program, 201 Furnace Road, Lewisburg, PA 17837.

The minimum participation level of five percent (5%) for Minority Business Enterprises and three percent (3%) for Women Business Enterprises MBE/WBE has been established. The successful bidder will be required to submit evidence that these goals have been met either through his/her own employment practices or through the use of MBE/WBE subcontractors and vendors. Failure to comply may result in the bidder being determined not responsible.

In preparation of your bid, you shall contact MBE/WBE firms listed in these bid documents in order to solicit subcontractor and supplier proposals. You may also contact other MBE/WBE firms of which you are aware. MBE/WBE firms can also be solicited using the following link:

<http://www.dgs.internet.state.pa.us/suppliersearch>

As part of your bid, you are expected to complete and submit the *MBE/WBE Contract Solicitation and Commitment Statement form*. This form will be used during bid review to ascertain your level of MBE/WBE utilization. Your efforts and success in utilizing these firms will be one of the tests of bidder responsibility. Failure to meet this Project's MBE/WBE goal does not automatically disqualify your bid; however, the MBE/WBE Bidder Certification must be submitted with the bid. At the municipality's discretion, elements of the MBE/WBE may be waived, provided the bidder can submit adequate evidence of an effort to enlist MBE/WBE subcontractors and suppliers for the Project.

If you are the successful bidder you will be expected to document, at the pre-construction conference, your efforts to solicit MBE/WBE business enterprises, and to confirm the percentage of participation you will achieve.

Finally, at the completion of the Project and before final payment, you will be required to furnish a completed *Minority/Women Business Enterprise Utilization Report* for yourself and your subcontractors along with a *Minority/Women Business Certification form*, if applicable.

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**MBE/WBE CONTRACT SOLICITATION AND COMMITMENT STATEMENT  
TO BE SUBMITTED WITH THE BID**

Goals of **5%** for minority business enterprise and **3%** for women business enterprise participation have been established.

Name of Bidder:	Project Name: Limestone Run Flood Resiliency
Address:	Bid Opening Date: April 29, 2024, 2PM
Email Address:	
Telephone Number:	Contact Person:

List those minority/women owned businesses from which you solicited quotes and/or received quotes in regard to this invitation for bid.

<b>Company Name &amp; Telephone Number</b>	<b>MBE*</b> <small>(enter code from below)</small>	<b>WBE</b> <small>(x)</small>	<b>Type of Construction, Equipment, Services, and/or Supplies to be provided to the Project</b>	<b>Total Dollar Amount of Quote Received</b>  <small>(Please mark NR If no response was received)</small>	<b>Total Dollar Amount Awarded</b>  <small>(If not awarded indicate reason)</small>
Prepared By:			Title:		

\* Ethnic Code: A- Asian-Pacific Americans; B-African Americans; H-Hispanic Americans; N- Native Americans

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**MINORITY AND WOMEN BUSINESS ENTERPRISE BIDDER CERTIFICATION**

The submittals of each bidder are subject to review to determine whether the bidder has discriminated in the selection of manufacturers, subcontractors, and suppliers. If a bidder has met the goals for MBE/WBE participation, the bidder will be presumed not to have discriminated in their selections.

*Where the goals are not met*, the below statements, if accurate, shall be certified by the bidder:

1. The limited number or no commitment to MBEs/WBEs was not motivated by consideration of race or gender.
2. MBEs/WBEs were not treated less favorably than other businesses in the contract solicitation and commitment process.
3. Solicitation and commitment decisions were not based upon policies which disparately affect MBEs/WBEs.

By signing below, I certify that the above statements are true and accurate.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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**PRIME CONTRACTOR  
MINORITY & WOMEN'S BUSINESS ENTERPRISE  
UTILIZATION REPORT  
SHALL BE SUBMITTED PRIOR TO FINAL PAYMENT**

Prime Contractor Firm Name:	Project Name:
Address:	Contractor EIN No.:
Email:	Total Prime Contract: \$
Telephone:	Total of All Subcontract(s): \$
Contact Person:	Total MBE/WBE Subcontract(s):

*List MBE/WBE businesses from which you have purchased services and/or supplies in reference to this contract.*

Company Name	Address/Telephone	MBE* (see below)	WBE (X)	Trade	Date Paid	Dollar Amount Of Contract(s)

**SUBCONTRACTOR  
MINORITY & WOMEN'S BUSINESS ENTERPRISE  
UTILIZATION REPORT  
SHALL BE SUBMITTED PRIOR TO FINAL PAYMENT**

Prime Contractor Firm Name:	Project Name:
Address:	Contractor EIN No.:
Email:	Total Prime Contract: \$
Telephone:	Total of All Subcontract(s): \$
Contact Person:	Total MBE/WBE Subcontract(s):

*List MBE/WBE businesses from which you have purchased services and/or supplies in reference to this contract.*

Company Name	Address/Telephone	MBE* (see below)	WBE (X)	Trade	Date Paid	Dollar Amount of Contract(s)

**MINORITY AND WOMEN'S BUSINESS CERTIFICATION**

As principal owner of \_\_\_\_\_, I certify that this  
(MBE/WBE Firm Name)  
firm is a bona fide Minority/Women Business Enterprise owned business.

I further certify that this firm was subcontracted by \_\_\_\_\_  
for Work on the \_\_\_\_\_ Project in the amount of \$ \_\_\_\_\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature/Title

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## **SECTION 3 BUSINESS CONCERNS BIDDER INSTRUCTIONS**

This Project is funded in part with Community Development Block Grant (CDBG) funds. In accordance with CDBG rules and regulations, municipalities must uphold the conditions of the Section 3 Action Plan. The objective of the plan is to the greatest extent feasible, ensure that employment and other economic opportunities are directed to low- and very low-income persons (Section 3 workers and Targeted Section 3 workers) and to eligible businesses (Section 3 Businesses) and requires the same of its contractors, as summarized in the "Section 3 Certificate of Compliance" included herein. Complete copies of the Section 3 Plan are available by contacting SEDA-COG Community Development Program, 201 Furnace Road, Lewisburg, PA 17837, or by calling (570) 524-4491.

Section 3 minimum numerical goals apply to any contractor when the total amount of assistance to the project exceeds a threshold of \$200,000. The bidder must attempt to meet the minimum numerical goals which require 25% or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers; and 5% or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined in 24 CFR Part 75.21. Section 3 firms can also be solicited using the attached vendor list.

As part of your bid, you are expected to complete and submit the Section 3 Workforce Needs Table and the *Section 3 Contract Solicitation and Commitment Statement* form. This form will be used during bid review to ascertain your level of Section 3 utilization. Your efforts and success in utilizing these firms will be one of the tests of bidder responsibility. Failure to meet this Project's Section 3 goal does not automatically disqualify your bid. However, contractors and subcontractors failing to meet the goals must document actions taken to comply with the Section 3 requirements. The Grantee will take appropriate actions upon finding that a contractor is in violation of 24 CFR Part 75 and does not knowingly contract with any contractor that has been found in violation of the Section 3 regulations. At the municipality's discretion, elements of the Section 3 may be waived, provided the bidder can submit adequate evidence of an effort to enlist Section 3 residents and business concerns for the Project. All contractors/businesses seeking Section 3 preference must, before submitting bids/proposals to the Owner be required to complete certifications, as appropriate. Such certifications shall be adequately supported with appropriate documentation as referenced in the Section 3 Business Concern Certification Form.

The CONTRACTOR will be considered to have complied with the Section 3 requirements and met safe harbor, if they certify that they followed the required prioritization of effort and met or exceeded the Section 3 benchmarks, absent evidence of the contrary.

Prior to the beginning of work, contractors and subcontractors will be required to certify that they will follow the required prioritization of effort for Section 3 workers, Targeted Section 3 workers, and Section 3 business concerns as outlined below in 24 CFR Part 75. After completion of the project, on the Section 3 Cumulative Report, contractors and subcontractors will be required to certify that they followed the prioritization of effort requirements.

If the contractor and subcontractor does not meet the safe harbor requirements, they must provide evidence that they have made qualitative efforts to assist low and very low-income persons with employment and training opportunities.

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**SECTION 3 CONTRACT SOLICITATION AND COMMITMENT STATEMENT**

Minimum Participation Levels (MPL): Section 3 – 25% or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers.

5% or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers

Name of Bidder:	Project Name: Limestone Run Flood Resiliency
Address:	Bid Opening Date: April 29, 2024, 2PM
E-Mail Address:	
Telephone Number:	Contact Person:

List those Section 3 business concerns from which you solicited quotes, or which contacted you and gave you quotes in regard to this invitation for bid.

Company Name & Telephone Number	Type of Construction and/or Services, to be provided to the Project	Total Dollar Amount of Quote Received (Please mark NR if no response was received)	Total Dollar Amount Awarded (If not awarded indicate the reason)	IF NO COMMITMENT WAS MADE TO A SECTION 3 BUSINESS- EXPLAIN
Preparers Signature:			Title	

1. Indicate whether Section 3 Business Concerns were solicited for each type of work the bidder expects to subcontract for and for all materials which the bidder expects to procure and, if not, the reason(s) why no such solicitation was made;
2. Indicate the reason a Section 3 Business Concern has not been committed to for a type of subcontract work or materials in any area where a quote was received from a Section 3 Business Concern, and;
3. In any case where no quotations are received or commitments made to a Section 3 Business Concern, indicate that no quotes were received, and if there is another reason for no commitments being made, the reason for the lack of commitments.

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**IMPLEMENTATION ACTION PLAN IF BENCHMARKS ARE NOT MET (24 CFR Part 75.15)**

*Check the boxes that apply to demonstrate your good faith efforts to satisfy your section 3 obligations.*

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- Provided training or apprenticeship opportunities.
- Provided technical assistance to help Section 3 workers compete for jobs (**e.g.**, resume assistance, coaching).
- Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- Held one or more job fairs.
- Provided or referred Section 3 workers to services supporting work readiness and retention (**e.g.**, work readiness activities, interview clothing, test fees, transportation, childcare).
- Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

**NOTES AND COMMENTS TO SUPPORT EFFORTS (If needed, attach additional sheets)**

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By signing below, I hereby certify and declare under penalty of perjury under the laws of the United States and the State of Pennsylvania that the information provided on this form, as well as all documentation provided in support thereof, are true and correct, and that I am authorized on behalf of the Company to make this certification. Furthermore, I certify that I will maintain this documentation for the time period required for record retentions in accordance with applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR part 200. I will make these records available upon request.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
D

## ADDITIONAL GUIDANCE FOR CONTRACTORS AND VENDORS

### 24 CFR Part 75.31

Contractors, subcontractors and other recipients or sub-recipients must maintain documentation to ensure that workers meet the definition of a Section 3 Worker or Targeted Section 3 Worker as follows:

**For a worker to qualify as a Section 3 worker, one of the following must be maintained:**

1. A worker's self-certification that their income is below the income limit from the prior calendar year;
2. A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
3. Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
4. An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or
5. An employer's certification that the worker is employed by a Section 3 business concern.

**For a worker to qualify as a Targeted Section 3 worker under Housing and Community Development Programs, one of the following must be maintained:**

1. An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;
2. An employer's certification that the worker is employed by a Section 3 business concern; or
3. A worker's self-certification that the worker is a YouthBuild participant.

### OTHER

- A contractor/vendor may report on Section 3 workers and Targeted Section 3 workers for five years from when their certification as a Section 3 worker or Targeted Section 3 worker is established.
- Income limits are individual and not household.
- The Section 3 Worker Certification Form can be used to establish eligibility as a Section 3 Worker and Targeted Section 3 Worker.
- SEDA-COG can assist contractors/vendors in outreach and recruitment efforts.
- To calculate the labor hour benchmarks, see the graphics below:



## **SECTION 3 UTILIZATION REPORT**

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# Section 3 Business Concern Certification

**Instructions:** Enter the following information and select the criteria that applies to certify your business' Section 3 Business Concern status.

Select from **ONE** of the following three options below that applies:

- At least 51 percent of the business is owned and controlled by low- or very low-income persons (Refer to income guidelines, attached).
- At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
- Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers

**Section 3 Worker Definition:**

- A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
- Employed by a Section 3 business concern; or
- A YouthBuild participant.

**Targeted Section 3 Worker Definition:**

- Employed by a Section 3 business concern or
- Currently meets or when hired met at least one of the following categories as documented within the past five years:
  - A resident of public housing; or
  - A resident of other public housing projects or Section 8-assisted housing; or
  - A YouthBuild participant.

**Business Concern Affirmation**

I affirm that the above statements are true, complete, and correct to the best of my knowledge and belief. I understand that businesses who misrepresent themselves as Section 3 business concerns and report false information to the GRANTEE may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Print Name: \_\_\_\_\_

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

\*Certification expires within six months of the date of signature

Information regarding Section 3 Business Concerns can be found at [24 CFR 75.5](#)

**FOR ADMINISTRATIVE USE ONLY**

Is the business a Section 3 business concern based upon their certification?

**YES**       **NO**

**EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR FIVE YEARS.**

## INCOME GUIDELINES

\*The income limits change on an annual basis and may be requested from SEDA-Council of Governments or retrieved on the internet via URL <https://www.hudexchange.info/programs/home/home-income-limits/>

At the time of the project, GRANTEE's income limits were as follows:

### 2023 Section 8 Income Limits Effective June 15, 2023

COUNTY	MEDIAN 2023	INCOME CLASSIFICATION	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
CENTRE	\$115,500	VERY LOW (50% AMI)	36,050	41,200	46,350	51,500	55,650	59,750	63,900	68,000
		LOW-MODERATE (80% AMI)	57,700	65,950	74,200	82,400	89,000	95,600	102,200	108,800
CLINTON	\$75,500	VERY LOW (50% AMI)	27,000	30,850	34,700	38,550	41,650	44,750	47,850	50,900
		LOW-MODERATE (80% AMI)	43,200	49,350	55,500	61,650	66,600	71,550	76,450	81,400
COLUMBIA	\$81,000	VERY LOW (50% AMI)	27,450	31,350	35,250	39,150	42,300	45,450	48,550	51,700
		LOW-MODERATE (80% AMI)	43,900	50,150	56,400	62,650	67,700	72,700	7,770	82,700
FULTON	\$77,600	VERY LOW (50% AMI)	27,000	30,850	34,700	38,550	41,650	44,750	47,850	50,900
		LOW-MODERATE (80% AMI)	43,200	49,350	55,500	61,650	66,600	71,550	76,450	81,400
JUNIATA	\$83,600	VERY LOW (50% AMI)	28,300	32,350	36,400	40,400	43,650	46,900	50,100	53,350
		LOW-MODERATE (80% AMI)	45,250	51,700	58,150	64,600	69,800	74,950	80,150	85,300
LYCOMING	\$78,700	VERY LOW (50% AMI)	27,550	31,500	35,450	39,350	42,500	45,650	48,800	51,950
		LOW-MODERATE (80% AMI)	44,100	50,400	56,700	62,950	68,000	73,050	78,100	83,100
MIFFLIN	\$71,000	VERY LOW (50% AMI)	27,000	30,850	34,700	38,550	41,650	44,750	47,850	50,900
		LOW-MODERATE (80% AMI)	43,200	49,350	55,500	61,650	66,600	71,550	76,450	81,400
MONTOUR	\$91,900	VERY LOW (50% AMI)	31,800	36,350	40,900	45,400	49,050	52,700	56,300	59,950
		LOW-MODERATE (80% AMI)	50,900	58,150	65,400	72,650	78,500	84,300	90,100	95,900
NORTHUMBERLAND	\$72,600	VERY LOW (50% AMI)	27,050	30,900	34,750	38,600	41,700	44,800	47,900	51,000
		LOW-MODERATE (80% AMI)	43,250	49,400	55,600	61,750	66,700	71,650	76,600	81,550
PERRY	\$102,700	VERY LOW (50% AMI)	34,950	39,950	44,950	49,900	53,900	57,900	61,900	65,900
		LOW-MODERATE (80% AMI)	55,900	63,900	71,900	79,850	86,250	92,650	99,050	105,450
POTTER	\$71,600	VERY LOW (50% AMI)	27,000	30,850	34,700	38,550	41,650	44,750	47,850	50,900
		LOW-MODERATE (80% AMI)	43,200	49,350	55,500	61,650	66,600	71,550	76,450	81,400
SNYDER	\$81,700	VERY LOW (50% AMI)	28,050	32,050	36,050	40,050	43,300	46,500	49,700	52,900
		LOW-MODERATE (80% AMI)	44,900	51,300	57,700	64,100	69,250	74,400	79,500	84,650
SULLIVAN	\$74,700	VERY LOW (50% AMI)	27,000	30,850	34,700	38,550	41,650	44,750	47,850	50,900
		LOW-MODERATE (80% AMI)	43,200	49,350	55,500	61,650	66,600	71,550	76,450	81,400
UNION	\$90,400	VERY LOW (50% AMI)	30,350	34,700	39,050	43,350	46,850	50,300	53,800	57,250
		LOW-MODERATE (80% AMI)	48,550	55,500	62,450	69,350	74,900	80,450	86,000	91,550

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**CONTRACTOR CERTIFICATE OF  
COMPLIANCE  
SECTION 3**

Economic Opportunities for Section 3 Residents and Section 3 Business Concerns

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 USC §1701u) ("**Section 3**"). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted developments covered by Section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, including persons who are recipients of HUD assistance for housing, with a preference for both targeted workers living in the service area or neighborhood of the Development and YouthBuild participants, as defined at 24 CFR Part 75 ("**Section 3 Regulations**").

The parties to this Contract agree to comply with HUD's regulations in 24 CFR part 75, 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 75 regulations.

The Award Recipient, Contractor, or Development Owner agrees to send to each labor organization or representative of workers with which the Award Recipient, Contractor, or Development Owner has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Award Recipient, Contractor, or Development Owner's commitments under this section of the Contract and will post copies of the notice in conspicuous places at the worksite where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference and shall set forth the following: (i) minimum number and job titles subject to hire, (ii) availability of apprenticeship and training positions, (iii) qualifications for each, (iv) name and location of the person(s) taking applications for each of the positions, and (v) the anticipated date the work shall begin.

The Award Recipient, Contractor, or Development Owner agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in Section 3 Regulations and agrees to take appropriate action, as provided in an applicable provision of the subcontract in this Section 3 clause, upon a finding that the subcontractor violates the regulations in Section 3 Regulations. The Award Recipient, Contractor, or Development Owner will not subcontract with any subcontractor where the Award Recipient, Contractor, or Development Owner has notice or knowledge that the subcontractor has been found in violation of the regulations in Section 3 Regulations.

The Award Recipient, Contractor, or Development Owner will certify that any vacant employment positions, including training positions, that are filled (i) after a contractor is selected but before the Contract is executed, and (ii) with persons other than those to whom the regulations of Section 3 Regulations require employment opportunities to be directed, were not filled to circumvent the Award Recipient, Contractor, or Development Owner's obligations under Section 3 Regulations.

Noncompliance with HUD's regulations in Section 3 Regulations may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD- assisted contracts.

The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing. The requirements of Part 75 apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

To complete the Project, it is also estimated that the CONTRACTOR may use lower tier subcontracts for 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 shall comply with the OWNER'S Section 3 Action Plan.

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Signature/CONTRACTOR

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**SUBCONTRACTOR CERTIFICATE OF  
COMPLIANCE  
SECTION 3**

Economic Opportunities for Section 3 Residents and Section 3 Business Concerns

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 USC §1701u) ("**Section 3**"). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted developments covered by Section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, including persons who are recipients of HUD assistance for housing, with a preference for both targeted workers living in the service area or neighborhood of the Development and YouthBuild participants, as defined at 24 CFR Part 75 ("**Section 3 Regulations**").

The parties to this Contract agree to comply with HUD's regulations in 24 CFR part 75, 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 75 regulations.

SUBCONTRACTOR agrees to send to each labor organization or representative of workers with which the SUBCONTRACTOR has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the SUBCONTRACTOR's commitments under this section of the Contract and will post copies of the notice in conspicuous places at the worksite where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference and shall set forth the following: (i) minimum number and job titles subject to hire, (ii) availability of apprenticeship and training positions, (iii) qualifications for each, (iv) name and location of the person(s) taking applications for each of the positions, and (v) the anticipated date the work shall begin.

SUBCONTRACTOR agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in Section 3 Regulations and agrees to take appropriate action, as provided in an applicable provision of the subcontractor in this Section 3 clause, upon a finding that the subcontractor violates the regulations in Section 3 Regulations. SUBCONTRACTOR will not subcontract with any subcontractor where the Award Recipient, Contractor, or Development Owner has notice or knowledge that the subcontractor has been found in violation of the regulations in Section 3 Regulations.

SUBCONTRACTOR will certify that any vacant employment positions, including training positions, which are filled (i) after a subcontractor is selected but before the Contract is executed, and (ii) with persons other than those to whom the regulations of Section 3 Regulations require employment opportunities to be directed, were not filled to circumvent the SUBCONTRACTOR'S obligations under Section 3 Regulations.

Noncompliance with HUD's regulations in Section 3 Regulations may result in sanctions, termination of this Subcontract for default, and debarment or suspension from future HUD- assisted contracts.

The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing. The requirements of Part 75 apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

To complete the Project, it is also estimated that the SUBCONTRACTOR may use lower tier subcontracts for 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 SUBCONTRACTOR shall comply with the OWNER'S Section 3 Action Plan.

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Signature/SUBCONTRACTOR



**PRIME CONTRACTOR  
SUBCONTRACTOR LISTING**

**SHALL BE SUBMITTED PRIOR TO FINAL PAYMENT**

PRIME CONTRACTOR'S NAME:	PROJECT NAME:				
ADDRESS:	FEDERAL EMPLOYER IDENTIFICATION NUMBER:				
EMAIL:					
TELEPHONE:	CHECK WITH TYPE OF CONTRACT APPLIES BELOW:				
	GENERAL	PLUMBING	ELECTRICAL	MECHANICAL	OTHER
CONTACT PERSON:					

SUBCONTRACTOR	ADDRESS/TELEPHONE/EMAIL	FEIN	AWARD DATE	DOLLAR AMOUNT OF CONTRACT



By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third-party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

### Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner, but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

### Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third-party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third-party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a), or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a) J—

A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

## Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

## Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/Businesses](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign, and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.**

You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.**

You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABL accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee <sup>1</sup> The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

\*Note: The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records From Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.**

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask

taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

## PART IV - CONTRACT CONDITIONS

### SECTION 1 – GENERAL

#### 1.1 DEFINITIONS

Wherever used in the Contract, the following terms have the meanings indicated.

- 1.1.1 *Addenda*: Written or graphic instruments issued prior to the opening of Bids which clarify, modify, correct, interpret, or change the Bidding Requirements or Contract Documents.
- 1.1.2 *Agreement (or Contract Agreement)*: The written contract between the OWNER and the CONTRACTOR covering the Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof as provided therein.
- 1.1.3 *Architect or Architect/Engineer*: The architect or engineer authorized by the OWNER as its technical and/or design representative for the Project.
- 1.1.4 *Bid*: The offer or proposal of the bidder submitted on the prescribed form, setting forth the prices for the Work to be performed.
- 1.1.5 *Bidder*: Any person, firm or corporation submitting a bid for the Work.
- 1.1.6 *Bidding Documents*: The advertisement or invitation to Bid, instructions to bidders, the Bid form, and the proposed Contract Documents (including all Addenda).
- 1.1.7 *Bonds*: Bid, Performance, Payment and Maintenance Bonds and other instruments of security furnished by the CONTRACTOR and his/her surety in accordance with the Contract Documents.
- 1.1.8 *Change Order*: A written order to the CONTRACTOR authorizing an addition, deletion, or revision in the Work within the general scope of the Contract Documents or authorizing an adjustment in the Contract Price or Contract Time.
- 1.1.9 *Contract Documents*: The Agreement, Addenda, CONTRACTOR's Bid, the Notice to Proceed, the Bonds, the Contract Conditions, the Federal Requirements, the State Requirements, the Specifications (General, Detail or Technical) and the Drawings, together with all written amendments, Change Orders, field orders and written interpretations and/or clarifications.
- 1.1.10 *Contract Price*: The monies payable by the OWNER to the CONTRACTOR for completion of the Work in accordance with the Contract Documents as stated in the Agreement.
- 1.1.11 *Contract Time*: The number of days or the dates stated in the Agreement: 1) to achieve Substantial Completion; and 2) to complete the Work so that it is ready for final payment as evidenced by the Architect's or Engineer's written recommendation of final payment.



- 1.1.12 *CONTRACTOR*: The person, firm or corporation with whom the OWNER has entered into the Agreement.
- 1.1.13 *Drawings (or Contract Drawings or Plans or Contract Plans)*: The Drawings which show the scope, extent, and character of the Work to be furnished and performed by the CONTRACTOR. Shop drawings are not Drawings as so defined.
- 1.1.14 *Engineer or Architect/Engineer (A/E)*: The engineer or architect authorized by the OWNER as its technical and/or design representative for the Project. Wherever the term "Engineer" is used, it shall mean Engineer or Architect or other design professional acting as the OWNER's representative, as applicable.
- 1.1.15 *Field Order*: A written order effecting a change in the Work not involving an adjustment in the Contract Price or an extension of the Contract Time issued by the engineer to the CONTRACTOR during construction.
- 1.1.16 *Lump Sum Price*: The amount bid as a single item for the Work complete and ready to use.
- 1.1.17 *Materials*: Materials incorporated or to be incorporated into the Contract Work or to be used in the operation of the completed improvements.
- 1.1.18 *Minority Business Enterprise (MBE)*: A for-profit business concern that is one of the following:
1. A sole proprietorship, owned and controlled by a minority; or
  2. A partnership or joint venture controlled by minorities in which 51% of the beneficial ownership interest is held by minorities; or
  3. A corporation or other business enterprise controlled by minorities in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by minorities.
- 1.1.19 *Minority Person*: Persons who are citizens of the United States and who are African Americans, Hispanic Americans, Native Americans, or Asian-Pacific Americans.
- 1.1.20 *Notice of Award*: The written notice of the acceptance of the Bid from the OWNER to the successful bidder.
- 1.1.21 *Notice to Proceed*: A written notice given by the OWNER (or its representative) to the CONTRACTOR fixing the date on which the Contract Times will commence to run; and on which the CONTRACTOR shall start to perform its obligations under the Contract Documents.
- 1.1.22 *OWNER*: The public body or authority, corporation, association, firm or person with whom the CONTRACTOR has entered into the Agreement and for whom the Work is to be provided.
- 1.1.23 *Plans*: (see "Drawings").
- 1.1.24 *Project*: The undertaking to be performed as provided in the Contract Documents.
- 1.1.25 *Resident Project Representative*: Any authorized representative of the OWNER who is assigned to the Project site or any part thereof, including the ENGINEER and the ENGINEER's authorized representative.
- 1.1.26 *Shop Drawings*: All drawings, diagrams, illustrations, brochures, schedules, and other data which are prepared by the CONTRACTOR, a subcontractor, manufacturer, supplier, or distributor, which illustrate how specific portions of the Work shall be fabricated or installed.

- 1.1.27 *Section 3 Business Concern-* means a business concern:
1. That is 51 percent or more owned by Section 3 residents.
  2. Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents within three years of the date of first employment were Section 3 residents; or
  3. That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in (1) or (2) above.
- 1.1.28 *Section 3 Resident:* means:
1. A public housing resident; or
  2. An individual who resides in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended, and who is:
    - a) A low-income person, as this term is defined in Section 3(b)(2) of the 1937 Act [42 U.S.C. 1437a(b)(2)]. Section 3 (b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 percent of the median income for the area.
    - b) A very low-income person, as this term is defined in Section 3(b)(2) of the 1937 Act [42 U.S.C. 1437a(b)(2)] defines this term to mean families (including single persons) whose incomes do not exceed 50 percent of the median income for the area.
- 1.1.29 *Specifications:* A part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards, and workmanship.
- 1.1.30 *Subcontractor:* An individual, firm or corporation having a direct contract with the CONTRACTOR or with any other subcontractor for the performance of a part of the Work at the site.
- 1.1.31 *Substantial Completion:* The Work (or a specified part thereof) has progressed to the point where, in the opinion of the ENGINEER (as evidenced by a definitive certificate of substantial completion), it is sufficiently complete so that the Work or specified part can be utilized for the purposes intended. Use of this term is referenced to the "Public Works Contract Regulation Law," Act No. 317 of 1978 as amended by Act. No. 200 of 1982.
- 1.1.32 *Supplemental Unit Prices:* The unit prices included on the CONTRACTOR's Bid which apply to increasing or decreasing the Project quantities on the basis of Unit Price payment. (See "Unit Price").
- 1.1.33 *Supplementary Conditions:* The part of the Contract Documents which amends or supplements these Contract Conditions.
- 1.1.34 *Supplier:* A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with the CONTRACTOR or with any subcontractor to furnish materials or equipment to be incorporated into the Work.
- 1.1.35 *Underground Facilities:* All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and

drainage removal, traffic or other control systems, or water. Use of this term is referenced to the "Pennsylvania Underground Utility Line Protection Law," Act No. 287 of 1974 as amended by Act 121 of 2008 et. seq.

- 1.1.36 *Unit Price*: Any price bid under the respective items of the Proposal Form, whether such price be per unit of measurement, per each or per lump sum.
- 1.1.37 *User*: When used in relationship to a utility, shall mean the utility owner or utility operator. Use of this term is referenced to the "Pennsylvania Underground Utility Line Protection Law," Act No. 287 of 1974 as amended by Act 121 of 2008 et. seq.
- 1.1.38 *Women's Business Enterprise (WBE)*: A for-profit business concern that is:
  - 1. A sole proprietorship, owned and controlled by a woman; or
  - 2. A partnership or joint venture controlled by women in which at least 51% of the beneficial ownership is held by women; or
  - 3. A corporation or other business enterprise controlled by women in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by women.
- 1.1.39 *Work*: The entire construction or the various, separately identifiable parts thereof, required to be furnished under the Contract Documents. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials and equipment into the construction, and performing or furnishing services and furnishing documents, all as required by the Contract Documents.
- 1.1.40 *Written Notice*: Any notice to any part of the Agreement relative to any part of this Contract in writing and considered delivered and the service thereof completed when posted by Certified or Registered Mail to the said party at his/her last given address or delivered in person to said party or his/her authorized representative on the Work.

Wherever, in the Contract Documents, the word "directed," "required," "permitted," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation or prescription of the OWNER or ENGINEER is intended; and, similarly, the words "approved," "acceptable," "satisfactory," or words of like import shall mean approved by, acceptable to, suitable to or satisfactory to the OWNER or ENGINEER in each case.

Wherever in the Contract Documents the words "supervision," or "superintendence," or words of like import are used, it shall be understood that supervision or superintendence by the CONTRACTOR is intended.

## 1.2 SCOPE OF WORK

The Work to be done under this Contract, as shown on the Contract Plans and Specifications, shall include the furnishing and complete installation of all materials and any other necessary Work required for proper completion, operation, and use of the facilities.

All of the equipment, materials and labor that may be necessary to complete the Work and place it in satisfactory operation, implied or intended in the Plans and Specifications, shall be furnished and/or installed without extra cost to the OWNER.

The titles or headings of the various divisions, sections, paragraphs, subparagraphs or of Drawings, and the Table of Contents and the indices, as used in any of the Contract Documents are for convenience of reference only and are not intended to limit and shall not be construed as in any way limiting the application of the text.

## SECTION 2 – CONTRACT AND CONTRACT DOCUMENTS

### 2.1 GENERAL

The Contract Documents comprise the following documents, including all additions, deletions and modifications incorporated therein before the execution of the Contract Agreement.

### 2.2 BIDDING DOCUMENTS

Bidding Documents issued by the OWNER to assist bidders in preparing their proposals include:

- 2.2.1 Advertisement for Bids (or Invitation for Bids)
- 2.2.2 Information for Bidders (or Instructions to Bidders)
- 2.2.3 Proposal Form or "Bid" - The offer of a bidder to perform the Work described by the Contract Documents made out and submitted on the prescribed Proposal Form, properly signed, and guaranteed.
- 2.2.4 Bid Security - A cashier's check, certified check, or Bid Bond shall accompany the Proposal Form submitted by the bidder as a guaranty that the bidder will enter into an Agreement with the OWNER for the construction of the Work if the Contract is awarded to him/her.
- 2.2.5 Addenda to Contract Documents - Any addenda issued during the time of bidding or forming a part of the Contract Documents in the possession of the bidder for the preparation of his/her Proposal, shall be covered in the Proposal Form and shall be made a part of the Contract. Receipt of each Addendum shall be acknowledged in the Proposal Form, and a receipted copy shall be submitted with the Bid.
- 2.2.6 Any certifications, forms, affidavits or required attachments to the Bid as required by the Contract Documents.

### 2.3 CONTRACTUAL DOCUMENTS

- 2.3.1 Agreement (or Contract Agreement) covers the performance of the Work described in the Contract Documents, including all supplemental addenda thereto and all general and special specifications and provisions pertaining to the Work or materials therefore. The Agreement also includes any required certifications, forms, affidavits or required attachments submitted by the CONTRACTOR as a part of his/her Bid.
- 2.3.2 Bonds - The CONTRACTOR shall, before the time of his/her execution of the Contract Agreement, furnish bonds in a form prescribed by the OWNER and with a Surety Company authorized to do business in the State where the Work is located as follows:
  - 1) Performance Bond in an amount equal to one hundred percent of the Contract Amount as a guarantee of good faith on the part of the CONTRACTOR to execute the Work in accordance with the terms of the Contract.
  - 2) Labor and Material Payment Bond in an amount equal to one hundred percent of the Contract Amount as a guarantee of good faith on the part of the CONTRACTOR to make all payments for labor and material in connection with the Contract.
  - 3) Insurance policies or certificates as specified.

## 2.4 PLANS AND SPECIFICATIONS

The intent of the Plans and Specifications is that the CONTRACTOR shall furnish all labor, materials, equipment, and transportation necessary for the proper execution of the Work, unless specifically noted otherwise. The CONTRACTOR shall do all the Work outlined in the Contract Documents and all incidental Work necessary to complete the Project in a substantial and acceptable manner, and fully complete the Work or improvement, ready for use, occupancy, and operation by the OWNER.

Any discrepancies found between the Drawings and Specifications and site conditions or any inconsistencies or ambiguities in the Drawings or Specifications shall be immediately reported to the ENGINEER, who shall promptly correct such inconsistencies or ambiguities in writing. Any Work done by the CONTRACTOR after his/her discovery of such discrepancies, inconsistencies or ambiguities shall be done at the CONTRACTOR's risk.

Each requirement appearing in any one of the Contract Documents is as binding as though it were repeated or shown in every one of the Documents. In case of any discrepancy or conflict between or among two or more of said documents, except as otherwise ruled by the OWNER, figured dimensions shall control scaled dimensions, larger scale superseding smaller scale, Plans shall control Specifications, and, in general, a special or detail specification shall control a general or standard specification or plan relative to the same subject.

In any and all cases of discrepancy in figures, Drawings or Specifications, the matter shall be submitted immediately by the CONTRACTOR to the ENGINEER for his/her decision.

## 2.5 NOTICE OF CHANGE OF ADDRESS

It shall be the duty of each party to advise the other parties to the Contract Agreement by written notice as to any change in his/her business address until completion of the Contract.

## 2.6 ASSIGNMENT OF CONTRACT

Neither the CONTRACTOR nor the OWNER shall sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof, or of his/her right, title or interest therein, or his/her obligations thereunder, without written consent of the other party.

## 2.7 MODIFICATION OF CONTRACT

### 2.7.1 Changes Initiated by OWNER

If changes are necessary to carry out and complete more fully or perfectly the Work to be performed under the Contract, the Contract may be modified. The Contract may only be changed by written order of the OWNER. The CONTRACTOR shall acknowledge, in writing, the receipt of every such order. If the changes increase the cost of performing the Work, the increased cost shall be paid by the OWNER. If such changes reduce the cost of performing the Work, the amount of such reduction shall be credited to the OWNER. No consequential loss of profit on Work not executed shall be paid to the CONTRACTOR.

The amount of compensation to be paid to the CONTRACTOR or credited to the OWNER for any changes to the Contract, as so ordered, shall be determined as indicated in Subsection 2.7.3, "Basis for Determination of Additional Compensation."

## 2.7.2 Changes Initiated by CONTRACTOR

Required Notices and Authorization - If the CONTRACTOR encounters conditions which may, in his/her opinion, require a change in the Contract or result in a claim for additional compensation, the CONTRACTOR shall give immediate written notice to the OWNER of such conditions, and perform no additional Work affected by such conditions until a written order is issued by the OWNER and accepted by the CONTRACTOR.

No claims for additional compensation will be made or allowed for any affected Work performed prior to approval by the OWNER.

Claims for additional compensation shall be made in accordance with this Paragraph and Paragraph 7.8, "Requests for Extra Compensation."

The amount of compensation to be paid to the CONTRACTOR or credited to the OWNER for any changes to the Contract, as so ordered, shall be determined as indicated in Subsection 2.7.3, "Basis for Determination of Additional Compensation."

## 2.7.3 Basis for Determination of Additional Compensation

- 1) When additional compensation is due the CONTRACTOR or when a credit is due the OWNER for changes to the Contract, the amount of such additional compensation or credit shall be determined as follows:
  - a) By such applicable unit prices, if any, as are set forth in the Contract Documents; claims for additional compensation shall be accompanied by itemized information showing the location of the extra Work and the quantity of each item for which the CONTRACTOR requests payment. The location shall reference the construction, stationing, street names and property owners; or
  - b) By a lump sum mutually agreed upon by the OWNER and the CONTRACTOR; or
  - c) If no such unit prices are so set forth and if the parties cannot agree upon a lump sum, then by the cost (or in the case of credit - the estimated cost) to the CONTRACTOR for the materials, labor, and equipment.
- 2) These costs shall be calculated in accordance with Pennsylvania Department of Transportation Publication 408, latest edition, for extra work performed on a force account basis as follows:
  - a) Labor - Wages of forepersons; equipment operators; and skilled, semi-skilled, and common laborers directly assigned to the specific operation will be reimbursed as direct labor at contract or actual payroll rate of wages per hour and actual fringe benefits paid, for each hour that such employees are actually engaged in the performance of the authorized Work and, if directed, overtime as provided by existing laws and regulations.
  - b) Indirect labor cost added to the direct labor cost will be allowed as follows: Social Security Tax at the percentage legally required; Unemployment Tax at the percentage legally required; Workers' Compensation Insurance at the policy percentage rate; Contractor's Public Liability Insurance at the policy percentage rate; and Contractor's Property Damage Liability Insurance at the policy percentage rate, including coverage for damage due to blastings and explosions, when additional coverage is secured on Projects requiring blasting.
  - c) Material - The cost of material used will be reimbursable at the actual cost of material, including applicable tax and transportation charges, as shown on invoices.

- d) Equipment - Reasonable rental rates for equipment, including machinery and trucks, mutually considered necessary, will be allowed and computed as follows: For equipment, either rented or owned, including pumps and compressors, an hourly rental rate will be determined using the monthly rental rates taken from the current edition of the Rental Rate Blue Book for Construction Equipment and dividing by 176. An allowance will be made for operating costs for every hour the machinery or equipment is operating, in accordance with rates listed in the rental book. If machinery or equipment is required at the Work site, but is not operating, compensation will be at the hourly rental rate, exclusive of operating costs.

The daily rental rate for equipment used for maintenance and protection of traffic (signs, flashers, barricades, drums, etc.) on a 24-hour basis will be determined by dividing the monthly rental rate by 22.

To the above rates, add the predominant area adjustment percentage for the State as shown on the area adjustment map in the Rental Rate Blue Book for Construction Equipment.

In the case of machinery or equipment not in the Rental Rate Blue Book for Construction Equipment, a monthly rate will be computed on the basis of 6% of the manufacturer's list price for sale (new) of such equipment; the hourly rate in this case will be determined by dividing the monthly rate by 160, when actually operating, and by 176, when at Work site but not operating, with no percentage added. For equipment used for maintenance and protection of traffic signs, flashers, barricades, drums, etc. with no rate listed in the Rental Rate Blue Book for Construction Equipment, use a daily rate computed on the basis of 6% of the manufacturer's list price for the sale (new) of this equipment, divided by 22, with no percentage added.

- e) Services by Others - For any service such as maintenance and protection of traffic signing, engineering, or specialized construction analysis not considered as subcontract work requiring prequalification, the CONTRACTOR will be compensated at the invoice price plus 2% to cover administration and all other costs.
- f) Insurance - When Railroad's Protective Public Liability Insurance or Railroad's Protective Property Damage Liability Insurance are required by the Contract, reimbursement of insurance premium paid will be allowed at the policy premium rate.

"Special" railroad insurance, not covered by the CONTRACTOR's Protective Public Liability and Property Damage Liability Insurance, will be indicated in the Contract.

No allowance will be made for CONTRACTOR's Protective Public Liability and Property Damage Liability Insurance in the case of subcontracting, although such protection may be specified.

- g) Subcontract - For Work to be performed by a subcontractor, payment will be the actual and reasonable cost of the subcontracted work, computed on the foregoing basis, as authorized, and accepted in writing.
- h) Overhead and Profit - To cover all administration, general superintendence, other overhead, bonds, insurance, anticipated profit, and use of small tools and equipment, for which no rental is allowed, add 25% to the labor cost, the material cost, the equipment cost and, when applicable, add 2% to the total force account

invoice for subcontract work.

**Note: The calculation for Overhead and Profit described in (g) above is based upon PennDOT's formula contained in Publication 408.**

- 3) Claims for additional compensation shall be accompanied by itemized records showing the following items:
  - a) Labor - Name, classification, date, daily hours, total hours, rate, and extension for each foreperson; equipment operator; skilled, semi-skilled, and common laborer. (Add to this invoice or payroll transcript the percentage rates paid, for appropriate tax and insurance items.)
  - b) Material - Quantities of material by name, price, and extensions, including applicable tax and transportation charges.
  - c) Equipment - Designation, date, daily hours, total hours, rental rates, and extension for each item of equipment, including machinery and trucks.
  - d) Summary - Summarize labor, material, equipment costs, overhead and profit, insurance premiums and subcontractor costs, including overhead and profit. Accompany and support statements by invoices for all material used, taxes and transportation charges. Furnish an affidavit certifying that costs for material being charged are the actual costs of material used in the Work. File the required statements during the month following that in which the Work was performed.

#### 2.7.4 Requests for Payment

Requests for additional compensation shall be made in accordance with this Paragraph and with Paragraph 7.8, "Requests for Extra Compensation".

This Paragraph may be modified by the Standard and Detail Specifications (if any) which apply to this Contract.

#### 2.7.5 Emergencies

The provisions hereof shall not affect the power of the CONTRACTOR to act in case of emergency, as herein provided.

### 2.8 ORAL AGREEMENTS

No oral order, objection, claim or notice by any party to the others shall affect or modify any of the terms or obligations contained in any of the Contract Documents, and none of the provisions of the Contract Documents shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing, and no evidence shall be introduced in any proceeding of any other waiver or modification.

## **SECTION 3 – INSURANCE, BONDS AND RELATED MATTERS**

### 3.1 CONTRACTOR'S LIABILITY INSURANCE

The CONTRACTOR shall purchase and maintain, from a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, such comprehensive liability and other insurance as is appropriate for the Work being performed and furnished and as will provide protection



from claims set forth below which may arise out of or result from CONTRACTOR's performance and furnishing of the Work and CONTRACTOR's other obligations under the Contract Documents, whether it is to be performed or furnished by CONTRACTOR, any subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform or furnish any of the Work, or by anyone for whose acts any of them may be liable:

- a) claims under workers' compensation, disability benefits and other similar employee benefits acts;
- b) claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees;
- c) claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees;
- d) claims for damages insured by customary personal injury liability coverage which are sustained: (1) by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR, or (2) by any other person for any other reason;
- e) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and
- f) claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle.

Umbrella and/or Excess Liability Insurance - In addition to the insurance requirements itemized in this Section, the CONTRACTOR shall provide "Excess Liability" coverage of \$1 million. If the CONTRACTOR intends to use his/her "Excess Liability" policy to meet the other specified insurance limits, the "Excess Liability" policy must be increased accordingly. If the total of the required underlying policies and the excess limits are met, all requirements will be satisfied.

No XCU Exclusions - Any XCU exclusions shall be deleted from the policy and full coverage shall be included for property damage liability for explosion hazards, collapse hazards and underground property damage hazards.

The policies of insurance so required by this paragraph to be purchased and maintained shall:

- a) include as additional insureds (subject to any customary exclusion in respect of professional liability) OWNER, ENGINEER, ENGINEER's Consultants and any other persons or entities identified in the Contract Documents, all of whom shall be listed as additional insureds, and include coverage for the respective officers and employees of all such additional insureds;
- b) include the specific coverages and be written for not less than the limits of liability provided herein or required by Laws or Regulations, whichever is greater;
- c) include completed operations insurance;
- d) include contractual liability insurance covering CONTRACTOR's indemnity obligations under this contract;
- e) contain a provision or endorsement that the coverage afforded will not be cancelled, materially changed or renewal refused until at least thirty days' prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured identified to whom a certificate of insurance has been issued (and the certificates of

insurance furnished by the CONTRACTOR pursuant to paragraph 3.2 will so provide);

- f) remain in effect at least until final payment and at all times thereafter when CONTRACTOR may be correcting, removing, or replacing defective work; and
- g) with respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment (and CONTRACTOR shall furnish OWNER and each other additional insured identified to whom a certificate of insurance has been issued evidence satisfactory to OWNER and any such additional insured of continuation of such insurance at final payment and one year thereafter).

### 3.2 OWNER'S LIABILITY INSURANCE

In addition to the insurance required to be provided by CONTRACTOR under this section, OWNER, at OWNER's option, may (but is not obligated to) purchase and maintain, at OWNER's expense, OWNER's own liability insurance as will protect OWNER against claims which may arise from operations under the Contract Documents.

### 3.3 PROPERTY INSURANCE

Unless otherwise provided in the Contract Documents, CONTRACTOR shall purchase and maintain property insurance, from a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, in the full amount of the contract on a replacement cost basis (subject to such deductible amounts as may be approved by the OWNER or required by Laws and Regulations). This insurance shall:

- a) include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and any other persons or entities identified in the Contract Documents, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;
- b) be written on a Builder's Risk "All-Risk" or open peril or special causes of loss policy form, and shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work and work in transit, and shall insure against at least the following perils: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and such other perils as may be specifically required by the Contract Documents;
- c) include expenses incurred in the repair or replacement of any insured property (including, but not limited to, fees and charges of engineers and architects);
- d) cover materials and equipment stored at the site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by ENGINEER; and
- e) be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER, CONTRACTOR, and ENGINEER, with thirty days' written notice to each other additional insured identified and to whom a certificate of insurance has been issued.
- f) OWNER may purchase and maintain such additional property insurance as he/she deems necessary or as required by Laws and Regulations which will include the

interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and any other persons or entities identified in the Contract Documents, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained will contain a provision or endorsement that the coverage afforded will not be cancelled or materially changed or renewal refused until at least thirty days' prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured identified to whom a certificate of insurance has been issued, and will contain waiver provisions in accordance with paragraph 3.4.

OWNER shall not be responsible for purchasing and maintaining any property insurance to protect the interests of CONTRACTOR, Subcontractors, or others in the Work.

### 3.4 WAIVER OF RIGHTS

OWNER and CONTRACTOR intend that all policies purchased in accordance with this section will protect OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and all other persons or entities identified to be listed as insureds or additional insureds in such policies and will provide primary coverage for all losses and damages caused by the perils covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage, the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. OWNER and CONTRACTOR waive all rights against each other and their respective officers, directors, employees and agents for all losses and damages caused by, arising out of, or resulting from any of the perils covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, ENGINEER, ENGINEER's

Consultants and all other persons or entities identified to be listed as insureds or additional insureds under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by OWNER as trustee or otherwise payable under any policy so issued.

In addition, OWNER waives all rights against CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and the officers, directors, employees, and agents of any of them, for:

- a) loss due to business interruption, loss of use or other consequential loss extending beyond direct physical loss or damage to OWNER's property, or the Work caused by, arising out of, or resulting from fire or other peril, whether or not insured by OWNER; and
- b) loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril covered by any property insurance maintained on the completed Project or part thereof by OWNER during partial utilization, after substantial completion, or after final payment.

Any insurance policy maintained by OWNER covering any loss, damage or consequential loss referred to in this paragraph shall contain provisions to the effect that in the event of payment of any such loss, damage or consequential loss, the insurers will have no rights of recovery against any of CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and the officers, directors, employees, and agents of any of them.

3.5 RECEIPT AND APPLICATION OF INSURANCE PROCEEDS

Any insured loss under the policies of insurance required herein will be adjusted with OWNER and made payable to OWNER as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause. OWNER shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged work shall be repaired or replaced, the monies so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.

OWNER, as fiduciary, shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within fifteen days after the occurrence of loss to the OWNER's exercise of this power. If such objection is made, OWNER, as fiduciary, shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, OWNER, as fiduciary, shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, OWNER, as fiduciary, shall give bond for the proper performance of such duties.

3.6 LIMITS OF INSURANCE COVERAGE

The CONTRACTOR will furnish the following minimum limits of insurance coverage, unless otherwise specified in the Detail Specifications:

General Liability	
Bodily Injury	\$1,000,000
Property Damage	\$1,000,000
Automobile Liability	
Combined Single Limit	\$1
,000,000 Excess Liability	\$1
,000,000	
Workers' Compensation	Statutory
Employer's Liability	\$ 100,000
Property Insurance: Builder's Risk "All-Risk"	

Applicable to projects involving structures: Limit of coverage will correspond to the amount of the contract less any agreed to uninsurable portions of the Work, as approved by the OWNER. In cases of projects involving utility lines or other work on which Builder's Risk policies are normally not written, the CONTRACTOR will furnish an "All-Risk" Installation Floater which provides coverage for all materials stored or installed. Such insurance will provide coverage until said materials have been installed, tested, and placed in operation by OWNER. Such insurance may have a deductible clause, but the amount of deductible shall not exceed One Thousand Dollars (\$1,000.00).

Special Hazards Insurance

When the Work involves occupancy of railroad right of way, highway right of way, use of marine equipment or Work in navigable waterways, or any other special hazard, adequate liability insurance

shall be provided by the CONTRACTOR as required by the railroad or the regulatory agency or governmental body having jurisdiction over the Work site(s). In the case of railroad protective insurance, the conditions of the License Agreement between the OWNER and the railroad will be fully met by the CONTRACTOR's insurance, with such special insurance certificates or "additional insureds" as may be required. In the case of occupancy of PennDOT right of way, the CONTRACTOR will furnish all certificates required by PennDOT, on the form(s) prescribed by PennDOT.

### 3.7 PARTIAL UTILIZATION--PROPERTY INSURANCE

If OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, the insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be cancelled or permitted to lapse on account of any such partial use or occupancy.

### 3.8 INDEMNIFICATION

The CONTRACTOR shall waive any right of contribution and shall indemnify and hold harmless the OWNER, its agents and employees, and the ENGINEER, from and against all claims, damages, losses and expenses, including attorney's fees arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense 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. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this agreement.

In any and all claims against the OWNER or ENGINEER or any of their agents or employees and consultants by any employee of the CONTRACTOR, subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under the foregoing paragraph 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 workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

"Claims, damages, losses and expenses", as these words are used in this agreement, shall be construed to include, but not be limited to: (1) injury or damage consequent upon the failure of or use or misuse by CONTRACTOR, its subcontractors, agents, servants or employees, of any hoist, shoring, rigging, blocking, scaffolding or any and all other kinds of items of equipment whether or not the same be owned, furnished or loaned by OWNER; (2) all attorney's fees and costs incurred in bringing an action to enforce the provisions of this indemnity agreement; and (3) time expended by the party being indemnified and their employees, at their usual rates plus costs of travel, long distance telephone and reproduction of documents.

Any provision of this Paragraph in respect of indemnification which is prohibited or unenforceable by law in the State in which the Work, or other performance described in this Contract is cited, shall be ineffective to the extent of such prohibition or unenforceability and shall not invalidate the remaining provisions of this Paragraph or this Contract.

### 3.9 SURETY BONDS

All Bonds will be taken out with a corporate surety that is acceptable to the OWNER and is authorized to do business in the State where the Work is to be performed.

All Bonds shall be in the form prescribed by law or regulation or by the Contract Documents and be executed by such sureties as are named either in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department or in the

current edition of the "Surety List" of licensed companies published by the Commonwealth of Pennsylvania Insurance Department, Company Division System. All Bonds signed by an agent must be accompanied by a certified copy of the Authority to act, dated concurrent with the Bond.

If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in any State where any part of the Project is located or it ceases to meet the requirements above, the CONTRACTOR shall within five days thereafter substitute another Bond and Surety, both of which must be acceptable to the OWNER.

### 3.9.1 Performance and Payment Bonds

Before execution of the Contract Agreement, the CONTRACTOR shall furnish to the OWNER the following bonds which shall become binding upon the awarding and execution of the Contract Agreement:

- 1) Performance Bond: At one hundred percent of the final Contract amount conditioned upon the faithful performance of the Contract, in accordance with the Plans, Specifications and conditions of this Contract. Such bond shall be solely for the protection of the OWNER.
- 2) Payment Bond: At one hundred percent of the final Contract amount, such Bond shall be solely for the protection of individuals, firms, corporations, partnerships, and associations supplying labor or materials to the CONTRACTOR or to any of his/her subcontractors in the prosecution of the Work provided for in the Contract and shall be conditioned for the prompt payment of all such material furnished or labor supplied or performed in the prosecution of the Work.

### 3.9.2 Maintenance Bond

At the time of final acceptance of the Project construction and prior to final payment, the CONTRACTOR will, unless otherwise indicated in the Detail Specifications, be required to furnish the OWNER with a one-year Maintenance Bond in the amount of one hundred percent of the final contract amount covering the guarantee for one year for any required or necessary maintenance or repairs on the completed Project or necessary maintenance of highway surface or base.

### 3.9.3 Consent of Surety to Final Payment

At the time of final acceptance of the Project construction and prior to final payment, the CONTRACTOR will be required to provide a Consent of Surety to Final Payment from the Surety which issued the Performance and Payment Bonds, accompanied by a properly executed Power of Attorney, and indicating that all claims for labor and material on the Project have been satisfied and the Surety consents to have the final payment released to the CONTRACTOR.

## **SECTION 4 – RESPONSIBILITY OF THE ENGINEER**

### 4.1 GENERAL

The ENGINEER shall decide questions which may arise as to the quality and acceptability of materials furnished, Work performed, rate of progress of Work, interpretation of Plans and Specifications and all questions as to the acceptable fulfillment of the Contract Agreement on the part of the CONTRACTOR. The duties and responsibilities of the ENGINEER as set forth herein shall not be extended except through written consent of the ENGINEER and the OWNER.

### 4.2 OBSERVATION OF THE WORK

All materials and each part or detail of the Work shall be subject at all times to observation by the

ENGINEER and the OWNER, and the CONTRACTOR will be held strictly to the intent of the Contract Documents in regard to quality of materials, workmanship, and the diligent execution of the Contract. Observations may be made at the site or at the source of material supply, whether mill, plant, or shop. The ENGINEER shall be allowed access to all parts of the Work and shall be furnished with such information and assistance by the CONTRACTOR as is required to make his/her observations.

#### 4.3 ACCEPTANCE OF WORK

The ENGINEER's decision as to the acceptability or adequacy of the Work shall be final and binding upon the CONTRACTOR. The CONTRACTOR agrees to abide by the ENGINEER's decision relative to the performance of the Work.

#### 4.4 ENGINEER IS OWNER'S REPRESENTATIVE

The ENGINEER shall be the OWNER's representative during the construction period. The ENGINEER will make periodic visits to the site to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. He/She will not be required to make exhaustive or continuous on-site inspections or examinations to check the quality or quantity of the Work. His efforts will be directed toward providing assurance for the OWNER that the completed Project will conform to the requirements of the Contract Documents. On the basis of his/her on-site observations as an experienced and qualified design professional, he/she will keep the OWNER informed of the progress of the Work and will endeavor to guard the OWNER against defects and deficiencies of the Work of CONTRACTOR. The ENGINEER will not control the Work performed by the CONTRACTOR and will not be responsible for the construction means, methods, techniques, sequences or procedures, or the safety precautions and programs incident thereto, and he/she will not be responsible for the CONTRACTOR's failure to perform the Work in accordance with the Contract Documents. The ENGINEER will not be responsible for the acts or omissions of the CONTRACTOR, or any subcontractors, or any of his/her or their agents or employees, or any other persons performing any of the Work. The ENGINEER will not perform or be responsible for any hiring, firing, supervision, superintendence, direction of personnel, use of equipment or the direction of the manner or method employed by the CONTRACTOR, his/her subcontractors, agents, servants or employees, nor will the ENGINEER or his/her representatives be liable for any claims, suits, damages or liability from any omission or commission by the CONTRACTOR, his/her subcontractors, agents, servants or employees or any other entity in and during the construction or occurring thereafter or resulting from or incidental to the Work of CONTRACTOR, his/her subcontractors, agents, servants or employees on said Project.

### **SECTION 5 – OWNER'S RIGHTS AND RESPONSIBILITIES**

#### 5.1 LANDS AND RIGHTS OF WAY

The OWNER will furnish the necessary lands, rights of way and occupancy permits as are required for the Contract Work, also all lawful authority that may be necessary for approved crossings or occupation of lands or railroads, roads, streets, or alleys upon which the Contract Work will be done. The OWNER shall also pay all costs or fees associated with the obtaining of all lands, rights of way and occupancy permits, except for inspection fees levied by others.

All property rights of way surveys, unless otherwise specified, shall be furnished by the OWNER.

#### 5.2 PERMITS

Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the OWNER, unless otherwise specified.

#### 5.3 BASE LINES AND GRADES

The OWNER, prior to the start of the Work, will furnish basic offset lines or points for structures and basic

centerline data, if required, for pipelines and sewers or drains. A system of elevation benchmarks, or accurate points of elevation shall also be furnished by the OWNER.

#### 5.4 OWNER'S RIGHT TO CORRECT DEFICIENCIES

Upon failure to perform the Work in accordance with the Contract Documents, and after five days' written notice to the CONTRACTOR, the OWNER may, without prejudice to any other remedy he/she may have, direct the CONTRACTOR not to correct the Work and the OWNER may then correct such deficiencies in Work intended to become a permanent part of the Project.

#### 5.5 UNDERGROUND STRUCTURES

The OWNER does not obligate himself/herself that the location, number, size, character, or condition of any underground structures shown on the Contract Plans, such as sewers, water lines or underground structures of public utility companies or others, are correct. Information shown on the Contract Plans as to such underground structures is based on such information as has been obtained from records, surveys, and other sources. The Bidder shall make his/her own independent investigations of these conditions, and no claim for extra compensation will be considered except as may be permitted by the Standard Specifications or Detail Specifications covering the Work. (Reference Section 6.8)

#### 5.6 OWNER'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

5.6.1 The OWNER shall have the authority to suspend the Work, wholly or in part, for such period or periods as he/she may deem necessary due to unsuitable weather or such other conditions as are considered unfavorable to carrying out the provisions of the Contract, or to supplying materials meeting the requirements of the Contract Documents.

The Work or any portion thereof may be suspended at any time by the OWNER, provided that he/she gives the CONTRACTOR five days' written notice of suspension which shall set forth the date on which Work is to be resumed. The CONTRACTOR shall resume the Work upon written notice from the OWNER and within ten days after the date set forth in the notice of suspension. If the OWNER does not give written notice to resume Work within the ten days of the date fixed in the notice of suspension, the CONTRACTOR may abandon that portion of the Work so suspended and shall be entitled to payment only for that portion of the Work completed.

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/her property, and shall not be dismissed within twenty days after such appointment, or the proceedings in connection therewith shall not be stayed on appeal within said twenty days; or (c) the CONTRACTOR shall refuse or fail after notice or warning from the ENGINEER to supply 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 ensure 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, and in any such event, the OWNER, without prejudice to any other rights or remedy it may have, may, by ten days' notice to the CONTRACTOR, terminate the employment of the CONTRACTOR and his/her rights to proceed, either as to the entire Work or (at the option of the OWNER) 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 OWNER 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 damages for delay), such excess shall be paid to the CONTRACTOR. If such expense shall exceed such unpaid balance, the CONTRACTOR and his/her sureties shall be liable to the OWNER for such excess. If the right of the CONTRACTOR to proceed with the



Work is so terminated, the OWNER may take possession of, and utilize in completing the Work, such materials, appliances, supplies, plant, and equipment as may be on the site of the Work and necessary therefore. If the OWNER does not so terminate the right of the CONTRACTOR to proceed, the CONTRACTOR shall continue the Work.

5.6.2 Upon seven days' written notice to CONTRACTOR and ENGINEER, OWNER may, without cause and without prejudice to any other right or remedy of OWNER, elect to terminate this CONTRACT AGREEMENT. In such case, CONTRACTOR shall be paid (without duplication of any items) the following:

- 1) For completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
- 2) For expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
- 3) For amounts paid in settlement of terminated contracts with subcontractors, Suppliers, and others (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court and arbitration or other dispute resolution costs incurred in connection with termination of contracts with Subcontractors and Suppliers); and
- 4) for reasonable expenses directly attributable to termination.

CONTRACTOR shall not be paid on account of loss of anticipated profits or revenue or other economic loss or any consequential damages arising out of such termination.

5.6.3. If the OWNER terminates the Contract under the provisions of paragraph 5.6.1 and is later found to have terminated the Contract improperly, then the Contract shall be considered to have been terminated in accordance with paragraph 5.6.2.

## **SECTION 6 – CONTRACTOR'S RIGHTS AND RESPONSIBILITIES**

### **6.1 GENERAL**

All Work shall be done in strict accordance with the Contract Documents. Observations, construction reviews, tests, recommendations or approvals by the ENGINEER or persons other than the CONTRACTOR shall in no way relieve the CONTRACTOR of his/her obligation to complete all Work in accordance with the Contract Documents. All Work shall be done under the direct supervision of the CONTRACTOR. The CONTRACTOR shall be responsible for construction means, methods, techniques, and procedures; and for providing a safe place for the performance of the Work by the CONTRACTOR, subcontractors, suppliers; and their employees and for access, use, Work, or occupancy by all authorized persons.

The duties and obligations imposed by these Contract Documents and the rights and remedies available to the OWNER thereunder, shall be in addition to, and shall not be construed in any way as a limitation of, any rights or remedies which are otherwise imposed or available by law, or special guarantee or by other provisions of the Contract Documents.

## 6.2 APPLICABLE LAWS AND REGULATIONS

In all matters not otherwise specified, the Contract shall be subject to the applicable provisions of all Acts of Congress of the United States and of the State in which the Work is to be performed, the rules and regulations of the Federal and State governments, the building code and other ordinances of the municipality or other local authority in which the Work is located, and the requirements imposed by any required permits.

Whenever Federal and/or State grant funds are involved in a project, the CONTRACTOR will be required to comply with the regulations of all such funding agencies. He/She shall be required to submit all forms and certifications requested by such agencies and shall cooperate fully with all representatives of such agencies.

All Work performed for public bodies within the Commonwealth of Pennsylvania for construction, reconstruction, repair, or maintenance shall utilize only steel produced in the United States (in accordance with Act No. 3-1978, the "Steel Products Procurement Act").

Domestic Preferences for Procurements, 2 CFR 200.322 (a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. (b) For purposes of this section: (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) "Manufactured products" means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

PROHIBITION AGAINST POLITICAL ACTIVITIES: The CONTRACTOR makes assurances that it will comply with the Byrd Anti-Lobbying Amendment (31 U.S.C 1352) when applying or bidding for an award exceeding \$100,000 file the required certification under the Byrd Anti-Lobbying Amendment. Each tier certifies to the tier above that it will not and has not used Federal Appropriate funds to pay any person or organization for influencing or attempting to influence an officer or employee of an agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal Award. Such disclosures are forwarded from tier to tier up to DCED. (2 CFR Part 200 Appendix II (I)).

## 6.3 PERMITS, LICENSES AND CERTIFICATES

The CONTRACTOR shall procure all permits and licenses such as, but not limited to, permits authorizing the moving of heavy equipment, except as otherwise indicated, and shall pay all charges and fees and give all notices necessary and incident to the proper and lawful prosecution of the Work. He/She shall also obtain and supply to the OWNER all certificates required to show that the Work has been performed in accordance with the building, plumbing, electrical or other codes, rules, and regulations of local or other authorities, the Board of Fire Underwriters, or such other like bodies, as the Specifications may require directly or by implication. When the Work performed affects the property or facilities of public utility or other corporations or of private persons, he/she shall obtain from such corporations or persons, if required, statements that the Work has been performed satisfactorily so far as their interests are affected and that all claims therefore have been settled by the CONTRACTOR and deliver such statements to the OWNER.

When new construction is adjacent to or crosses highways, railroads, streets, or utilities under the jurisdiction of State, County, City or other public agency, public utility or private entity, the CONTRACTOR shall secure written permission from the proper authority before executing such new construction. A copy

of this written permission must be filed with the OWNER before any Work is done. The CONTRACTOR shall replace or repair all existing facilities damaged in the execution of this Contract. The CONTRACTOR will be required to furnish a release from the proper authority before final acceptance of the Work.

#### 6.4 STRUCTURES OR WORK IN NAVIGABLE STREAMS

The CONTRACTOR shall secure permits from the United States Government for any necessary construction Work or other activity relative to use of any navigable stream. Occupancy permits for permanent lines, structures or improvements will be obtained by the OWNER.

The CONTRACTOR shall place and maintain all signals required by the Federal Government or as otherwise ordered.

#### 6.5 PERMITS AND INSPECTION CHARGES

The OWNER shall be responsible for obtaining all occupancy permits and for the payment of all fees relative thereto required by the various issuing agencies for the installation and location of utility lines in the rights of way of roads, railroads, and other thoroughfares. The CONTRACTOR shall be responsible for compliance with all requirements and/or conditions set forth or established by Occupancy Permits obtained by the OWNER. The CONTRACTOR shall determine, in particular, the requirements relative to road, stream and railroad crossings. Charges for inspection, and inspection- related expenses levied by PennDOT, municipalities, counties, railroads, and other agencies will be paid by the CONTRACTOR unless otherwise indicated in the Detail Specifications.

The OWNER shall not be responsible for obtaining blasting permits. All efforts to obtain these permits and the costs associated therewith shall be the responsibility of the CONTRACTOR.

The CONTRACTOR shall comply with all current requirements and regulations of the Commonwealth of Pennsylvania, County, and local agencies having jurisdiction.

Any local road bonds required by counties or municipalities shall be furnished and paid for by the CONTRACTOR.

#### 6.6 PROJECT SIGNS

Unless specified otherwise in the Detail Specifications, the OWNER shall furnish, and the CONTRACTOR shall erect one (1) Project sign.

All CDBG projects will be required to construct or have constructed a sign which indicates that the project is funded in part or in whole from the Commonwealth of Pennsylvania, Community Development Block Grant program, with the exception of Housing Rehabilitation and Urgent Need grants. The following specifications are to be used for this signage:

- 1) Prior to start of construction the Project Sign to be provided and installed by the Contractor. The sign should be mounted to obtain the maximum public visibility. This is an eligible construction expense, which should be included in the bid specifications.
- 2) Upon completion of the work, the sign should be removed from the premises by the contractor.
- 3) Unless otherwise approved by the project architect or engineer, there should be no other signs, other than those required for labor standards, or advertising on the job site.
- 4) The following must be included on the signage:
  - a. Name of Project
  - b. Funded through a Community Development Block Grant

- c. Grant Number
- d. Provided by the U.S. Department of Housing and Urban Development
- e. As Administered by the Pennsylvania's Department of Community and Economic Development
- f. Name of Grantee with Contact Information.
- g. Name of Consultants: grant administrator (if different than Grantee), architect, engineer
- h. Name of Contractor(s) and Subcontractors, if applicable.
- i. Fair Housing Logo

The CONTRACTOR shall, in addition to the foregoing, provide all other signs in accordance with detailed instructions as required when any other Federal and/or State grants are involved in the Project. The CONTRACTOR shall protect and maintain the signs in good condition throughout the life of the Project.

#### 6.7 CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

If the Work shall be stopped by order of the OWNER or any public authority for a period of three months without act or default of the CONTRACTOR or any of his/her agents, servants, employees or subcontractors, the CONTRACTOR may, upon ten days' notice to the OWNER, discontinue his/her performance of the Work and/or terminate the Contract, in which event the OWNER shall pay the CONTRACTOR only for the Work performed.

#### 6.8 UNDERGROUND STRUCTURES

##### 6.8.1 Contractor's Bid

Regarding the anticipated or possible interference of existing utilities and other underground structures, the CONTRACTOR's bid is to be based upon the information shown on the Contract Drawings and/or described in the Specifications and/or which is visibly evident. However, the CONTRACTOR must realize that the information regarding existing utilities contained in the Plans and Specifications may be incomplete and inaccurate. Neither the OWNER nor ENGINEER make any warranty or representation that this information is accurate, and the CONTRACTOR assumes all risks that the underground structures and utilities as shown may be inaccurate and that other structures and/or utilities than those shown or described may be encountered. The CONTRACTOR hereby distinctly agrees that the OWNER is not responsible for the correctness or sufficiency of any such information given. The CONTRACTOR must, as part of this Contract, make his/her own independent utility investigations and must locate all known existing utilities and underground structures without reliance on the information given in the Plans and Specifications. The CONTRACTOR shall make no claim for delay or damages against the OWNER or ENGINEER on account of or incorrectness of information given, or on account of the insufficiency or absence of information regarding structures or utilities either revealed or not revealed by the Drawings or Specifications.

##### 6.8.2 Pennsylvania Underground Utility Line Protection Law - Act 287 of 1974 as amended by Act 121 of 2008 et. seq.

###### 1) General

The CONTRACTOR shall adhere to all the requirements of Pennsylvania Underground Utility Line Protection Law, Act No. 287 of 1974 as amended by Act 121 of 2008 et. seq. A summary of the CONTRACTOR's responsibilities under the Act is as follows:

It shall be the duty of each CONTRACTOR who intends to perform excavation or demolition Work within the Commonwealth of Pennsylvania:

- a) To ascertain types and locations of all USERS' lines at the site of the excavation.
- b) To obtain or ensure that the OWNER has obtained all necessary permits.
- c) Not less than three nor more than ten working days prior to the day of beginning such Work, to notify each USER of the CONTRACTOR's intent to perform such Work at its site or sites, and to request the USERS to mark the location of the underground lines at the site. If the CONTRACTOR intends to perform Work at multiple sites or over a large area, he/she shall take reasonable steps to work with USERS so that they may locate their facilities at a time reasonably in advance of actual start of excavation or demolition work at each site. The CONTRACTOR shall be deemed to have given notice under the Act if he/she calls the Pennsylvania One-Call System.
- d) To exercise due care, and to take all reasonable steps necessary to avoid injury to or otherwise interfere with all lines where locations have been provided to the CONTRACTOR by the USERS in accordance with the Act. If accurate information is not available, the CONTRACTOR shall employ prudent techniques to ascertain the precise position of such facilities.
- e) If the USER fails to respond to the CONTRACTOR's timely request within two workdays, or the USER notifies the CONTRACTOR that the line cannot be marked within that time frame and a mutually agreeable date for marking cannot be arrived at, the CONTRACTOR may proceed with excavation, providing he/she exercises due care in his/her endeavors.
- f) To inform each employee employed by him/her at the location of such Work of the information obtained by him/her. The CONTRACTOR and his/her employees shall:
  - (1) Plan the excavation to avoid damage to or minimize interference with the USERS' facilities in the construction area. Excavation which requires temporary or permanent interruption of a USER's service shall be coordinated with the affected USER in all cases.
  - (2) After consulting with each USER, provide such support for USERS' lines in the construction area, including during backfilling operations, as may be reasonably necessary for the protection of such utilities.
- g) To report immediately to the USER any break or leak on its lines, or any dent, gouge, groove, or other damage to such lines or to their coating or cathodic protection, made or discovered in the course of the excavation or demolition work.
- h) To alert immediately the occupants of premises as to any emergency that may be created or discovered at or near such premises.
- i) The time requirements of Paragraph (c) above shall not apply to the CONTRACTOR when performing excavation work in an emergency;

nonetheless, all USERS must be notified as soon as possible before, during or after excavation, depending upon the circumstances.

- j) The CONTRACTOR shall give such notices as are called for above through the Pennsylvania One-Call system.
  - k) A CONTRACTOR shall use the color white to mark a proposed excavation site.
- 2) Utilities which are Covered by Pennsylvania Act No. 287 of 1974 as amended by Act 121 of 2008 et. seq.

In complying with Paragraph 1) (a) above, the CONTRACTOR shall, in addition to noting all utilities shown on the Contract Plans, inspect the list of USERS on file with the County and shall contact each of the listed USERS to determine the types and locations of all USERS' lines at the site of the excavation. The Pennsylvania One-Call System may be utilized in obtaining this information.

- 3) Utilities Not Covered by Pennsylvania Act No. 287 of 1974 as amended by Act 121 of 2008 et. seq.

Underground structures and facilities including those not subject to Pennsylvania Act No. 287 of 1974 as amended by Act 121 of 2008 et. seq. but which are either indicated on the Plans or are mentioned in the Detail Specifications or can be assumed to exist because of visible evidence in the vicinity of the proposed Work, shall be accurately located by the CONTRACTOR prior to performing any excavation (other than test holes). The CONTRACTOR shall not rely solely on the Pennsylvania One-Call System in obtaining information relating to utilities not covered by Pennsylvania Act No. 287 of 1974 as amended.

### 6.8.3 Subsurface Exploration by Contractor

It shall be the responsibility of the CONTRACTOR to determine the exact location of all existing underground structures and utilities such as pipes, drains, sewers, electric lines, telephone lines, cable TV lines, gas lines and water lines, and the character of all soil materials and conditions before actual construction commences. In addition to any requirements imposed by law, the CONTRACTOR is responsible to perform such subsurface excavation and/or other investigations as will fully inform him/her of the location of all underground structures and utilities, and the character of all soil materials and conditions.

### 6.8.4 Protection of Existing Utilities

The CONTRACTOR shall exercise extreme care to protect all buried, surface, and aerial utilities and utility service connections encountered during the Work. All facilities and utilities shall be assumed to be in use. The CONTRACTOR shall contact all USERS where utilities are indicated on the Contract Drawings, in the Specifications, are on file with the County, or can otherwise reasonably be expected to exist. After confirmation of the exact location of the existing facilities by the USER, the CONTRACTOR may proceed with the Work. If a USER fails to locate its facilities, the CONTRACTOR shall use prudent techniques (including hand dug test holes) to locate said USER's facilities. All existing utilities and service connections damaged by the CONTRACTOR shall be repaired or replaced by the CONTRACTOR or the USER to the satisfaction of the USER and the OWNER and at no additional expense to the OWNER.

The CONTRACTOR shall be responsible for and bear all costs of protecting all structures and utilities, both above the ground and below the ground, within and outside the right of way, and all costs of any required relocation of any structures or utilities and shall repair any damage to any structure or utility to the satisfaction of the USER thereof at no additional expense to the OWNER.

The CONTRACTOR shall have the responsibility of providing special means to brace and hold the telephone poles and electric power poles in place during the construction.

Materials for temporary support, adequate protection and maintenance for all underground and surface utility structures, drains, sewers, and other obstructions encountered in the progress of the Work shall be furnished by the CONTRACTOR at his/her own expense.

#### 6.8.5 Obstructions by Underground Utilities and Structures

Where the grade or alignment of a new pipeline or a new structure is obstructed by existing utility structures such as conduits, ducts, pipes, branch connections to main sewers, or main drains, the obstruction shall be permanently supported, relocated, removed, or reconstructed by the CONTRACTOR in cooperation with the USERS of such utility structures.

If a design profile is part of the Contract, no deviation shall be made from the profile except with the consent of the OWNER.

Existing pipes or conduits crossing the trench or otherwise exposed shall be adequately braced and supported to prevent trench settlement from disrupting the line or grade of the pipe or conduit, all in accordance with the directions of the USER and OWNER. Utility services broken or damaged shall be repaired at once to avoid inconvenience to customers. Storm sewers shall not be interrupted overnight. Temporary arrangements, as satisfactory to the OWNER and USER, may be used until any damaged items can be permanently repaired. All items damaged or destroyed by construction and subsequently repaired must be properly maintained by the CONTRACTOR until accepted by the USER.

#### 6.8.6 Relocation of Existing Utilities

Where it is necessary to relocate an existing utility or structure, the Work shall be done in such a manner as is necessary to restore it to a condition equal to that of the original facility. No such relocation shall be done until approval is received from the USER or owner of the utility or structure being changed.

#### 6.8.7 Additional Compensation for Adjustments Due to Underground Utilities and Structures

The CONTRACTOR shall not make any claim for additional compensation for utility adjustments or adjustments to the Project as designed on account of underground utilities or underground structures unless the CONTRACTOR first meets the following conditions:

- 1) The CONTRACTOR must have complied with Pennsylvania Act No. 287 of 1974 as amended by Act 121 of 2008 et. seq. and these Specifications in locating all utilities shown on the Contract Drawings, indicated in the Detail Specifications, on file with the County, or which can be assumed to exist because of visible evidence in the vicinity of the Work.
- 2) The CONTRACTOR must have notified the OWNER of a potential claim for extra compensation prior to performing any work for which such claim may be made and shall have received instructions from the OWNER regarding the method of proceeding with the Work. If the CONTRACTOR fails to notify the OWNER, then the entire cost of protecting the utility, repairing the utility, relocating the utility, or relocating the new pipeline shall be borne by the CONTRACTOR.
- 3) The CONTRACTOR must provide evidence that the location of an underground structure or utility is substantially different from the location as shown on the Contract Plans and will interfere with the construction of the Project to the extent that the Project cannot be constructed as designed. The phrase "substantially different" shall, for the purposes of this

Paragraph, be defined to mean more than 18 inches horizontally from the location indicated on the Contract Plans. If, and only if, the Contract Plans include a profile of the proposed facility and the assumed exact location of the existing utility or underground structure is shown on that profile, then the phrase "substantially different" shall be expanded to include those existing utilities or underground structures which occupy the same vertical space as the proposed facility was designed to occupy.

The CONTRACTOR shall make no claim for any additional compensation whatsoever regarding interference, repair or relocation of an existing utility or underground structure if the utility or underground structure is shown in the proper location on the Plans, is described in detail (not just included in a list) in the Specifications, or its exact location can be obtained from visible evidence in the vicinity of the Work.

The CONTRACTOR shall make no claim, and no such claim will be approved, for delays resulting from interference by utilities.

6.9 SURVEYS

Based upon the information provided by the OWNER, the CONTRACTOR shall develop and make all detailed surveys necessary for construction, including slope stakes, batter boards, stakes for pile locations and other working points, lines, and elevations. The CONTRACTOR shall carefully preserve benchmarks, reference points and stakes, and, in the case of destruction thereof by the CONTRACTOR or resulting from his/her negligence, the CONTRACTOR shall be charged with the expense and damage resulting therefrom and shall be responsible for any mistakes that may be caused by the loss or disturbance of such benchmarks, reference points and stakes.

6.10 LANDS BY CONTRACTOR

Any land and access thereto not specifically shown to be furnished by the OWNER that may be required for temporary construction facilities or for storage of materials shall be provided by the CONTRACTOR with no liability to the OWNER. The CONTRACTOR shall confine his/her apparatus and storage to such additional areas as they may provide at his/her expense. Releases shall be obtained by the CONTRACTOR, with copies to the OWNER, from owners of property so utilized.

6.11 PRIVATE AND PUBLIC PROPERTY

In no case shall the CONTRACTOR remove fences or buildings or trespass in any way upon private property without first having entered into an agreement with the owner of the property for such privileges and having filed a certified copy of same with the OWNER. Such agreement shall contain a provision whereby the CONTRACTOR is given the right to remove or level down any unsightly pile or piles of material from excavation placed thereon by virtue of said agreement between the CONTRACTOR and the property owner. They shall be responsible for any damage to property due to extending embankment or cut beyond the limits indicated by the slope stakes. They shall take all proper precautions to preserve all adjacent public and private property, and shall protect all land, monuments, and property markers until the same have been properly referenced. Where the construction operation necessarily interferes with access to adjoining private property, the CONTRACTOR, at his/her own expense, shall provide other suitable means of access. Releases shall be obtained by the CONTRACTOR, with copies to the OWNER, from owners of property so utilized.

6.12 REPORTS, RECORDS AND DATA

The CONTRACTOR and each of his/her subcontractors shall submit to the OWNER such schedules of quantities and costs, schedules, payrolls, reports, estimates, records, and other data as the OWNER may request, relative to the Work under this Contract.



The CONTRACTOR shall, at all times, keep at the site of the Work at least one copy of the Plans and Specifications for use in the guidance of the Work and for reference purposes by the ENGINEER's or OWNER's representatives.

#### 6.13 MATERIALS AND EQUIPMENT – SOURCES OF SUPPLY

The CONTRACTOR shall furnish only materials and equipment which conform to the Specifications and any Addenda thereto. Immediately after signing the Contract Agreement the CONTRACTOR shall furnish to the ENGINEER a complete statement of the origin, composition, manufacture, and proposed sources of supply for all materials and equipment required for this Work, whether supplied by the CONTRACTOR or by any subcontractor. The statement shall include the CONTRACTOR's certification that all materials and equipment will conform to the Specifications. In addition, the CONTRACTOR shall provide six copies of installation, operation, and maintenance instructions for each piece of equipment to be furnished. Substitution of alternate equipment to that specified may be requested by the CONTRACTOR, but such request shall include a change in Contract Price for furnishing and installation of such equipment, together with all pertinent equipment specifications.

When required by the Specifications, shop drawings for equipment shall be submitted to the ENGINEER for his/her review. Shop drawings shall be accompanied by the CONTRACTOR's certification that they have reviewed and checked the shop drawings and found them to conform to the Specifications.

The CONTRACTOR shall submit promptly to the ENGINEER six copies of each shop or setting drawing prepared in accordance with the schedule predetermined as aforesaid. After examination of such drawings by the ENGINEER and the return thereof, the CONTRACTOR shall make such corrections to the drawings as have been indicated and shall furnish the ENGINEER with six corrected copies. If requested by the ENGINEER, the CONTRACTOR must furnish additional copies. Regardless of corrections made to such drawings by the ENGINEER, the CONTRACTOR will nevertheless be responsible for the accuracy of such drawings and for their conformity to the Plans and Specifications, unless he/she notifies the ENGINEER in writing of any deviations at the time he/she furnishes such drawings.

#### 6.14 EXAMINATION AND TESTING

All materials and workmanship, if not otherwise stipulated, shall be subject to inspection, examination and testing by the ENGINEER and other authorized representatives of the OWNER at all times before, during or after preparation, during the progress of the Work, or after the Work is completed. The CONTRACTOR, upon request, shall furnish samples of any and all materials in such quantities as may be required properly to determine their quality and suitability for use in Work to be done under this Contract.

All required tests of materials shall be paid for by the CONTRACTOR, unless otherwise indicated. The selection of bureaus, laboratories and/or agencies for the inspection and testing of supplies, materials or equipment shall be subject to the approval of the OWNER. Satisfactory documentary evidence that the materials have passed the required inspection and tests must be furnished to the OWNER.

All materials entering permanent structures upon which the strength, life or durability depends, shall be tested. The CONTRACTOR shall supply proof of and guarantee the fitness of the materials for the uses to which he/she places them. In general, tests shall be performed by a reputable commercial testing laboratory acceptable to the ENGINEER. Where small quantities of such materials are required, certified tests of the manufacturer will be accepted if made by a qualified person in his/her employ and the reports carry his/her notarized signature. The extent of testing is more fully outlined in the Contract Documents.

#### 6.15 SPECIFIED BRANDS OF MATERIALS

All materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the instructions of the applicable manufacturer, fabricator, or processors, except as otherwise provided in the Contract Documents.

Whenever a material, article or piece of equipment is identified on the Plans or in the Specifications by reference to manufacturers' or vendors' names, trade names, catalogue numbers and such other, it is intended merely to establish a standard; and any material, article or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article or equipment so proposed is, in the opinion of the ENGINEER, of equivalent substance and function. It shall not be purchased or installed by the CONTRACTOR without the ENGINEER's written acceptance.

If it is indicated in the Specifications that the CONTRACTOR may furnish or use a substitute that is equivalent to any material or equipment specified, and if the CONTRACTOR wishes to furnish or use a proposed substitute, he/she will promptly, after the award of the Contract, make written application to the ENGINEER for acceptance of such a substitute certifying in writing that the proposed substitute will perform adequately the duties imposed by the general design, be similar and of equivalent substance to that specified and be suited to the same use and capable of performing the same function as that specified. No substitute shall be ordered or installed without the written acceptance by the ENGINEER who shall be the judge of equality.

The cost of all tests and expenses of the ENGINEER in witnessing tests and modifying Plans to suit approved substitute equipment shall be borne by the CONTRACTOR. Should it be necessary to modify the Work under this Contract or any other Contract to house or install the substitute equipment, it shall be the CONTRACTOR's responsibility to complete all arrangements, including payment, therefore, in order that the substitute equipment may be properly incorporated into the overall contract Work.

#### 6.16 TITLE TO MATERIALS

The CONTRACTOR or subcontractor shall not furnish any material for the Work that is subject to a chattel mortgage or subject to conditions or interest retained by the seller. The material or equipment must be free of all encumbrances.

All surplus materials and equipment removed or replaced under this Contract shall become the property of the CONTRACTOR unless otherwise indicated in the Detail Specifications.

When requested, the CONTRACTOR shall furnish to the OWNER a Release of Liens from the CONTRACTOR (as prime contractor) and Releases of Liens from Subcontractors and Material Suppliers. Said releases shall be on forms provided by the OWNER and shall be executed by officers having the authority to do so on behalf of the named entity and shall be properly notarized.

#### 6.17 PATENTS, ROYALTIES AND LICENSES

The CONTRACTOR shall hold and save harmless the OWNER and its officers, agents, servants, and employees from liability of any nature or kind, including cost and expenses for or on account of any patent or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the OWNER, unless otherwise specifically stipulated in the Contract documents.

License and/or royalty fees for the use of a process which is authorized by the OWNER must be reasonable and paid to the holder of the patent or his/her authorized licensees directly by the OWNER and not by or through the CONTRACTOR.

If the CONTRACTOR uses any design, device or material covered by letters patent or copyright, he/she shall provide for such use by suitable agreement with the owner of such patented or copyrighted design, device, or material. It is mutually agreed and understood, without exception, that the contract prices shall include all royalties or costs arising from the use of such design, device or materials in any way involved in the Work. The CONTRACTOR and/or his/her sureties shall indemnify and save harmless the OWNER from any and all claims for infringement by reason of the use of such patented or copyright design, device or materials, or any trademark or copyright in connection with Work agreed to be performed under this

Contract, and shall indemnify the OWNER for any cost, expense or damage which it may be obligated to pay by reason of such infringement at any time during the prosecution of the Work or after completion of the Work.

#### 6.18 SUPERVISION BY CONTRACTOR

The CONTRACTOR will supervise and direct the Work efficiently and with his/her best skill and attention. He/She will be solely responsible for the means, methods, techniques, sequences, and procedures of construction. The CONTRACTOR will be responsible to see that the finished Work complies accurately with the Contract Documents.

The CONTRACTOR will keep on the Work at all times during its progress as his/her agent, a competent English-speaking superintendent who shall not be replaced without written notice to the OWNER and ENGINEER, except under extraordinary circumstances. The superintendent will be the CONTRACTOR's representative at the site and shall have authority to act on behalf of the CONTRACTOR. All communications given to the superintendent shall be as binding as if given to the CONTRACTOR.

It is expressly understood that whenever the terms "superintendence" or "supervision" are used in these Contract Documents, they shall mean the superintendence or supervision provided by the CONTRACTOR. Any visits to the site by the ENGINEER, his/her representatives, the OWNER, his/her representatives, or the daily presence of the Resident Project Representative shall not be construed as superintendence or supervision of the Project. It is also expressly understood that all superintendence or supervision is provided by and is the sole responsibility of the CONTRACTOR.

The CONTRACTOR shall supply, at his/her own expense, all labor and materials, scaffolds, transportation, runways, water, connections, hoists, tools, structures, etc., of every kind and description, unless otherwise specified, that may be necessary for the completion of the Work.

The CONTRACTOR shall be responsible for the correlating and control of the various subcontractors and his/her own work, so that no part will be left in an unfinished condition owing to disagreement between the various subcontractors as to where the work of one begins and ends, with reference to the work of another. Should the work of one subcontractor require the cutting or repairing of the work of another subcontractor, the CONTRACTOR shall be responsible for the expense of all such requirements and alterations.

#### 6.19 CONTRACTOR RESPONSIBLE UNTIL WORK COMPLETED

The CONTRACTOR shall have charge of and be responsible for the entire Work until completed and accepted by the OWNER. He/She shall make no assignment of this Contract without the written consent of the OWNER. He/She shall give his/her personal supervision to the faithful prosecution of the Work; he/she shall keep it under his/her own control; and he/she shall have a competent representative or foreman on the Work who shall have full authority to bring about the orderly and efficient prosecution of the same in accordance with the Contract Agreement and to supply materials, tools, equipment, and labor without delay. However, the OWNER, upon request, will be permitted to use and/or operate all or a portion of the Project before final acceptance of same.

Neither the final certificate of payment nor any provision in the Contract Documents, nor partial or entire occupancy of the premises by the OWNER, shall constitute an acceptance of Work not done in accordance with the Contract Documents or relieve the CONTRACTOR of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The CONTRACTOR shall remedy any defects in the Work and pay for any damage to other work resulting therefrom, which shall appear within a period of two years or within such longer period as may be prescribed by Law or by the Detail Specifications from the date of final acceptance of the Work. The OWNER will give notice of observed defects within reasonable promptness.

All loss or damage arising out of the nature of the Work, or any damage to the Work itself to be done under this Contract or from any unforeseen obstructions or difficulties which may be encountered in the

prosecution of the same, or from the action of the elements, or from any cause or causes whatsoever, until the same shall have been finally accepted, shall be sustained, and paid for by the CONTRACTOR.

#### 6.20 LIGHT, HEAT, POWER, AND WATER

Unless expressly otherwise stated, the CONTRACTOR shall arrange for, supply, and maintain, at his/her own cost, all light, heat, power, and ample water supply required for the proper prosecution and completion of the Contract.

When the nature of the Work is such that its prosecution interrupts or interferes with existing lighting (including navigation signals), heating, power, or water facilities, unless otherwise expressly stated, the CONTRACTOR shall supply and maintain acceptable temporary facilities until the regular facilities again can function or until new facilities are in operation.

#### 6.21 SANITARY PROVISIONS

The CONTRACTOR shall provide and maintain such sanitary accommodations for the use of his/her employees and those of his/her subcontractors as may be necessary to comply with the requirements and regulations of the local and State Departments of Health. It shall be the duty of the CONTRACTOR to see that these regulations are enforced. He/She will be held responsible for damages due to failure to observe sanitary precautions.

#### 6.22 SAFETY PROVISIONS

In accordance with generally accepted construction practices, the CONTRACTOR shall be solely and completely responsible for conditions of the job site, including safety of all persons and property affected directly or indirectly by his/her operations during the performance of the Work. This requirement will apply continuously twenty-four hours per day until acceptance of the Work by the OWNER and shall not be limited to normal working hours. The CONTRACTOR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

- a) all persons on the Work site or who may be affected by the Work;
- b) all the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and
- c) other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and underground facilities not designated for removal, relocation, or replacement in the course of construction.

The duty of the ENGINEER to observe the CONTRACTOR's performance is not intended to include review of the adequacy of the CONTRACTOR's safety measures in, on or near the construction site.

If the ENGINEER observes a hazardous situation, he/she may, but will not have the duty to, report the hazardous situation to the CONTRACTOR, OWNER and/or any Federal, State, or local authority having jurisdiction over safety matters. If the ENGINEER does report such situation this shall not constitute assumption of responsibility for job safety in this or any other situation and the CONTRACTOR will remain solely responsible for the methods and means of construction and for safety conditions.

The CONTRACTOR and subcontractors shall comply with the U. S. Department of Labor Safety and Health Regulations for construction promulgated under the Occupational Safety and Health Act of 1970 (P.L. 91-596) and under Section 107 of the Contract Work Hours and Safety Standards Act (P.L. 91-54). In addition, the CONTRACTOR and subcontractors shall comply with the regulations of any State and/or Federal

agency having jurisdiction. The OWNER and/or ENGINEER will in no way be liable or accept liability for any defaults of the CONTRACTORS of the said standards set out in said legislation or regulations.

6.23 WORK DURING AN EMERGENCY

The CONTRACTOR shall perform any Work and shall furnish and install any materials and equipment necessary during an emergency endangering life or property. In all cases he/she shall notify the OWNER of the emergency as soon as practicable, but he/she shall not wait for instructions before proceeding to properly protect both life and property.

6.24 WARNING SIGNS AND BARRICADES

The CONTRACTOR shall provide adequate signs, barricades, red lights, and watchmen and take all necessary precautions for the protection of the Work and the safety of the public. All barricades and obstructions shall be protected at night by suitable signal lights which shall be kept burning from sunset to sunrise. Barricades shall be of substantial construction and shall be painted such as to increase their visibility at night. Suitable warning signs shall be so placed and illuminated at night as to show in advance where construction, barricades or detours exist.

6.25 PUBLIC CONVENIENCE

The CONTRACTOR shall, at all times, so conduct his/her Work as to ensure the least possible obstruction to traffic and inconvenience to the general public and the residents in the vicinity of the Work, and to ensure the protection of persons and property. No road or street shall be closed to the public except with the permission of the proper authorities. Fire hydrants on or adjacent to the Work shall be kept accessible to fire-fighting equipment at all times. The CONTRACTOR shall make temporary provisions to ensure the use of sidewalks and the proper functioning of all gutters, sewer inlets, drainage ditches and irrigation ditches which shall not be obstructed.

6.26 PROTECTION, SUPPORT AND MAINTENANCE OF STRUCTURES

The CONTRACTOR and subcontractors shall comply with Pennsylvania Act No. 287 of 1974 as amended by Act 121 of 2008 et. seq. which requires proper location of Underground Facilities and utilities prior to any excavation activity.

The CONTRACTOR shall so conduct his/her operations as not to damage existing structures or Work installed either by him/her or by other contractors. In case of any such damage resulting from his/her own operation, he/she shall repair and make good as new the damaged portions at his/her own expense.

The CONTRACTOR shall maintain the service of, shore up, sling, support, protect and make good, as directed, all water pipes, gas pipes, service pipes, sewers and sewer connections, conduits, manholes, drains, vaults, buildings, tacks or other structures and substructures of municipalities and public utility companies, and all service lines and structures, including substructures of private abutting owners that are located within the lines of the improvements which may be liable to disturbance or injury during the progress of the Work. He/She shall furnish and place all necessary supports and shall supply all labor and materials necessary to reconnect and restore to the condition existing at the time they were uncovered all such structures which became disturbed or damaged at his/her own expense.

Where underpinning or other removals are specified or where the safety of adjacent or adjoining structures require, the CONTRACTOR shall furnish all labor, material, and appliances for shoring. Shoring material shall be sound timber or of steel designed to safely carry the loads; shall be wedged in place to prevent movement of the structures or shoring; and shall be braced where necessary. The CONTRACTOR shall not transfer the load to be supported to the shoring until the same is approved by the OWNER, which approval shall not relieve the CONTRACTOR from any responsibility in connection with this Work. Shoring shall not be removed until the permanent Work is in proper condition to receive the load.

Where ground water exists in quantity or during heavy rains, floods or high water, the CONTRACTOR shall fill all completed or partially completed structures with water to prevent floating or damage to same, or shall provide other types of approved protection, including sewers and pipelines.

6.27 WEATHER CONDITIONS

If a temporary suspension of Work should occur during inclement weather, the CONTRACTOR shall carefully protect all Work and materials under his/her Contract against damage or injury from the weather. If, in the opinion of the ENGINEER, damage results to either the Work or materials by reason of failure on the part of the CONTRACTOR to protect his/her Work, such materials or Work will be removed and replaced by and at the expense of the CONTRACTOR.

6.28 PROTECTION AGAINST FREEZING

All concrete Work during cold weather shall be performed in strict accordance with the Standard Specifications relating to concrete Work.

During the winter months, the footings of all walls, piers and foundations shall be banked with at least two feet of straw and covered over with sand or loam. This protection shall be maintained until all danger from freezing has passed.

6.29 REMOVAL OF WATER

The CONTRACTOR shall at all times during the construction of the Work and at the completion for final inspection, provide and maintain ample means or equipment with which to promptly remove and properly dispose of all water entering the excavation or other parts of the Work, and keep said excavation dry until the structures to be built therein are completed. No masonry shall be laid in water and water shall not be allowed to rise over masonry until the concrete or mortar has set at least twenty-four hours. All water pumped or drained from the Work hereunder shall be disposed of in a suitable manner without damage to adjacent property or to other Work under construction, and in accordance with the provisions of these Contract Documents. Such sewers as are built as a part of this Contract may be used for the removal of water, under conditions acceptable to the ENGINEER, but such drains or outlets shall be left in a clean and satisfactory condition at the expiration of the Contract.

6.30 CONTRACTOR TO PROVIDE WATCHMEN

When the construction Work to be done under this Contract is in such proximity to important buildings, railroads, highways, or other structures that they may be endangered by slips or blasting, the CONTRACTOR shall provide and place such watchmen as may be required for the safety of persons and property and, in addition, as may be ordered. No additional compensation will be allowed the CONTRACTOR for the services or cost of any such watchmen.

When indicated in the Detail Specifications or when a series of losses or damage to the Work deems it necessary, the CONTRACTOR shall provide the services of a security guard or watchman during all times when Work is not in progress. In the case of a project wherein several contracts are required to complete the Work (e.g., general, mechanical, electrical, etc.), it shall be the responsibility of the General Contractor to provide the services of such watchmen or guards.

6.31 FIRES, SIGNS, LOADING AND REFUSE

The CONTRACTOR shall promulgate and enforce rules to prevent, and it shall be his/her duty to prevent:

6.31.1 the lighting of open fires in or near any structures;

6.31.2 the erection on or near the Work of any sign, billboard or advertisement by the CONTRACTOR or his/her subcontractors, except by written order or permission;

6.31.3 the loading of any part of a structure with a weight greater than it will safely bear; and

6.31.4 the leaving of any refuse on or in the vicinity of the Work which will attract mice, rats, or vermin.

## 6.32 USE OF PREMISES AND REMOVAL OF DEBRIS

The CONTRACTOR expressly undertakes, at his/her own expense:

- 6.32.1 To take every precaution against injuries to persons or damages to property;
- 6.32.2 to store his/her apparatus, materials, supplies and equipment in such orderly fashion at the site of the Work as will not unduly interfere with the progress of his/her Work or the Work of any other contractors;
- 6.32.3 to place upon the Work, or any part thereof, only such loads as are consistent with the safety of that portion of the Work;
- 6.32.4 to frequently clean up all refuse, rubbish, scrap materials, and debris caused by his/her operations, to the end that at all times the site of the Work shall present a neat, orderly, and workmanlike appearance;
- 6.32.5 before final payment, to remove all surplus material, false work, temporary structures, including foundations thereof, construction materials and tools of any description, and debris of every nature resulting from his/her operations, and to put the site in a neat, orderly condition;
- 6.32.6 to affect all cutting, fitting, or patching of his/her Work required to make the same to conform to the Plans and Specifications, and, except with the consent of the ENGINEER, not to cut or otherwise alter the Work of any other CONTRACTOR.

***Note: If adequate specifications on erosion and sedimentation control are contained in Technical Specifications, agencies may wish to delete the following section. If "Special Conditions" are normally inserted in contracts, this section may be included there.***

## 6.33 EROSION AND SEDIMENTATION CONTROL

### 6.33.1 Requirements for Erosion and Sedimentation Control

In the execution of this Work, the CONTRACTOR shall take suitable precautions to prevent erosion and siltation and any other int of the waters of the Commonwealth. Improper construction practices such as the following are specifically prohibited:

- Dumping of spoiled material into the stream or on the banks thereof where it may wash or slide into the stream;
- Excessive or unnecessary operation of equipment in the stream; Pumping of silt-laden water from excavations into the stream;
- Disposal of trees, brush, and other debris into the stream; and altering the flow line of the stream.

Work in streams will not be permitted until all necessary permits have been received by the OWNER, and the CONTRACTOR has agreed to said permit conditions.

All Work in the floodplain and stream areas shall be performed in accordance with the requirements established by the Pennsylvania Department of Environmental Protection, the County Conservation District and local municipality.

The Work in the floodplains shall be performed only when the stream is at or below normal level. The procedure to be followed for crossing the open channel portion of the stream is as follows:

A backhoe sitting off to one side of the stream will be used to excavate the trench across the stream. Random crossing of the stream will not be permitted. The flow will be diverted only to the extent necessary to perform the excavation.

The location of sanitary facilities over or adjacent to streams, wells or springs is prohibited.

All operations shall be conducted in such a manner to minimize turbidity in the stream at and below the site of the Work. The requirements on turbidity as established by the Pennsylvania Department of Environmental Protection shall be met.

Prior to blasting in the vicinity of a stream, the CONTRACTOR shall obtain a permit from the Pennsylvania Fish Commission, and the CONTRACTOR shall comply with the rules and regulations of said Commission governing the use of explosives.

The backfilling of the trench in which the pipe will be laid shall be done so as to eliminate the formation of a permanent ridge in the stream bed.

Installation of the pipeline shall proceed in such a manner as to expedite completion of the entire crossing as one operation to include removal of the excess material from the stream channel and the restoration and seeding of the disturbed bank areas.

The CONTRACTOR shall communicate with the Pennsylvania Fish Commission prior to starting the work and shall comply with the rules and regulations of said Commission relative to eliminating any objectionable turbidity during installation of the pipeline.

The CONTRACTOR shall reduce, by the greatest extent practicable, the area and duration of exposure of readily erodible soils.

The CONTRACTOR shall protect the soils by use of temporary vegetation or seeding and mulch, or by accelerating the establishment of permanent vegetation. Complete and protect segments of Work as rapidly as is consistent with construction schedules.

The CONTRACTOR shall retard the rate of runoff from the construction site and control disposal of runoff.

The CONTRACTOR shall trap sediment resulting from construction in temporary or permanent silt holding basins. This includes pump discharges resulting from dewatering operations.

The CONTRACTOR shall sprinkle or apply dust suppressors, or otherwise keep dust within tolerable limits on haul roads and at the site.

The CONTRACTOR shall use temporary bridges or culverts where fording of streams is necessary. Borrow areas should be at a location where pollution from the operation can be minimized. Locations should be avoided where pollution would be inevitable.

Should construction operations be suspended for any appreciable length of time, temporary measures for the control of erosion must be utilized.

Provision shall be made for protection against discharge of pollutants such as chemicals, fuel, lubricants, sewage, and such other materials into the stream.



### 6.33.2 Methods for Erosion and Sedimentation Control

Methods which shall be used to prevent erosion and resultant sedimentation are as follows:

- 1) No trees may be removed from stream banks.
- 2) Topsoil will be stripped, stockpiled, and protected.
- 3) Stone riprap will be placed on disturbed portions of stream banks at stream crossings in order to maintain the original alignment thereof.
- 4) Ditches will be backfilled as specified and brought to the original ground surface elevation, the top layers being from the stripped topsoil stockpile.
- 5) All usable sod and landscaping materials will be replaced on the excavation areas, or a seeding of ryegrass made on the fertilized backfill areas.
- 6) Critical Area Vegetation Stabilization - Critical areas are those in which cutting, filling, and grading soils with heavy equipment often result in the exposure of soils and subsoils. Certain conditions resulting from such exposure, such as acidity, low fertility, compaction, or dryness or wetness, which are unfavorable to plant growth, often prevail. Excessively long slopes and steep grades are often encountered or created. Water disposal structures are normally subjected to hydraulic forces requiring both special establishment techniques and grasses which have high resistance to scouring. However, plants and techniques are available to provide both temporary and permanent protective cover on these difficult sites. These are:

Temporary Measures - These involve seeding with fast growing annuals such as rye, ryegrass, Sudan grass or other locally adopted vegetation which provides quick protection yet can be worked into the soil when the site is prepared for final seeding of a permanent species. An alternative method is the application of mulch which can be removed, worked into the soil, or successfully over seeded with permanent grass and legume species. Seeding rate will be 4 pounds per 1,000 square feet and mulching rate will be 1 bale per 1,000 square feet for straw or 35 pounds per 1,000 square feet for fiber.

Materials that may be used as a mulch include straw, fiberglass, wood chips or fiber, mechanically sprayed asphalt wood fiber slurry, and plastics or other synthetics.

Permanent Vegetation - For both sodding and seeding, there is a fairly wide choice of grasses, legumes, and other plants for use on critical areas. The final choice of species should be determined by weighing such factors as adaptability, use, aesthetic requirements, a degree of maintenance that can be expected and other special considerations.

- 7) Diversions - A diversion consists of a channel or ditch and a ridge constructed across a sloping land surface on the contour, or with predetermined grades to intercept and divert surface run-off before it gains sufficient volume and velocity to create harmful erosion. The water is collected and conveyed laterally along the diversion at slow velocity and discharged into a protected area or outlet channel.

- 8) Bench Terraces - Bench terraces are relatively flat surfaces constructed on sloping land or embankments to planned dimensions and grades. Bench terraces are applied along the contour with the length and width controlled by the natural terrain and the required erosion limitations.
- 9) Sediment Basins - The construction of an earth fill type dam downstream from a development area serves to regulate runoff and trap sediment. The sediment can be removed mechanically as the storage space behind the dam becomes filled, or sufficient space may be built into the structure to provide storage for its useful life. The whole structure can be removed after stability is reached in the development area, or it can be retained and maintained to enhance the area.
- 10) Installation of Straw Bale Barriers - All protection devices shall be installed prior to the performance of any Work in the area and will be removed after completion of the Work.

The suitable precautions used will depend on the many variables encountered during construction. The ENGINEER will determine the method or methods to use to prevent erosion and the resultant siltation.

As the Work proceeds, the disturbed area shall promptly be graded in such a manner as to minimize erosion and shall be seeded with a type of vegetation accepted by the ENGINEER as appropriate to the site.

All areas on which grading and final preparations prior to seeding are completed after October 15<sup>th</sup> will be well mulched and protected from erosion until such time in the spring of the year when effective seeding can be undertaken.

Immediate stabilization upon temporary cessation of work, four (4) days or more, or as soon as any graded area reaches final grade. It is not acceptable to wait for an entire phase to be final graded before seeding and mulching takes place.

In addition, the principles stated in the Soil and Erosion and Sedimentation Control Handbook issued by the Pennsylvania Department of Environmental Protection, and as set forth in the Erosion and Sedimentation Control Plan prepared and approved for the Project, shall hereby be made a part of the Contract Documents as the guide and standards for the techniques to be followed for the control of erosion and sedimentation.

## 6.34 EMPLOYMENT REQUIREMENTS

### 6.34.1. Equal Employment Opportunity

- 1) The CONTRACTOR will be required to comply with Title VI and other applicable provisions of the Civil Rights Act of 1964; the Department of Labor Equal Opportunity Clause (41 CFR 60-1.4); the President's Executive Order 11246, 29 CFR Part 30, and all related laws, amendments, and regulations of the Federal and State governments as it relates to equal employment opportunity.
- 2) The CONTRACTOR shall not discriminate against any applicant for employment, employee or any independent CONTRACTOR or any other person because of race, color, religion, sex, national origin, sexual orientation, or gender identity.

- 3) The CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, religion, sex, national origin, sexual orientation, or gender identity. Such affirmative action shall include, but is not 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.
- 4) The CONTRACTOR shall post in conspicuous places, available to employees, agents, applicants for employment and other persons, notices setting forth the provisions of this nondiscrimination clause.
- 5) The CONTRACTOR shall in solicitations or advertisements placed by him/her, or on his/her behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, sexual orientation, or gender identity.
- 6) The CONTRACTOR shall send each labor union or workers' representative with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or worker's representative of his/her commitment to this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment. Similar notices shall be sent to every other source of recruitment utilized by CONTRACTOR.
- 7) It shall be no defense to a finding of a noncompliance with Executive Orders indicated in this Section or any Regulations issued pursuant to said Executive Orders of this nondiscrimination clause that the CONTRACTOR had delegated some of his/her employment practices to any union, training program or other source of recruitment which prevents him/her from meeting his/her obligations.
- 8) Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that the CONTRACTOR will be unable to meet his/her obligations under Executive Orders or any Regulations issued pursuant to said Executive Order or this nondiscrimination clause, the CONTRACTOR shall then employ and fill vacancies through other employment procedures without regard to their race, color, religion, sex, national origin, sexual orientation, or gender identity, taking affirmative action to obtain qualified minority group persons.
- 9) The CONTRACTOR shall comply with all rules, regulations and orders issued by Federal and State governments relating to laws prohibiting discrimination in hiring or employment opportunities. In the event of the CONTRACTOR's noncompliance with the nondiscrimination clause of this Contract or with any such rules, regulations or orders, this Contract may be cancelled, terminated, or suspended in whole or in part, and the CONTRACTOR may be declared ineligible for further contracts, and such other sanctions may be imposed, and remedies invoked as provided by rule, regulation, or order of Federal or State governments, or as otherwise provided by law.
- 10) The CONTRACTOR shall furnish all information and reports required by Federal or State governments and will permit access to his/her books, records, and accounts by appropriate agencies, for purposes of investigation to ascertain compliance with provisions of Executive Orders indicated in this Section or any Regulations issued pursuant to said Executive Orders or this nondiscrimination clause.
- 11) The CONTRACTOR shall actively recruit minority subcontractors or subcontractors with substantial minority representation among their employees.
- 12) The CONTRACTOR shall include the provisions of this section in every subcontract or purchase order, so that such provisions will be binding upon each subcontractor or vendor or other person.

- 13) The terms used in this nondiscrimination clause shall have the same meaning as in the Contract Compliance Regulations issued pursuant to Executive Order 1972-1 and Executive Order 11246.

#### 6.34.2 Employment of Local Labor

It shall be the CONTRACTOR's responsibility, to the maximum extent practicable, to provide new job opportunities for the unemployed and under-employed in the area in which the Project is located, and the CONTRACTOR shall insert a similar provision in each construction subcontract for this Project. Where federal funding is involved, certain efforts and information are mandated by Federal statute and by grant agency regulations.

#### 6.34.3 Minimum Wage Rates

The minimum wage rates for each craft or classification of all workers needed to perform this Contract during the anticipated term hereof shall, where applicable, be governed by either the "Davis-Bacon Act" (40 U.S. Code 276(a)) or the "Pennsylvania Prevailing Wage Act" (43 P.S. 165-1 to 165-17). The CONTRACTOR's attention is directed to these two statutes so that the applicable provisions of either of these Acts shall be strictly adhered to in the performance of this Contract. Failure to adhere to the applicable provisions of these Acts shall be sufficient grounds for the OWNER to declare this Contract in default or to terminate this Contract. Projects funded with funds which are federal in origin will be subject to the provisions of the Federal Labor Standards Provisions. The provisions of the Davis-Bacon Act (40 USC 276a-276a-5), the Contract Work Hours and Safety Standards Act (40 USC 327-333), and the Copeland Anti-Kickback Act (40 USC 276c) will be enforced upon the CONTRACTOR. Certain efforts and submittal of information is required by federal statute and regulation. The minimum wage rates applicable to all Contracts, are the responsibility of the CONTRACTOR, but are included herewith by the OWNER as a convenience only

#### 6.34.4 Pennsylvania Prevailing Wage Act

All Contracts having an estimated or actual construction cost in excess of \$25,000 performed within the Commonwealth of Pennsylvania which are not subject to the Walsh-Healey Act or the Davis-Bacon Act, shall be subject to the Pennsylvania Prevailing Wage Act.

For Contracts subject to the provisions of the Pennsylvania Prevailing Wage Act, the Prevailing Wage Predetermination shall become a part of the Contract and all of the provisions of said Act are included herein by reference.

The general prevailing minimum wage rates, including contributions for employee benefits, shall have been determined by the Secretary of Labor and Industry and must be paid to all workers employed in the performance of the Contract.

The CONTRACTOR shall pay no less than the wage rates as determined in the decision of the Secretary of Labor and Industry and shall comply with the conditions of the Pennsylvania Prevailing Wage Act, as amended, and the Regulations issued pursuant thereto to assure the full and proper payment of said rates. All workers shall be paid no less than such general prevailing minimum wage rates and such other provisions to assure payment thereof as heretofore set forth in these Specifications.

These provisions shall apply to all Work performed on the Contract by the CONTRACTOR, and to all Work performed on the Contract by all CONTRACTORS.

The CONTRACTOR shall insert in each of his/her subcontracts all of the stipulations contained in these required provisions and such other stipulations as may be required.

No workers may be employed on the public Work except in accordance with the classifications set forth in the decision of the Secretary. In the event that additional or different classifications are necessary, the procedure set forth in Section 7 of the Act shall be followed.

All workers employed or working on the public Work shall be paid unconditionally, regardless of whether any contractual relationship exists or the nature of any contractual relationship which may be alleged to exist between any CONTRACTOR, subcontractor and workers, not less than once a week without deduction or rebate, on any account, either directly or indirectly, except authorized deductions, the full amounts due at the time of payment, computed at the rates applicable to the time worked in the appropriate classifications. Nothing in the Contract, the Act, or these Specifications shall prohibit the payment of more than the general prevailing minimum wage rates as determined by the Secretary, to any workers on public Work.

The CONTRACTOR and each subcontractor shall post for the entire period of construction, the wage determination decisions of the Secretary, including the effective date of any changes thereof, in a prominent and easily accessible place or places at the site of the Work and at such place or places used by them to pay workers their wages. The posted notice of wage rates must contain the following information:

- (1) Name of Project.
- (2) Name of public body for which it is being constructed.
- (3) The crafts and classifications of workers listed in the Secretary's general prevailing minimum wage determination for the particular project.
- (4) The general prevailing minimum wage rates determined for each craft and classification and the effective date of any changes.
- (5) A statement advising workers that if they have been paid less than the general prevailing minimum wage rate for their job classification or that the CONTRACTOR and/or subcontractor are not complying with the Act in any manner whatsoever, they may file a protest in writing with the Secretary of Labor and Industry within three (3) months of the date of the occurrence, objecting to the payment to any CONTRACTOR to the extent of the amount or amounts due or to become due to them as wages for Work performed on the public Work Project. Any workers paid less than the rate specified in the Contract shall have civil right of action for the difference between the wage paid and the wages stipulated in the Contract, which right of action must be exercised within six (6) months from the occurrence of the event creating such right.

The CONTRACTORS and all subcontractors are required to submit, as a condition for the approval of periodic payments, a copy of the payroll document covering the Project Work period for which a progress payment is requested. This documentation is necessary in order for the Department to enforce the Contract requirement for the payment of the Pennsylvania Prevailing Minimum Wage Rates including the indicated fringe benefits. Payroll documents are to include the following information:

- (1) Names of all workers covered by the Pennsylvania Prevailing Minimum Wage Act.
- (2) Trade or craft by hours of time worked during the payment period.
- (3) Hourly rate, plus mandatory fringe benefits, as required for the various trades or crafts under the minimum wage requirements.

The CONTRACTOR and all subcontractors shall keep an accurate record showing the name, craft and/or classification, number of hours worked per day, and the actual hourly rate of wage paid (including employee benefits) to each worker employed by him/her in connection with the public Work, and such record must include any deductions from each worker. The record shall be preserved for two years from the date of payment and shall be open at all reasonable hours to the inspection of the OWNER and to other authorized officials.

Apprentices shall be limited to such numbers as shall be in accordance with a bona fide apprenticeship program registered with and approved by the Pennsylvania Apprenticeship and Training Council, or similar applicable program in other States, and only apprentices whose training and employment are in full compliance with the provisions of the Apprenticeship and Training Act approved July 14, 1961, (Act Number 304) and the Rules and Regulations issued pursuant thereto shall be employed on the public work project. Any worker using the tools of a craft who does not qualify as an apprentice within the provisions of this subsection shall be paid the rate predetermined for journeymen in that particular craft and/or classification.

Wages shall be paid without any deductions except authorized deductions. Employers not parties to a Contract requiring contributions for which the Secretary has determined to be included in the general prevailing minimum wage rate shall pay the monetary equivalent thereof directly to the workers.

Payment of compensation to workers for Work performed on public Work on a lump sum basis, or a piece work system, or a price certain for the completion of a certain amount of work, or the production of a certain result shall be deemed a violation of the Act and these Specifications, regardless of the average hourly earnings resulting therefrom.

Each CONTRACTOR and each subcontractor shall file a statement each week and a final statement at the conclusion of the Work on the Contract with the OWNER, under oath, and upon an approved form which will be supplied by the OWNER, certifying that all workers have been paid wages in strict conformity with the provisions of the Act, or if any wages remain unpaid to set forth the amount of wages due and owing to each worker respectively.

#### 6.35 SEXUAL HARASSMENT

CONTRACTOR shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined. CONTRACTOR shall include the provisions of this sexual harassment clause in every subcontract, so that such provisions will be binding upon each subcontractor.

#### 6.36 MINORITY AND WOMEN BUSINESS ENTERPRISES

The promotion and encouragement of minority and/or women business enterprises is a commitment and objective of the OWNER. The goals and objectives of Executive Orders 11625 and 12138 will be enforced under this Contract. The CONTRACTOR agrees to abide by these Executive Orders and by the OWNER's Minority and Women's Business Enterprise Action Plan and to involve Minority and Women's Business Enterprises to the greatest extent feasible on the Project, either as subcontractors, material suppliers, or service providers. All records of solicitation and utilization of MBEs and WBEs will be kept and submitted to the OWNER by the CONTRACTOR as required by the OWNER's Minority and Women's Business Enterprise Action Plan. The Minority and Women's Business Enterprise Action Plan may be reviewed in its

entirety at the office of the OWNER.

6.37 SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

The purpose of Section 3 of the Housing and Urban Development (HUD) Act of 1968, as amended in 1992 (12 U.S.C. 170u), and as outlined in 24 CFR 75, is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing federal, state, and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide employment opportunities to low- and very low-income persons. The CONTRACTOR agrees to abide by these Executive Orders and by the OWNER's Section 3 Action Plan and to involve Section 3 business concerns and residents to the greatest extent feasible on the Project. The OWNER, in accordance with its Section 3 Action Plan, may provide a bid preference to a bidder who is a Section 3 business concern. All records of solicitation and utilization of Section 3 business concerns will be kept and submitted to the OWNER by the CONTRACTOR as required by the OWNER's Section 3 Action Plan. The Section 3 Action Plan may be reviewed in its entirety at the office of the OWNER.

6.38 DATE OF STARTING AND COMPLETING WORK

The Contract Work shall be started immediately upon receipt of a written notice from the OWNER and shall be continued in full force until completion, unless approval to suspend Work is granted by the OWNER or unless delays occur due to unfavorable weather. The Work shall be completed in the number of days after the date of notice to proceed as indicated in the Contract Documents.

Before filing his/her bid, the bidder shall have made all arrangements to be fully equipped to expeditiously carry on all Work in case he/she is awarded a Contract and shall have made all arrangements to permit immediate transportation to the site of the Work of all equipment, materials and other facilities required to execute the Work. In scheduling his/her operations, the CONTRACTOR shall take into consideration all delays that may reasonably be expected to occur due to unfavorable weather; failure of public utilities or others to install, remove or adjust their structures when required; and the uncertainties prevailing on account of a national emergency in regard to obtaining critical materials and labor to complete the various portions of such Work in time.

If the Notice to Proceed has not been issued within the time stated in the Instructions to Bidders or any extensions to said time, the Contract Time will commence to run no later than 45 days following issuance of the Notice of Award.

6.39 ORDER OF WORK

Where the order of Work is stated in the Contract, the CONTRACTOR shall comply therewith unless given written permission to change such orders. Where the order is not so stated, the CONTRACTOR, before starting the Work, shall submit to the OWNER a schedule setting forth the order in which he/she will start and complete the various portions of the Work and, upon acceptance of said schedule, shall strictly conform thereto unless given written permission to depart therefrom.

Immediately after execution and delivery of the Contract, and before the first partial payment is made, the CONTRACTOR shall deliver to the OWNER an estimated construction progress schedule, including schedule of shop drawings, in form satisfactory to the OWNER, showing the proposed dates of commencement and completion of each of the various subdivisions of Work required under the Contract Documents and the anticipated amount of each monthly payment that will become due to the CONTRACTOR in accordance with the progress schedule.

6.40 PROSECUTION OF WORK

The CONTRACTOR shall prosecute the Work diligently, so that it may be completed as promptly as conditions may permit in an economical manner within the Contract period. If the Work is not being prosecuted satisfactorily, in the judgment of the OWNER, the OWNER may after fifteen days' written notice to the CONTRACTOR, declare the CONTRACTOR in default and notify the CONTRACTOR's Surety to proceed with the Work accordingly, or, if he/she so desires, the OWNER may cancel the Contract and pay to the CONTRACTOR the price of the Work actually completed as determined by the ENGINEER. Upon payment of such amount, all obligation of the OWNER shall be deemed as fulfilled and terminated.

6.41 COMPETENT WORKERS

The CONTRACTOR shall employ only competent and efficient laborers and first-class mechanics or artisans for every kind of Work, including supervision.

Whenever, in the opinion of the OWNER, any person is unfit to perform his/her task or does his/her Work contrary to directions, or conducts himself/herself improperly, the CONTRACTOR shall remove him/her from the Work immediately and not employ him/her again on the Project.

6.42 SUBCONTRACTING

The CONTRACTOR may utilize the services of qualified subcontractors on those parts of the Work which, under normal contracting practices, are performed by subcontractors specializing in the particular class of Work.

The CONTRACTOR shall not award any work to any subcontractor without prior written approval by the OWNER, which approval will not be considered until the CONTRACTOR submits to the OWNER, a written statement concerning the proposed award to the subcontractor, which statement shall contain such information as the OWNER may require. The CONTRACTOR shall advise each approved subcontractor of his/her anticipated Work schedule and payment schedule and shall inform him/her of the subcontractor's rights and duties with respect to the Payment Bond furnished under this Contract.

The CONTRACTOR shall be as fully responsible to the OWNER for the acts and omissions of his/her subcontractors, and of persons either directly or indirectly employed by them, as he/she is for the acts and omissions of persons directly employed by him/her.

The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind subcontractors to the CONTRACTOR by terms of the Contract Conditions and other Contract Documents, insofar as applicable to the Work of the subcontractors, and to give the CONTRACTOR the same power as regards terminating any subcontract that the OWNER may exercise over the CONTRACTOR under any provision of the Contract Documents. All provisions of law and regulation, whether related to funding requirements or otherwise, shall apply equally to all subcontractors as well as prime CONTRACTORS.

For convenience of reference and to facilitate the letting of contracts and subcontracts, the Specifications are separated into titled sections. Such separation shall not, however, operate to make the OWNER nor the ENGINEER, an arbiter to establish limits to the contracts between CONTRACTOR and subcontractor.

Nothing contained in this Contract shall create any contractual relation between any subcontractor and the OWNER.

In the absence of good and sufficient reasons, within twenty days of the receipt of payment by the CONTRACTOR, the CONTRACTOR shall pay all subcontractors with whom he/she has contracted their earned share of the payment the CONTRACTOR received.

6.43 WORK BY OTHERS



The OWNER may perform additional Work related to the Project by himself/herself, or he/she may let other direct contracts therefore which shall contain standard contract provisions similar to these. The CONTRACTOR will afford the other contractors who are parties to such direct contracts (or the OWNER, if he/she is performing the additional Work himself/herself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of Work and shall properly connect and coordinate his/her Work with theirs.

If any part of the CONTRACTOR's Work depends on proper execution or results upon the Work of any such other contractor (or the OWNER), the CONTRACTOR will inspect and promptly report to the ENGINEER, in writing, any defects or deficiencies in such Work that render it unsuitable for such proper execution and results. His/Her failure so to report shall constitute an acceptance of the other Work as fit and proper for the relationship of his/her Work except as to defects and deficiencies which may appear in the other Work after the execution of his/her Work.

The CONTRACTOR will do all cutting, fitting, and patching of his/her Work that may be required to make its several parts come together properly and fit it to receive or be received by such other Work. The CONTRACTOR will not endanger any Work of others by cutting, excavating, or otherwise altering their work, and will only cut or alter their Work with the written consent of the ENGINEER.

If the performance of additional Work by other CONTRACTORS or the OWNER is not noted in the Contract Documents prior to the execution of the Contract, written notice thereof shall be given to the CONTRACTOR prior to starting any such additional Work. If the CONTRACTOR believes that the performance of such additional Work by the OWNER or others involves him/her in additional expense or entitles him/her to an extension of the Contract Time, he/she may make a claim therefore and submit said claim to the ENGINEER for review.

#### 6.44 COOPERATION OF TRADES

If, under this Contract, any part or parts of the Work are called for to be furnished or erected by trades or classifications of mechanics other than those directly employed by the CONTRACTOR, it is expressly understood that the CONTRACTOR shall sublet such Work or engage mechanics of such special trades to execute the same for him/her.

The arrangement of titles, headings, subheadings and interrelations of paragraphs and references of the Contract Documents are not intended to be such as will designate and describe in one place all Work to be done by the one trade or classification of mechanics. The OWNER shall not be brought into any dispute or controversy by reason of the form in which the Work is herein described, nor shall the manner of its presentation be construed as interference by the OWNER with jurisdiction of other trade rules, regulations, or arrangements.

#### 6.45 COOPERATION OF CONTRACTORS

If, through acts of neglect on the part of the CONTRACTOR, any other contractor or any subcontractor shall suffer loss or damage on the Work, the CONTRACTOR agrees to settle with such other contractor or subcontractors by agreement if such other contractor or subcontractors will so settle. If such other contractor or subcontractor shall assert any claim against the OWNER on account of any damage alleged to have been sustained, the OWNER shall notify the CONTRACTOR, who shall indemnify and save harmless the OWNER and/or ENGINEER against any such claim. The CONTRACTOR shall coordinate his/her operations with those of other contractors. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the Work. The CONTRACTOR, including his/her subcontractors, shall keep informed of the progress and the detail Work of other contractors and shall notify the ENGINEER immediately of lack of progress or defective workmanship on the part of other contractors. Failure of the CONTRACTOR to keep informed of the Work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by him/her of the status of the Work as being satisfactory for proper coordination with his/her own work.

#### 6.46 NOTICE OF IMPERFECT WORK OR MATERIAL

If any part of the Work is dependent for proper execution or appearance on the character or condition of the Work of another contractor or contractors, the State, the County or a municipal or other local authority, the CONTRACTOR shall report to the OWNER, in writing, any imperfections therein or any conditions that render it unsuitable for the reception of his/her work. In case the CONTRACTOR proceeds without making such written report, he/she shall be held to have accepted such Work and the existing conditions and shall be responsible for any defects in his/her work consequent thereon and shall not be relieved thereby of any of the obligations of the Contract or of any guarantee because of any such imperfections or conditions.

## **SECTION 7 – PAYMENTS TO THE CONTRACTOR**

### **7.1 DETAILED BREAKDOWN OF CONTRACT AMOUNT**

Except in cases where unit prices form the basis for payment under the Contract, the CONTRACTOR shall, within ten days of receipt of Notice of Award, submit a complete breakdown of the Contract amount showing the value assigned to each part of the Work, including an allowance for profit and overhead. Upon acceptance of the breakdown of the Contract amount by the ENGINEER, it shall be used as the basis for all requests for payment.

### **7.2 PARTIAL MONTHLY PAYMENTS**

Once each calendar month, conforming to the monthly meeting schedule of the OWNER, the OWNER will approve partial payment to the CONTRACTOR, on the basis of an estimate prepared and certified by the CONTRACTOR and accepted by the ENGINEER. The CONTRACTOR will be notified as to the date each month when estimates must be submitted to the ENGINEER. In cases where Project funding is from State or Federal agencies, the OWNER will make prompt submittal to such agencies to permit drawdown of grant and/or loan funds. Because of processing time required by governmental bodies, a period of 60 days may be required before the OWNER is in receipt of funds which will be used to pay the CONTRACTOR's periodic estimates. The CONTRACTOR will take cognizance of this fact and agrees that no claim for extra payment will be made due to the failure of the OWNER to make prompt payment if said delays are caused by such factors.

### **7.3 RETAINAGE**

Unless otherwise indicated in the Contract Documents, the OWNER will retain ten percent (10%) of the total cost of the Work performed, as shown on the approved payment estimate, until the Work is fifty percent (50%) complete, and will retain five percent (5%) of the total cost of the Work performed when the Work is more than fifty percent (50%) complete; provided, however, that in the event a dispute arises between the OWNER and any prime CONTRACTOR, which dispute is based upon increased costs claimed by one prime CONTRACTOR occasioned by delays or other actions of another prime CONTRACTOR, additional retainage in the sum of one and one-half times the amount of any possible liability may be withheld until such time as a final resolution is agreed to by all parties directly or indirectly involved, unless the CONTRACTOR causing the additional claim furnishes a bond satisfactory to the OWNER to indemnify the OWNER against the claim.

The OWNER may also withhold payment, in whole or in part, to the extent necessary and permitted by law to protect himself/herself from loss on account of any of the following:

- 1) Defective work;
- 2) Evidence indicating the probable filing of claims by other parties against the CONTRACTOR which may adversely affect the OWNER;
- 3) Failure of the CONTRACTOR to make payments due to subcontractors, material suppliers or employees;
- 4) Damage to another CONTRACTOR; and/or

5) Noncompliance with any part of the terms of this contract.

7.4 PAYMENT FOR UNCORRECTED WORK

Should the OWNER direct the CONTRACTOR not to correct Work that has been damaged or that was not performed in accordance with the Contract Documents, an equitable deduction from the Contract amount shall be made to compensate the OWNER for the uncorrected work.

7.5 PAYMENT FOR REMOVAL OF REJECTED WORK AND MATERIALS

7.5.1 General

The removal of rejected work and materials and the re-execution of acceptable work by the CONTRACTOR shall be at the expense of the CONTRACTOR, and he/she shall pay the cost of replacing the work of other contractors destroyed or damaged by the removal of the rejected work or materials and the subsequent replacement of acceptable work.

7.5.2 Removal by OWNER

Removal of rejected work or materials and storage of materials by the OWNER shall be paid by the CONTRACTOR within thirty days after written notice to pay is given by the OWNER. If the CONTRACTOR does not pay the expenses of such removal and after ten days' written notice being given by the OWNER of his/her intent to sell the materials, the OWNER may sell the materials at auction or at private sale and will pay to the CONTRACTOR the net proceeds therefrom after deducting all the costs and expenses that should have been borne by the CONTRACTOR.

7.6 ESTIMATES OF ENGINEER TO BE FINAL

On unit price items, the amount of Work will be estimated and paid for at contract unit prices, computing the quantities thereof in accordance with the provisions of the Contract Agreement. When the dimensions of the Plans have been exceeded without written order of the OWNER, the dimensions of the Contract Plans shall be used in making the estimates and as the basis of compensation. The measurements taken and estimated, and certificates made by the ENGINEER shall be final and conclusive evidence of the amount of acceptable materials furnished, and of acceptable work performed by the CONTRACTOR under and by virtue of this Contract and shall be taken as the full measure of compensation to be received by the CONTRACTOR.

7.7 STATED ALLOWANCES

The bidder shall include in his/her Proposal the cash allowances, if any, stated in the Detail Specifications. The CONTRACTOR shall purchase the allowed materials as directed by the OWNER. If the actual price for purchasing the allowed materials is more or less than the cash allowance, the Contract Price shall be adjusted accordingly. The adjustment in Contract Price shall be made on the basis of the purchase price without additional charges for overhead, profit, insurance, or any other incidental expenses.

7.8 REQUESTS FOR EXTRA COMPENSATION

All requests for extra compensation over and above the amount agreed upon in the Contract Agreement on account of any alterations or changes, or for any extra work or requests for additional time to complete the Contract, shall be filed, in writing, with the OWNER by the CONTRACTOR, having attached thereto a copy of the original order executed by both the OWNER and CONTRACTOR for such alterations or changes or extra work, within thirty (30) days after the completion of said alterations or changes or extra work.

Should the CONTRACTOR fail to notify the OWNER in advance, as required, or to submit his/her claim within thirty days, as required above, it will be taken as conclusive evidence that no claim exists. The

basis of payment for extra work shall be as described in Paragraph 2.7.

7.9 NO CHARGE FOR DELAY

Unless otherwise provided in the Contract Documents, the CONTRACTOR shall make no charge or claim whatsoever for any hindrance or delay in the progress of the Work, except that he/she may claim an extension of time for the completion of the Work, as indicated in Paragraph 7.10.

7.10 LIQUIDATED DAMAGES

The time in which each Contract and the Work thereunder is to be completed by the individual CONTRACTOR or OWNER shall be as stated in the Proposal or elsewhere in the Contract Documents.

Should the successful CONTRACTOR fail to complete the Work within the time specified in his/her Proposal, the CONTRACTOR agrees that the OWNER may deduct and retain out of the monies that may be due, or may become due to him/her under the Contract, an amount equivalent to that sum, if any, stated on the Proposal, for each day, including Sundays and Legal Holidays that the Work in part or as a whole remains incomplete beyond the time stipulated in the Contract Documents, which sum shall not be considered as a penalty, but as a sum mutually agreed upon as the ascertained damages suffered by the OWNER because of the delay. This deduction shall be made on the monthly estimates after the expiration of the Contract Time. Permitting the CONTRACTOR to continue and finish the Work, or any part of it, after the time fixed for its completion, in part or as a whole, shall in no wise operate as a waiver on the part of the OWNER of his/her rights under the Contract. However, the OWNER, upon request by the CONTRACTOR and recommendation of the ENGINEER, may at its discretion waive the penalty on account of delay due to causes over which the CONTRACTOR has no control.

7.11 FINAL PAYMENT

When the Project is substantially complete, the CONTRACTOR may request a final inspection and submit an application for final payment. Within 30 days after receipt of the request for final inspection, the ENGINEER shall perform a "Final Inspection" of the CONTRACTOR's Work. If the Project is "Substantially Complete," the ENGINEER shall issue a certificate of "Substantial Completion," and shall process the application for Final Payment. The OWNER shall, within 60 days from the date of "Substantial Completion," pay the CONTRACTOR in full for all Work completed and the amount retained shall be no more than one and one-half times the amount necessary to complete any then remaining uncompleted minor items, as determined by the ENGINEER. The payment(s) from the OWNER after substantial completion of the contract shall bear interest at the rate of 10% per annum after the date such payment becomes due and payable as indicated above. The ENGINEER shall list in detail each and every uncompleted item and a reasonable cost of completion. Final payment of any amount so withheld for the completion of minor items shall be paid within 60 days of completion of the items listed by the ENGINEER and submittal of the "Consent of Surety to Final Payment" and all required guarantee and maintenance bonds.

7.12 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 OWNER from the CONTRACTOR from all claims and all liability for all things done or furnished in connection with this Work and for every act and neglect of the OWNER relating to or arising out of this Work. No payment, however, final or otherwise, shall operate to release the CONTRACTOR or his/her sureties from any obligations under this Contract or the Performance, Payment and/or Maintenance Bonds.

## **PART V - FEDERAL REQUIREMENTS**

All bidders must comply with the following Federal requirements:

### **SECTION 1 – TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (P.L. 88-352) AS STATED IN 24 CFR 570.601**

"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 in part with funds made available under this Title."

### **SECTION 2 – EXECUTIVE ORDER 11063, AS AMENDED**

"No person in the United States shall on the basis of race, color, religion, sex, or national origin, be discriminated against in housing (and related facilities) provided with Federal assistance and in lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the Federal Government."

### **SECTION 3 – EXECUTIVE ORDER 11246**

#### **3.1 CONDITIONS IF CONTRACT AMOUNT LESS THAN \$10,000**

If the contract amount is less than ten thousand (\$10,000) dollars, the following conditions shall apply: During the performance of this contract, the contractor agrees as follows:

- 3.1.1 The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, 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, sexual orientation, gender identity, or national origin. Such actions 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 by the OWNER setting forth the provisions of this nondiscrimination clause.
- 3.1.2 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 for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 3.1.3 The CONTRACTOR will cause the foregoing provisions to be inserted in all subcontracts for any Work covered by this contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

#### **3.2 CONDITIONS IF CONTRACT EXCEEDS \$10,000**

If the contract amount exceeds ten thousand (\$10,000) dollars, the following conditions shall apply:

- 3.2.1 The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, 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, sexual orientation, gender identity, 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 by the contracting officer setting forth the provisions of this nondiscrimination clause.

- 3.2.2 The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 3.2.3 The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- 3.2.4 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 agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 3.2.5 The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 3.2.6 The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 3.2.7 In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, 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 No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 3.2.8 The contractor will include the provisions of paragraphs (1) through (8) 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 No. 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 may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

3.3 NOTICE OF REQUIREMENTS FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246):

3.3.1 The offeror's or bidder's attention is called to the "Equal Employment Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth therein.

3.3.2 The goals and timetables for minority and female participation, expressed in percentage terms for the CONTRACTOR's aggregate workforce in each trade on all construction Work in the covered area, are as follows:

Goals and Timetables for Minority Participation for Each Trade	1.0% Goals and
Timetables for Female Participation in Each Trade	6.9%

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 the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Employment Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR Part 60-4, paragraph 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.

The CONTRACTOR shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within ten (10) working days of award of any construction subcontract in excess of ten thousand (\$10,000) dollars at any tier of 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.

As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is the County in which the Work is undertaken.

3.4 STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

As used in these specifications:

- 1) "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- 2) "Director" means Director, Office of Federal Contract Compliance Program, United States Department of Labor, or any person to whom the Director delegates authority; and
- 3) "Employer Identification Number" means the Federal Social Security Number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
- 4) "Minority" includes:
  - a) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
  - b) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
  - c) Asian and Pacific Islander (all persons having origins in any of the original peoples of East Asia, Southeast Asia, and the Indian Subcontinent, or the Pacific Islands); and
  - d) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable affiliations through membership and participation or community identification).

3.4.1 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 ten thousand (\$10,000) dollars 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.

3.4.2 If the CONTRACTOR is participating (pursuant to 41 CFR Part 60-4.5) in a 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 Equal Employment Opportunity 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 take good faith efforts to achieve the Plan goals and timetables.

3.4.3 The CONTRACTOR shall implement the specific affirmative action standards provided in Section 3.4.7 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 that 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.

3.4.4 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.

3.4.5 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.

3.4.6 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:

- 1) 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.
- 2) 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.
- 3) Maintain a current file of names, addresses, and telephone numbers of each minority and female off-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 the 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.
- 4) 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 his/her obligations.
- 5) 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 under 2) above.

- 6) 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.
- 7) 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 Foremen, 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 in disposition of the subject matter.
- 8) 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.
- 9) Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the CONTRACTOR's recruitment area and employment needs. Not later than one (1) month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment sources, 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.
- 10) 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 workforce.
- 11) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- 12) 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 to prepare for, through appropriate training, etc., such opportunities.
- 13) 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.
- 14) Ensure that all facilities and company activities are non-segregated except that separate or single-user toilets and necessary changing facilities shall be provided to assure privacy between the sexes.

- 15) Document and maintain a record of all solicitation 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.
  - 16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the CONTRACTOR's EEO policies and affirmative action obligations.
- 3.4.7 Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations 3.4.6 (1 through 16). 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 3.4.6 (1 through 16) 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 workforce 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 to comply, however, is the CONTRACTOR's and failure of such a group to fulfill an obligation shall not be a defense for the CONTRACTOR's noncompliance.
- 3.4.8 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 disparate 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 minority group of women is underutilized).
- 3.4.9 The CONTRACTOR shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 3.4.10 The CONTRACTOR shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- 3.4.11 The CONTRACTOR shall carry out such sanctions and penalties for violation of these specifications and of the Equal Employment 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.
- 3.4.12 The CONTRACTOR, in fulfilling his/her obligations under these specifications, shall implement specific affirmative action steps, so 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 Part 60-4-8.
- 3.4.13 The CONTRACTOR shall designate a responsible official to monitor all employment related activity to ensure that the company's Equal Employment Opportunity 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.

3.4.14 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 or 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).

#### **SECTION 4 – EQUAL OPPORTUNITY FOR VEVRAA PROTECTED VETERANS**

“CONTRACTOR and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.”

#### **SECTION 5 – CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 327 ET. SEQ.)**

The CONTRACTOR, if the contract is in excess of \$100,000, and any of his/her subcontractors, shall comply with Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations contained in 29 CFR Part 5.

Under Section 103 of the Act, the CONTRACTOR and any of his/her subcontractors, shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of forty (40) hours. Work in excess of the standard work week is permissible, provided the worker is compensated at a rate not less than one and one-half (1 1/2) times the basic rate of pay for all hours worked in excess of forty (40) hours in any week. Section 6 of the Federal Labor Standards Provisions, as shown below sets forth in detail the Section 103 requirements.

Section 107 of the Act provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and safety, as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies, materials, or articles ordinarily available on the open market.

#### **SECTION 6 – FEDERAL LABOR STANDARDS PROVISIONS**

Pennsylvania Department of Community and Economic Development Community Development  
Block Grant Program

##### **6.1 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.

##### **6.2 MINIMUM WAGES AND FRINGE BENEFITS**

###### **6.2.1 Minimum Wages**

i.) All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), 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 basic hourly 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. As provided in 29 CFR 5.5(d) and (e), the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(v) of these contract clauses; 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 must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) 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 classifications and wage rates conformed under 29 CFR 5.5(a)(1)(iii)) and the Davis-Bacon poster (WH-1321) must 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.) Frequently recurring classifications

A. In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to 29 CFR 5.5(a)(1)(iii), provided that:

1. The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;
2. The classification is used in the area by the construction industry; and
3. The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

B. The Administrator will establish wage rates for such classifications in accordance with 29 CFR 5.5(a)(1)(iii)(A)(3). Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

iii.) Conformance

**A.** The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate 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
2. The classification is used in the area by the construction industry; and
3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**B.** The conformance process may not be used to split, subdivide, or otherwise avoid application of

classifications listed in the wage determination.

**C.** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to [DBAconformance@dol.gov](mailto:DBAconformance@dol.gov). The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

**D.** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to [DBAconformance@dol.gov](mailto:DBAconformance@dol.gov), refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

**E.** The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under 29 CFR 5.5 (a)(1)(iii)(C) and (D). The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to 29 CFR 5.5 (a)(1)(iii)(C) or (D) must 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.

iv.) Fringe Benefits not expressed as an hourly rate

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 may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

v. Unfunded plans

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, in accordance with the criteria set forth in 29 CFR 5.28, 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.

vi.) Interest

In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

### 6.2.2 Withholding

i.) Withholding requirements

The U. S. Department of Housing and Urban Development may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in 29 CFR 5.5(a) for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted

contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work (or otherwise working in construction or development of the project under a development statute) all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in 29 CFR 5.5(a)(3)(iv), HUD may on its own initiative and after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, 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.

ii.) Priority to withheld funds

The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:

- A. A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- B. A contracting agency for its reprocurement costs;
- C. A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- D. A contractor's assignee(s);
- E. A contractor's successor(s); or
- F. A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907

6.2.3 Records and Certified Payrolls

i.) Basic Record Requirements

**A. Length of record retention.** All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

**B. Information required** Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; 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 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

**C. Additional records relating to fringe benefits.** Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(v) that the wages of any laborer or mechanic include the amount of any costs reasonable anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must 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.

**D. Additional records relating to apprenticeship.** Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of apprentices, and the ratios and wage rates prescribed in the applicable programs.

ii.) Certified Payroll Requirements

**A. Frequency and method of submission** The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to HUD if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the certified payrolls to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system

**B. Information required** The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i)(B), except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the sponsoring government agency (or the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records).

**C. Statement of Compliance** Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

1. That the certified payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information and basic records are being maintained under 29 CFR 5.5 (a)(3)(i), and such information and records are correct and complete;
2. That each laborer or mechanic (including each helper and apprentice) working 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; and
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(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

**D. Use of Optional Form WH-347** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by 29 CFR 5.5(a)(3)(ii)(C).

**E. Signature** The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

**F. Falsification** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.



**G. Length of certified payroll retention** The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

iii.) Contracts, subcontracts, and related documents

The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

iv.) Required Disclosure and Access

**A. Required record disclosures and access to workers** The contractor or subcontractor must make the records required under 29 CFR 5.5(a)(3)(i)–(iii), and any other documents that HUD or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by 29 CFR 5.1, available for inspection, copying, or transcription by authorized representatives of HUD or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

**B. Sanctions for non-compliance with records and worker access requirements** If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, 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, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to 29 CFR 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

**C. Required information disclosures** Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to HUD if the agency is a party to the contract, or to the Wage and Hour Division of the Department of Labor. If the Federal agency is not such a party to the contract, the contractor, subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

6.2.4 Apprentices and Equal Employment Opportunity

i.) Apprentices

**A. Rate of pay** Apprentices will be permitted to work at less than the predetermined rate for the work they perform 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 (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an

apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**B. Fringe benefits** Apprentices must 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, fringe benefits must be paid in accordance with that determination.

**C. Apprenticeship ratio** The allowable ratio of apprentices to journeymen on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to 29 CFR 5.5(a)(4)(i)(D). Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in 29 CFR 5.5(a)(4)(i)(A), must 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 this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

**D. Reciprocity of ratios and wage rates** Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

ii.) Equal Employment Opportunity

The use of apprentices and journeymen under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

6.2.5 Compliance with Copeland Act Requirements

The CONTRACTOR shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in the contract. Subcontract

The Contractor or subcontractor must insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (11), along with the applicable wage determination(s) and such other clauses or contract modifications as the U.S. Department of Housing and Urban Development may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, any may be subject to debarment, as appropriate.

6.2.6 Contract Termination and Debarment

A breach of the contract clauses in 29 CFR Part 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.

6.2.7 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.

#### 6.2.8 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 (or any of its subcontractors) and DCED or its designee, the U.S. Department of Labor, or the employees or their representatives.

#### 6.2.9 Certification of Eligibility

- 1.) By entering into this contract, the contractor certifies that neither it 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 40 U.S.C. 3144(b) or 29 CFR 5.12(a).
- 2.) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).
- 3.) The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001

#### 6.2.10 Anti-Retaliation

It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

- i. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;
- ii. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;
- iii. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5; or
- iv. Informing any other person about their rights under the DBA, Related Acts, or 29 CFR parts 1, 3, or

#### 6.2.11 Contract Work Hours and Safety Standards Act (CWHSSA)

The Agency Head must cause or require the contracting officer to insert the following clauses set forth in 29 CFR 5.5(b)(1), (2), (3), (4), and (5) in full, or (for contracts covered by the Federal Acquisition Regulation) by reference, in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses must be inserted in addition to the clauses required by 29CFR 5.5(a) or 4.6. As used in this paragraph, the terms "laborers and mechanics" include watchpersons 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 forty hours in such workweek 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 forty

hours in such workweek.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in 29 CFR 5.5(b)(1) the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. 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 watchpersons and guards, employed in violation of the clause set forth in 29 CFR 5.5(b)(1), in the sum of \$31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in 29 CFR 5.5(b)(1).

**3. Withholding for unpaid wages and liquidated damages**

**i. Withholding process** The U.S Department of Housing and Urban Development or the recipient of Federal assistance may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in 29 CFR 5.5(b) on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

**ii Priority to withheld funds** The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:

- A. A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- B. A contracting agency for its procurement costs;
- C. A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- D. A contractor's assignee(s);
- E. A contractor's successor(s); or
- F. A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

**4. Subcontracts** The contractor or subcontractor must insert in any subcontracts the clauses set forth in 29 CFR 5.5(b)(1) through (5) and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in 29 CFR 5.5(b)(1) through (5). In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

**5. Anti-retaliation** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

- i. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing

regulations in 29 CFR part 5;

ii. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or 29 CFR part 5;

iii. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or 29 CFR part 5; or

iv. Informing any other person about their rights under CWHSSA or 29 CFR part 5.

#### 6.2.12 Health and Safety

The provisions of this paragraph (F) are applicable 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 or her 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 29 CFR Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96), 40 U.S.C. § 3701 et seq.
3. 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 subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

### **SECTION 7 – SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT**

#### 7.1 ACT OF 1968 (12 U.S.C. 1701U) PROVISIONS

This agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) as amended. The Section 3 clause provides:

Every applicant, recipient, contracting party, contractor and subcontractor shall incorporate, or cause to be incorporated, in all contracts for Work in connection with a Section 3 covered project, the following clause (referred to as a Section 3 clause):

- 7.1.1 The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted developments covered by Section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, including persons who are recipients of HUD assistance for housing, with a preference for both targeted workers living in the service area or neighborhood of the Development and YouthBuild participants, as defined at 24 CFR Part 75 ("**Section 3 Regulations**").
- 7.1.2 The Parties agree to comply with HUD's regulations in Section 3 Regulations, which implement Section 3. As evidenced by their execution of this Contract, the Parties certify that they are under no contractual or other impediments that would prevent them from complying with the Section 3 Regulations.
- 7.1.3 The Award Recipient, Contractor, or Development Owner agrees to send to each labor organization or representative of workers with which the Award Recipient, Contractor, or Development Owner has a collective bargaining agreement or other understanding, if any, a

notice advising the labor organization or workers' representative of the Award Recipient, Contractor, or Development Owner's commitments under this section of the Contract and will post copies of the notice in conspicuous places at the worksite where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference and shall set forth the following: (i) minimum number and job titles subject to hire, (ii) availability of apprenticeship and training positions, (iii) qualifications for each, (iv) name and location of the person(s) taking applications for each of the positions, and (v) the anticipated date the work shall begin.

- 7.1.4 The Award Recipient, Contractor, or Development Owner agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in Section 3 Regulations and agrees to take appropriate action, as provided in an applicable provision of the subcontract in this Section 3 clause, upon a finding that the subcontractor violates the regulations in Section 3 Regulations. The Award Recipient, Contractor, or Development Owner will not subcontract with any subcontractor where the Award Recipient, Contractor, or Development Owner has notice or knowledge that the subcontractor has been found in violation of the regulations in Section 3 Regulations.
- 7.1.5 The Award Recipient, Contractor, or Development Owner will certify that any vacant employment positions, including training positions, that are filled (i) after a contractor is selected but before the Contract is executed, and (ii) with persons other than those to whom the regulations of Section 3 Regulations require employment opportunities to be directed, were not filled to circumvent the Award Recipient, Contractor, or Development Owner's obligations under Section 3 Regulations.
- 7.1.6 Noncompliance with HUD's regulations in Section 3 Regulations may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD-assisted contracts.

## 7.2 SECTION 3 GOALS

- 7.2.1 The OWNER has established employment and training goals that subrecipients, contractors, and subcontractors should meet in order to comply with Section 3 requirements outlined in 24 CFR Part 75.19. The safe harbor benchmark goals are as follows:

Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers.

Section 3 Labor Hours/Total Labor Hours = 25%

And

Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined at 24 CFR Part 75.21.

Targeted Section 3 Labor Hours/Total Labor Hours = 5%

- 7.2.2 Documentation certifying that low- and very-low individuals and business concerns meet the regulatory definitions under Section 3 (i) An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of

5,000 people according to the most recent U.S. Census; (ii) An employer's certification that the worker is employed by a Section 3 business concern; or (iii) A worker's self-certification that the worker is a YouthBuild participant.

- 7.2.3 It is the responsibility of contractors to implement efforts to achieve Section 3 compliance. Any contractor that does not meet the Section 3 benchmarks must demonstrate why meeting the benchmarks were not feasible. All contractors submitting bids or proposals to OWNER are required to certify that they will comply with the requirements of Section 3.
- 7.2.4 Section 3 Businesses that seek Section 3 preference shall certify, or demonstrate to GRANTEE, contractors or subcontractors, that they meet the definitions provided in the above. Businesses may demonstrate eligibility by submitting the Section 3 Business Concern Certification Form. Section 3 Business Concern Certification Forms must be submitted at the time of bid/proposal. If OWNER previously approved the business concern to be Section 3 certified, then the certification can be submitted along with the bid, as long as the form is submitted within the prescribed expiration date. The Section 3 Business Concern Certification Form will expire after 12 months

### 7.3 REQUIRED EFFORTS

Section 3 24 CFR Part 75 is triggered when public construction projects assisted under HUD programs that provide community development financial assistance, when the total amount of assistance to the project exceeds a threshold of \$200,000. Contractors are required to demonstrate qualitative efforts to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

Qualitative efforts may, for example, include but are not limited to the following:

- 7.3.1 Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- 7.3.2 Provided training or apprenticeship opportunities.
- 7.3.3 Provided technical assistance to help Section 3 workers compete for jobs (*e.g.*, resume assistance, coaching).
- 7.3.4 Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- 7.3.5 Held one or more job fairs.
- 7.3.6 Provided or referred Section 3 workers to services supporting work readiness and retention (*e.g.*, work readiness activities, interview clothing, test fees, transportation, childcare).
- 7.3.7 Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- 7.3.8 Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- 7.3.9 Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- 7.3.10 Provided technical assistance to help Section 3 business concerns understand and bid on contracts.

7.3.11 Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.

7.3.12 Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.

7.3.13 Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.

7.3.14 Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

#### 7.4 RESPONSIBILITY

7.4.1 Contractors and subcontractors shall direct their efforts to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide employment opportunities to low- and very low-income persons. Contractors and subcontractors can indicate other economic opportunities, which were provided in their efforts to comply with Section 3 and the requirements of the regulations.

7.4.2 The contractor will certify that any vacant employment positions, including training positions, which are filled after the contract is selected, but before the contract is executed, and with persons other than those to whom the regulations of 24 CFR 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under Section 3. However, nothing in the regulations shall be construed to require the employment of a Section 3 resident who does not meet the qualifications of the position to be filled.

#### 7.5 ACCESS TO INFORMATION

The OWNER may obtain documents and information from any bidder, contractor, subcontractor, supplier, or manufacturer that may be required in order to ascertain bidder or contractor responsibility. Failure to provide requested information may result in the contractor being declared not responsible.

#### 7.6 NONCOMPLIANCE

Noncompliance with HUD's regulations in Section 3 may result in sanctions, termination of a contract for default, and debarment or suspension from future HUD assisted contracts.

#### 7.7 RECORD KEEPING AND REPORTING

The contractor will keep such records as are necessary to determine compliance with his/her Section 3 commitments. These records must be in sufficient detail to indicate the number of Section 3 business concerns, the contract Work performed, and the percentage of Section 3 residents and/or Section 3 business concerns performing Work. Additionally, the contractor is required to maintain an open file for a specified period, during which time the OWNER may make periodic reviews of records pertaining to relevant contracts.

The prime contractor must provide the OWNER with a report of Section 3 subcontracting activity on a per project basis. The report shall reflect the names of, and the total dollar amount paid to all Section 3 subcontractors utilized under this contract.

### **SECTION 8 – LEAD BASED PAINT REQUIREMENTS**



Title IV of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831) prohibits the use of lead-based paint in residential structures constructed or rehabilitated with Federal Assistance in any form.

### **SECTION 9 – CLEAN AIR AND CLEAN WATER ACTS**

This Agreement is subject to the requirements of the Clean Air Act, as amended, 42 U.S.C. 1857 et.seq., and the regulations of the Environmental Protection Agency (EPA) with respect thereto, at 40 CFR Part 15, as amended from time to time.

The CONTRACTOR and any of its subcontractors for Work funded under the Agreement which is in excess of one hundred thousand (\$100,000) dollars agree to the following requirements:

- 9.1 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 Part 15.20.
- 9.2 Agreement by the CONTRACTOR to comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857c-8) and (33 U.S.C. 1318) relating to the 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 thereunder.
- 9.3 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.
- 9.4 Agreement by the CONTRACTOR that he/she will include or cause to be included the criteria and requirements in paragraphs (1) through (4) of this section in every nonexempt subcontract and requiring that the CONTRACTOR will take such action as the Government may direct as a means of enforcing such provision.

### **SECTION 10 – ENERGY CONSERVATION PROVISIONS**

Contractors must recognize mandatory standards and policies relating to energy efficiency contained in the Cost-Effective Energy Conservation Measures.

### **SECTION 11 – SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974**

"No person in the United States shall on the grounds of race, color, national origin, religion, 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 in part with funds made available under this Title."

### **SECTION 12 – MINORITY/WOMEN'S BUSINESS ENTERPRISE**

#### **12.1 PARTICIPATION LEVEL**

- 12.1.1 The OWNER has established minimum participation levels (MPLs) of five percent (5%) for minority and three percent (3%) for women business enterprises (MBE/WBE) for this Project.
- 12.1.2 These goals serve as a threshold in determining bidder responsibility. A bidder will not be rejected as not responsible solely because he/she fails to reach the MPLs, so long as it can demonstrate its efforts. To determine the participation level which has been reached, a bidder may divide the total dollar amount of the commitments by the total dollar amount of the bidder's

bid.

- 12.1.3 A firm which is both an MBE and a WBE will only receive credit toward MPLs as either an MBE or a WBE, but not both. Bidders must indicate on the MBE/WBE Contract Solicitation and Commitment Statement whether the firm is being listed as either an MBE or a WBE.
- 12.1.4 An MBE/WBE firm who is the prime bidder on a project will receive no credit toward the goal for its own work effort. MBE/WBE businesses bidding as a prime contractor must solicit other certified MBEs/WBEs participation for material and/or supplies.
- 12.1.5 MBE/WBE subcontractors must perform at least 75 percent of the cost of the subcontract, not including the cost of materials, with its own employees.

## 12.2 RESPONSIVENESS

- 12.2.1 Bidders must complete and submit an MBE/WBE Contract Solicitation and Commitment Statement with the bid. Failure to submit this form with the bid may result in the bid being rejected as non-responsive.
- 12.2.2 A bidder should only solicit MBE/WBE subcontractors, vendors, manufacturers, or suppliers whose services, material, or supplies are within the scope of Work and which the bidder reasonably believes it will choose to subcontract with or purchase from.
- 12.2.3 Bidders failing to meet the minimum levels of participation may be required to provide an explanation of why the MPLs have not been met. This explanation must demonstrate that the bidder has not engaged in discriminatory practices in solicitation and utilization of MBEs/WBEs to perform as subcontractors or suppliers of goods and services related to the performance of the contract. The evidence submitted by the bidder must demonstrate the following:
  - 1) Indicate whether MBEs/WBEs were solicited for each type of Work the bidder expects to subcontract for and for all materials which the bidder expects to procure and, if not, the reason(s) why no such solicitation was made;
  - 2) Indicate the reason an MBE/WBE has not been committed for a type of subcontract Work or materials in any area where a quote was received from an MBE/WBE, and;
  - 3) In any case where no quotations are received or commitments made to MBE or WBE firms, indicate on the MBE/WBE Contract Solicitation and Commitment Statement form that no quotes were received, and if there is another reason for no commitments being made, the reason for the lack of commitments.
- 12.2.4 If the bidder fails to submit such evidence, the bid submission may be considered non-responsive, and the bid rejected.
- 12.2.5 Information related to the above may be submitted on the Minority/Women Business Contract Solicitation and Commitment Statement form or on additional paper.

## 12.3 RESPONSIBILITY

- 12.3.1 The submittals of each bidder are subject to review to determine whether the bidder has discriminated in the selection of manufacturers, subcontractors, and suppliers. If a bidder has met the MPLs for MBE/WBE participation, the bidder will be presumed not to have discriminated in their selections. Where the MPLs are not met, the OWNER will determine whether discrimination has occurred. If, after investigation, including a review of the MBE/WBE Contract Solicitation and Commitment Statement, it is found that discrimination has occurred, the

reviewed bidder may be deemed to be not responsible, and the bid may be rejected.

12.3.2 Documentation submitted and certified (Minority and Women Business Enterprise Bidder Certification) by the bidder should meet the following standards for review:

- 1) The bidder whose actions resulted in limited or no commitment to MBEs/WBEs was not motivated by consideration of race or gender;
- 2) MBEs/WBEs were not treated less favorably than other businesses in the contract solicitation and commitment process; and
- 3) Solicitation and commitment decisions were not based upon policies which disparately affect MBEs/WBEs.

12.3.3 Commitments to MBE and WBE firms made at the time of bidding must be maintained throughout the term of the contract unless a change in commitment to these firms is preapproved by the OWNER or the administering agency performing the evaluation of the Invitation for Bid.

#### 12.4 ACCESS TO INFORMATION

The OWNER may obtain documents and information from any bidder, contractor, subcontractor, supplier, or manufacturer that may be required in order to ascertain bidder or contractor responsibility. Failure to provide requested information may result in the contractor being declared not responsible.

#### 12.5 MBE/WBE CERTIFICATION

Under the State Act of December 21, 1984, No. 230, P.L. 210, 18 PA. C.S.A. § 4107.2, a person commits a felony of the third degree if, in the course of business, he/she engages in deception relating to MBE/WBE certification. Only certified MBE's and WBE's will be reported on this project. The Pennsylvania Department of General Services (DGS) requires MBEs and WBEs to be certified by a third party in order to be on the DGS listing of Small Diverse Businesses.

#### 12.6 RECORDKEEPING AND REPORTING

The contractor will keep such records as are necessary to determine compliance with his/her minority and women business enterprise commitments. These records must be in sufficient detail to indicate the number of minority and women businesses, the contract Work performed, and the percentage of minority and women businesses performing Work. Additionally, the contractor is required to maintain an open file for a specified period, during which time the OWNER may make periodic reviews of records pertaining to relevant contracts.

The prime contractor must provide the OWNER with a report of MBE/WBE subcontracting activity on a per project basis. The report shall reflect the names of, and the total dollar amount paid to all MBE/WBE subcontractors (including suppliers) utilized under this contract.

### **SECTION 13 – AGE DISCRIMINATION ACT OF 1975**

"No person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

### **SECTION 14 – EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES**

14.1 The contractor will not discriminate against any employee or applicant for employment because of

physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:

- 1) Recruitment, advertising, and job application procedures;
- 2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- 3) Rates of pay or any other form of compensation and changes in compensation;
- 4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- 5) Leaves of absence, sick leave, or any other leave;
- 6) Fringe benefits available by virtue of employment, whether or not administered by the contractor;
- 7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- 8) Activities sponsored by the contractor including social or recreational programs; and
- 9) Any other term, condition, or privilege of employment.

- 14.2 The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- 14.3 In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- 14.4 The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The contractor must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the contractor may have the notice read to a visually disabled individual or may lower the posted notice so that it might be read by a person in a wheelchair).
- 14.5 The contractor will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.
- 14.6 The contractor will include the provisions of this clause in every subcontract or purchase order in excess of \$10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, 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 Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

## SECTION 15 – BUILD AMERICA, BUY AMERICA ACT

- 15.1 Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:
- 1) All iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
  - 2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
  - 3) All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.
- 15.2 The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, which are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project. *(NOTE: “construction materials” excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.)*

### 15.3 WAIVERS

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

- 1) When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:
  - applying the domestic content procurement preference would be inconsistent with the public interest;
  - the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
  - the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.
- 2) A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office. There may be instances where an award qualifies, in whole or in part, for an existing waiver described at [link to awarding agency web site with information on currently applicable general applicability waivers].

## 15.4 DEFINITIONS

- 1) “Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is or consists primarily of:
  - Non-ferrous metals;
  - plastic and polymer-based products (including polyvinylchloride, composite building; materials, and polymers used in fiber optic cables);
  - glass (including optic glass);
  - lumber; or
  - drywall.
- 2) “Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.
- 3) “Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.
- 4) “Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States.

## **PART VI - STATE REQUIREMENTS**

All bidders must also comply with the following State requirements:

### **SECTION 1 – PENNSYLVANIA STEEL PRODUCTS PROCUREMENT ACT (NO. 178-3)**

If any steel products are to be used or supplied in the performance of the Contract, only steel products produced in the United States shall be used or supplied in the performance of the Contract or any subcontract thereunder. This provision shall not apply in any case where the head of the public agency, in writing, determines that the type of steel products necessary to the performance of the Contract are not produced in the United States in sufficient quantities to meet the requirement of the Contract.

### **SECTION 2 – PENNSYLVANIA HUMAN RELATIONS ACT, AS AMENDED**

2.1 CONTRACTOR shall not discriminate against any employee, applicant for employment, independent contractor or any other person because of race, color, religious creed, ancestry, national origin, age, sex, handicap, or disability, use of guide or support animals because of the blindness, deafness, or physical handicap of the user or because the user is a handler or trainer of support or guide animals.

CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age, sex, handicap, or disability, use of guide or support animals because of the blindness, deafness, or physical handicap of the user or because the user is a handler or trainer of support or guide animals. Such affirmative action shall include, but is not 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.

CONTRACTOR shall post in conspicuous places available to employees, agents, applicants for employment and other persons a notice to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

2.2 CONTRACTOR shall in advertisements or requests for employment placed by him/her or on his/her behalf state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age, sex, handicap, or disability, use of guide or support animals because of the blindness, deafness, or physical handicap of the user or because the user is a handler or trainer of support or guide animals.

2.3 CONTRACTOR shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this nondiscrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by CONTRACTOR.

2.4 It shall be no defense to a finding of noncompliance with the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission of this nondiscrimination clause that CONTRACTOR had delegated some of its employment practices to any union, training program or other source of recruitment which prevents it from meeting its obligation. However, if the evidence indicates that the CONTRACTOR was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.

2.5 Where the practices of a union or of any training program or other source of recruitment will result in the exclusion of minority group persons, so that CONTRACTOR will be unable to meet his/her obligations under the Contract Compliance Regulations issued by the Pennsylvania Human Relations

Commission, or this nondiscrimination clause, CONTRACTOR shall then employ and fill vacancies through other nondiscriminatory employment procedures.

- 2.6 CONTRACTOR shall comply with the Contract Compliance Regulations of the Pennsylvania Human Relations Commission, 16 PA Code Chapter 49 and with all State and Federal laws prohibiting discrimination in hiring or employment opportunities. In the event of CONTRACTOR's noncompliance with the nondiscrimination clause of this contract or with any such laws, this CONTRACT may, after hearing and adjudication, be terminated or suspended, in whole or in part, and CONTRACTOR may be declared temporarily ineligible for further COMMONWEALTH contracts, and such other sanction may be imposed and remedies invoked as provided by the Contract Compliance Regulations.
- 2.7 CONTRACTOR shall furnish all necessary employment documents and records to, and permit access to its books, records, and accounts by the contracting agency for purposes of investigation to ascertain compliance with the provisions of this clause. If CONTRACTOR does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting agency.
- 2.8 CONTRACTOR shall actively recruit minority subcontractors or subcontractors with substantial minority representation among their employees.
- 2.9 CONTRACTOR shall include the provisions of this nondiscrimination clause in every subcontract, so that provisions will be binding upon each subcontractor.
- 2.10 CONTRACTOR's obligations under this clause are limited to the CONTRACTOR's facilities within Pennsylvania, or where the contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

### **SECTION 3 – THE PUBLIC WORKS EMPLOYMENT VERIFICATION ACT**

Contractors and subcontractors must provide written verification that the eligibility status of all employees hired after January 1, 2013 has been confirmed through the federal E-Verify program and each is legally permitted to work in the United States of America. The Public Works Employment Verification form, provided by the Commonwealth of Pennsylvania and included herein, shall be used for this purpose.

### **SECTION 4 – DEPARTMENT OF GENERAL SERVICES MBE/WBE CERTIFICATION**

On August 31, 2012, the Pennsylvania Department of General Services (DGS) terminated its role in certifying Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) (Small Diverse Businesses). As such, DGS requires new MBEs and WBEs to be certified by a third party, after which DGS maintains a listing of certified Small Diverse Businesses. MBEs and WBEs certified and listed by DGS before the August 31, 2012, deadline were permitted to "self-certify" during a grace period extending to December 31, 2012. This "self-certification" allowed these MBEs and WBEs up to 12 months from the date of self-certification to obtain a third-party certification, submit it to DGS, and continue to be placed on the DGS list. Due to the expiration of this 12-month period, any "self-certified" MBEs and WBEs must have completed the previously specified protocol to be reported as an MBE or WBE on this project.

### **SECTION 5 – NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE**

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the grant agreement or any subgrant agreement, contract, or subcontract, the Grantee, a subgrantee, a contractor, a subcontractor, or any person acting on behalf of the Grantee shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this commonwealth who is qualified and available to perform the work to which the employment relates.



2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the performance of work, or any other activity required under the contract.
3. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under the contract.
4. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the *Public Employee Relations Act*, *Pennsylvania Labor Relations Act* or *National Labor Relations Act*, as applicable and to the extent determined by entities charged with such Acts' enforcement, and shall comply with any provision of law establishing organizations as employees' exclusive representatives.
5. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
6. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
7. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws and regulations relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for the purpose of ascertaining compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause.
8. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
9. The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
10. The commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

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## SECTION 6 - 2023 LIST OF EXEMPT MACHINERY AND EQUIPMENT STEEL PRODUCTS

The Department of General Services (DGS) has reviewed all comments and supporting documentation received prior to the end of the thirty-day (30) comment period and presents here its annual list of exempt machinery and equipment steel products. Contractors, subcontractors, suppliers, bidders, offerors, and public agencies may rely on the list of exempt steel products in preparing bids and contracts for any project that is subject to the Steel Products Procurement Act.

Pursuant to the department's Statement of Policy and the Steel Products Procurement Act, DGS will not make any changes to this list during the calendar year for which it was created. In early 2024 DGS will identify, from ST-4 waivers approved in calendar year 2013, specific machinery and equipment steel products that have been recognized as not being produced in the United States in sufficient quantities to meet the 2013 contract requirements. Those items will be added to the list presented below and the resultant list will be published in the Pennsylvania Bulletin for a thirty- day (30) public comment period at that time.

### Exempt Machinery and Equipment Steel Products

Air Conditioning Units	Drinking Fountain
Air Duct Housing w/Sample Tubes	Drip Pan ELL
Air Handling Units	Drop-In Anchors
Anchor Bolt	Dry Tape Transformer
Audio RA Station	Drywall Screws
Annunciator Panel	Dual Interface Module
AV Rack Kit	Duct Detector w/Relay
Back Box	Duct Housing
Backflow Preventer	Ductless Split System
Battery Cabinet	DVR Rack
Blank Filler Plate for Fiber (for rackmount and wall mount enclosures)	Electric Traction Elevators
Blank Metal Door	Electric Water Cooler
Blank Plate for Outer Door	Elevator Controller
Bottom Dead Front Panel	Elevator Hoistway
Bridge for Cameras	Encl. for Annunciator
Cabinet	Exit Devices
Cardcage	Exp Cage
Cast Steel Gate Valve	Fence System Nuts and Bolts
CCTV Power Supply	Fire Alarm NAC Extender
Ceiling Flange	Fire Alarm Peripherals
Central Control Unit	Fixed Door Station
Centrifugal pumps	Flexible Drops
Channel Video	Full Blank Plate
Circulating Pump	Galvanized Carriage Bolts
Closers	Garage Door Tracking
Color Monitor	Gas Furnace
Combination Round Head Steel Zinc-Plated Toggle Bolts	Gas Piping Butt Weld Tees
Conduit Fittings	Generator
Control Module Plate	Globe Valve (Steam)
Control Panel	Hand Dryer
Control Valve	Hanger Mounting Plates
Data Converter Unit	Hangermates
Deck Inserts	Hangers Supports
Deck and Rub Rail Fasteners	Horn/Strobe
Digital Communicators	Inclined Platform Wheelchair Lifts
Digital Record	Inner & Outer Door
Door Protection	Inner Door Blank Plate
Door Trim/Handles	Interface Module
	Lag Bolts
	Large Remote Cab

Lighting Fixtures, Interior/Recessed  
Lighting Fixtures, Surface Wrap  
Lighting Fixtures, Track Head  
Lock Cylinders  
Locknuts  
Locksets  
Low Temp. Detection Thermostats  
Lubrication Unit  
Machine Screws  
Main Control Board  
Metal Lockers  
Manual Pull Station  
Med. Enclosure  
Middle Dead Front  
Mini-Interface Module  
Monitor Mount  
Monitor Wall Brk  
Mounting Plate  
Network Fiber Switch  
Overhead Door  
Overhead Stops  
Patient Wandering Alarm  
Pipe Clamps  
Pivots  
Power Supply  
Pull Station Box  
RA Annunciator Panel  
Rack Mount Card Cage  
Rack Mount Kit  
Radiant Panels  
Reader Interface  
Relay Module  
Remote Chiller  
Round Head Machine Screw  
Safety Relief Valve  
Sampling Tube  
Security Panel  
Security Unit  
Security/CCTV Camera Housing  
Self-Turn / Self Tapping Screw  
Shower/eye Washers  
Signal Extender Module  
Single Blank  
Smoke Detector Wire  
Speaker  
Speaker/Strobe  
Split HVAC System  
Split Ring Hangers  
Split Rings  
Split System Air Conditioning  
SSD-C Remote Display w/Control  
SSD-C-REM Rem Display  
Stainless Flat Bars  
Stainless Steel Cable  
Strobe  
Submersible pump  
Sump Pump  
Surface Mount Speaker

Surface Station Box  
Surge Arrester  
Surge Protector  
T8 Light Troffer  
Tamper Proof Screws & Nuts  
Threaded Rod Hanger  
Tie Wire 21 gauge  
Tie Wire Anchor  
Toggle Wing  
Transformer  
Turbine Pumps  
Uninterruptible Power Supply  
VRV Fan Coils/Cond. Units  
Wall Mounted Boiler  
Wall Mounted Fountain  
Water Coolers  
Water Fountain Mounting Frame  
Water Heater  
Wing Toggle

## **PART VII - GENERAL SPECIFICATIONS<sup>1</sup>**

### **SECTION 1 – PROJECT SITE**

The Project Area of this Site Preparation Contract consists of the following general area:  
To the rear of 600 Market Street, North of the gravel parking lot, on the west bank of Limestone (Bull) run  
(bounded by Cherry Alley, Limestone (Bull) Run, the Buffalo Valley Rail Trail and Lynn Alley).

### **SECTION 2 – TIME FOR COMPLETION**

The Work which the CONTRACTOR is required to perform under this Contract shall be commenced at the time stipulated by the OWNER in the Notice to Proceed to the CONTRACTOR and shall be fully completed within 60 consecutive calendar days thereafter.

### **SECTION 3 – LIQUIDATED DAMAGES<sup>2</sup>**

As actual damages for any delay in completion of the Work which the CONTRACTOR is required to perform under this Contract are impossible for determination, the CONTRACTOR and his/her Sureties shall be liable for and shall pay to the OWNER the sum of 250, as fixed, agreed and liquidated damages for each calendar day of delay from the above stipulated for completion, or as modified in accordance with SECTION 2.7 – MODIFICATION OF CONTRACT under PART IV - CONTRACT CONDITIONS, until such Work is satisfactorily completed and accepted.

### **SECTION 4 – RESPONSIBILITIES OF CONTRACTOR**

Except as otherwise specifically stated in the Contract Documents and Technical Specifications, the CONTRACTOR shall provide and pay for all materials, labor, tools, equipment, water, light, heat, power, transportation, superintendence, temporary construction of every nature, charges, levies, fees or other expenses, and all other services and facilities of every nature whatsoever necessary for the performance of the Contract and to deliver all improvements embraced in this Contract for Site Preparation complete in every respect within the specified time.

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<sup>1</sup> The "GENERAL SPECIFICATIONS" provide a flexible Division of the Contract Documents in which to place provisions which contain elements that vary from one project to another, and which cover situations peculiar to the Project involved. The Conditions outlined may require modification to fit the local situation or it may be necessary to include additional provisions to amplify the Contract requirements.

<sup>2</sup> The minimum amount of the liquidated damages per calendar day should be sufficient to reimburse the OWNER for all salaries for inspectors, the DCED Site Representative, and overhead expense due to the CONTRACTOR having failed to complete the Improvements embraced in this Contract within the time stipulated for completion.

## **SECTION 5 – COMMUNICATIONS**

- 5.1 All notices, demands, requests, instructions, approvals, proposals, and claims must be in writing.
- 5.2 Any notice to or demand upon the CONTRACTOR shall be sufficiently given if delivered at the office of the CONTRACTOR stated on the signature page of the Agreement (or at such other office as the CONTRACTOR may from time to time designate in writing to the OWNER), or if deposited in the United States mail in a sealed, postage prepaid envelope, or delivered with charges prepaid to any telegraph company for transmission, in each case addressed to such office.
- 5.3 All papers required to be delivered to the OWNER shall, unless otherwise specified in writing to the CONTRACTOR, be delivered to the OWNER at (Address), and any notice to or demand upon the OWNER shall be sufficiently given if so delivered, or if deposited in the United States mail in a sealed, postage prepaid envelope, or delivered with charges prepaid to any telegraph company for transmission to said OWNER at such address, or to such other representatives of the OWNER specified in writing to the CONTRACTOR for such purpose.

Any such notice shall be deemed to have been given as of the time of actual delivery or (in case of mailing) when the same should have been received in due course of post, or in the case of telegrams, at the time of actual receipt, as the case may be.

## **SECTION 6 – JOB OFFICES**

- 6.1 The CONTRACTOR and his/her subcontractors may maintain such office and storage facilities on the Site as are necessary for the proper conduct of the Work. These shall be located so as to cause no interference to any Work to be performed on the Site. The OWNER shall be consulted with regard to locations.
- 6.2 If no office is maintained, a suitable place for posting required notices, with adequate protection from the weather, shall be provided.
- 6.3 Upon completion of the improvements, or as directed by the OWNER, the CONTRACTOR shall remove all such temporary structures and facilities from the Site, same to become his/her property and leave the Site of the Work in the condition required by the Contract.

## **SECTION 7 – PARTIAL USE OF SITE IMPROVEMENTS**

The OWNER, at his/her election, may give notice to the CONTRACTOR and place in use those sections of the Improvements which have been completed, inspected, and can be accepted as complying with the Technical Specifications and if in its opinion, each such section is reasonably safe, fit, and convenient, for the use and accommodation for which it was intended, provided:

- 7.1 The use of such sections of the Improvements shall in no way impede the completion of the remainder of the Work by the CONTRACTOR.
- 7.2 The CONTRACTOR shall not be responsible for any damages or maintenance costs due directly to the use of such sections.
- 7.3 The use of such sections shall in no way relieve the CONTRACTOR of his/her liability due to having used defective materials or to poor workmanship.

7.4 The period of guarantee stipulated in the SECTION 24 – GENERAL GUARANTY under this section, shall not begin to run until the date of the final acceptance of all Work which the CONTRACTOR is required to construct under this Contract.

### **SECTION 8 – WORK BY OTHERS<sup>3</sup>**

The following Work will be done by others:

8.1 At no expense to the CONTRACTOR:

1) On-Site:

- a) Dirt Removal
- b) Floodplain Restoration, etc.

### **SECTION 9 – CONTRACT DOCUMENTS AND DRAWINGS**

The OWNER will furnish the CONTRACTOR, without charge, three (3) copies of the Contract Documents, including Technical Specifications and Drawings. Additional copies requested by the CONTRACTOR will be furnished at cost.

### **SECTION 10 – PROGRESS SCHEDULE**

The CONTRACTOR shall prepare a Progress Schedule which shall show graphically:

- 10.1 The proposed dates of commencement and completion of each of the various sections of Work required under the Contract, the anticipated amount of each monthly payment to become due to the CONTRACTOR and the accumulated percent of progress each month.
- 10.2 Any pre-determined times allotted to the utility companies or utility's authorities for their Work.
- 10.3 Practical time limits for the successful completion of the various types and phases of Work encompassed in this Contract in accordance with the requirements of the specifications.
- 10.4 Any other type of delay or time-consuming process of which the CONTRACTOR may be aware.

All of the above shall be shown to be accomplished within the time limits as stated in SECTION 2, TIME FOR COMPLETION. As the Work progresses, the CONTRACTOR shall revise and maintain current the Progress Schedule for the uncompleted portions of the Work, regardless of the cause of such revisions, at the direction of the OWNER or the Engineer.

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<sup>3</sup> It may be that local ordinances or regulations require connections, or disconnections, from utilities or sewers to be made by designated departments or companies. These facts should be obtained and inserted in this Section. The costs, if any, to the CONTRACTOR should be stated in paragraph "b." Delete such items not applicable.

## **SECTION 11 – SUBSTITUTION**

Wherever in the following specifications, a catalog number, trade designation, the name of any individual or system of construction has been used, the same has been done with the intention of indicating only the character, class, quality, or kind of material or fixture that is desired and any or all of said fixtures, materials, or construction may be provided equal in every respect in quality and purpose to those named in the specification, regardless of the name and designation used, which are for convenience in specifying only. But before any contractor may use any fixture, material, or system of construction other than that specified, he/she shall first notify the OWNER and secure permission to do so, and if required, shall submit a sample for inspection and approval.

## **SECTION 12 – SIGNS, BARRICADES, LIGHTS**

Contractor shall, at his/her own cost and expense, erect and maintain any necessary warning lights, barricades, and signs, as ordered by the Engineer in a manner acceptable to the OWNER.

## **SECTION 13 – PROTECTION OF EXISTING SITE CONDITIONS**

The CONTRACTOR shall locate existing buildings, plantings, paving, utility services (both overhead and underground), etc., and shall protect same from damage during this construction operation. Should damage occur, repairs shall be made in a manner satisfactory to the OWNER and Landscape Architect at the CONTRACTOR's expense.

## **SECTION 14 – REDUCTION IN WORK**

The OWNER reserves the right to increase or decrease the quantity of any bid item by any amount without adjustment to any of the unit bid prices.

## **SECTION 15 – ENGINEER'S RESPONSIBILITY AND AUTHORITY**

The Engineer shall perform the following Work and assume certain authorities during the life of this Contract.

- 15.1 The Work shall be subject at all times to the inspection of the Engineer or his/her authorized assistants, who shall have free access to every facility at all times for inspecting materials and Work. This Work shall not in any way guarantee the CONTRACTOR's Work. The presence of the Engineer or his/her authorized assistants shall not lessen the responsibility of the CONTRACTOR.
- 15.2 Approve or disapprove any materials, and equipment used by the CONTRACTOR.
- 15.3 Sample and test any materials as the Engineer deems necessary.
- 15.4 Any doubt as to the meaning of these technical specifications and/or drawings, or any obscurity as to the wording or intent of them, will be explained by the Engineer. All directions and explanations required or necessary to complete, explain or make definite any section of the specifications and/or drawings and give them due effect will be given by the Engineer, in writing, and whose decision thereon will be final.
- 15.5 The Engineer will have authority to reject materials and suspend Work in case of any dispute which may arise between the Engineer and the CONTRACTOR due to defective materials or substandard performance of Work until the question or questions at issue can be referred to and decided by the OWNER.
- 15.6 Additional responsibilities and authorities invested in the Engineer will be found in PART IV – CONTRACT CONDITIONS.



## **SECTION 16 – TEMPORARY SUSPENSION OF CONSTRUCTION**

The Engineer shall have the authority to suspend the construction, wholly or in part, for such period or periods as he/she may deem necessary, due to unsuitable weather, or such other conditions as are considered unfavorable for the suitable prosecution of the construction, or for such times as are necessary, due to the failure on the part of the CONTRACTOR to carry out orders given or perform any or all provisions of the Contract.

If the Engineer suspends the construction in part, he/she will have the authority to direct the CONTRACTOR to perform such other parts or items of construction which, in his/her opinion, may be performed with favorable results and advantageously for the time of completion of the Project, and shall notify the CONTRACTOR accordingly in writing.

If it should become necessary to stop construction for an indefinite period, the CONTRACTOR shall store all materials in such a manner that they will not obstruct or impede the traveling public nor become damaged in any way. He/She shall take every precaution to prevent damage or deterioration of the construction performed; provide suitable drainage, etc.

## **SECTION 17 – INTENT OF PLANS AND SPECIFICATIONS**

All Work done and materials furnished under this Contract shall be in accordance with the Contract Plans; the Instructions to the Bidders; the Contract Conditions; the Federal Requirements, the General Specifications, Technical Specifications, and Form 408 referenced sections of the Commonwealth of Pennsylvania Department of Transportation Specifications, dated 1976, with the supplements thereto and revisions thereof included in these specifications. When a section and/or sections of the Commonwealth of Pennsylvania Department of Transportation Specifications is referred to, it shall become a part of these specifications and shall be as binding as if the section and/or sections referred to were written completely in these specifications except that, in the event, any contradiction exists between the Commonwealth of Pennsylvania Department of Transportation Specifications and any part of the Contract Documents, the Contract Documents shall govern and the conditions thereof adhered to.

The intent of the specifications and drawings is to prescribe a complete Work which the CONTRACTOR undertakes to do in full compliance with the Contract Documents. If there is any apparent contradiction or ambiguity between the drawings and specifications, the CONTRACTOR shall bring the fact to the attention of the Engineer and shall obtain his/her decision as to the true meaning or intention before proceeding with the portion of the Work affected. Wherever in the specifications or drawings “directed,” “required,” “ordered” or words of similar import are used, it shall be understood that directed, required, ordered by the Engineer is intended.

In like manner, when “as shown,” “as indicated,” “as detailed” or words of similar import are used in the specifications, reference to the Contract Drawings listed in the Schedule of Drawings is intended.

## **SECTION 18 – WORK INCIDENTAL TO CONTRACT ITEMS**

Where connection is made to existing facilities, the new construction shall be modified or adjusted to meet the existing construction, as directed by the Engineer, and the cost of this Work will be included in the Contract Lump Sum Price; therefore, no separate or additional compensation will be allowed.

## **SECTION 19 – CONSTRUCTION RESERVATION**

It shall be the CONTRACTOR's responsibility to investigate the location and elevation of all surface or subsurface utilities or other obstructions affecting his/her Work before preparing his/her bid.

Any additional expenses resulting from such obstructions shall be included in the CONTRACTOR's unit bid prices for various items of Work, and no extra payment will be allowed.

## **SECTION 20 – DAMAGE TO EXISTING CONSTRUCTION**

The CONTRACTOR shall be held responsible for any and all damages outside the limits of construction indicated on the drawings or designated by the Engineer. This includes damage to adjacent curb gutter, existing tennis courts, drainage structures, gas, and water mains, electric or telephone facilities, pavements, buildings, walls, etc. Any such damage shall be satisfactorily repaired or replaced by the CONTRACTOR at his/her own expense.

#### **SECTION 21 – DISPOSAL OF EXISTING MATERIALS**

Any existing debris, except those materials noted in the Contract Documents for re-use or storage at the direction of the OWNER, which is removed during construction shall become the property of the CONTRACTOR and it shall be his/her responsibility to dispose of off the site.

#### **SECTION 22 – PUBLIC CONVENIENCE AND SAFETY**

The CONTRACTOR shall not cause any infringement or damage to property within or adjacent to the Project area and will be required to cooperate with the persons involved with respect to reasonable requests pertaining to access and protection of their property.

#### **SECTION 23 – STORAGE OF MATERIALS**

The CONTRACTOR shall remove and store, as directed, materials removed from the site to be used in new construction in a manner which will provide a stockpile free of debris and other materials. Materials shall be placed on wooden platforms or other clean surfaces, not on the ground, and placed under cover when directed by the OWNER or the Engineer.

#### **SECTION 24 – GENERAL GUARANTY**

Neither the final certificate of payment nor any provision in the Contract nor partial or entire use of the improvements embraced in this Contract by the OWNER or the public shall constitute an acceptance of Work not done in accordance with the Contract or relieve the CONTRACTOR of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The CONTRACTOR shall promptly remedy any defects in the Work and pay for any damage to other work, resulting therefrom which shall appear within a period of 12 months from the date of final acceptance of the work. The OWNER will give notice of defective materials and Work with reasonable promptness.

## **PART VIII - TECHNICAL SPECIFICATIONS**

Work to be performed is located to the rear of 600 Market Street, North of the gravel parking lot, on the west bank of Limestone (Bull) Run (bounded by Cherry Alley, Limestone (Bull) Run, the Buffalo Valley Rail Trail and Lynn Alley).

### Soil Hauling

Hauling of soil will include removing approximately 1557 CY or 2180 tons or @110 loads (estimated at 20 ton/load). Soil will be loaded into the hauling truck by excavator via borough employees. The soil will be taken to two locations, half the loads to 820 Voris Road, Danville PA 17821 and half the loads to 820 Mount Zion Drive, Milton PA 17847.

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<sup>4</sup> All Drawings (and Technical Specifications) for the Improvements embraced in the Site Preparation Contract which will be taken over and maintained by the Local Government for public use should be:

- (1) Prepared in accordance with local standards and ordinances.
- (2) Approved by the designated head of the proper department of the Local Government, before being included in the Contract Documents.

**LIMESTONE (BULL) RUN AREA FLOOD RESILIENCY  
UNION COUNTY/LEWISBURG BOROUGH  
HEAVY/HIGHWAY  
PA20240006, MOD 2, 02/16/24**

*\*Wage Determination may change within 5 days of bid opening*

"General Decision Number: PA20240006 02/16/2024

Superseded General Decision Number: PA20230006

State: Pennsylvania

Construction Types: Heavy and Highway

Counties: Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York Counties in Pennsylvania.

HEAVY AND HIGHWAY CONSTRUCTION PROJECTS (Excluding Sewer Grouting Projects and Excluding Sewage and Water Treatment Plant Projects)

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658.

Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

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If the contract is entered	. Executive Order 14026
into on or after January 30,	generally applies to the
2022, or the contract is	contract.

**LIMESTONE (BULL) RUN AREA FLOOD RESILIENCY  
UNION COUNTY/LEWISBURG BOROUGH  
HEAVY/HIGHWAY  
PA20240006, MOD 2, 02/16/24**

*\*Wage Determination may change within 5 days of bid opening*

renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. The contractor must pay all covered workers at least \$17.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2024.
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If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or all extended on or after January 30, 2022:  listed determination,	. Executive Order 13658 generally applies to the contract.  . The contractor must pay covered workers at least \$12.90 per hour (or the applicable wage rate on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.
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**LIMESTONE (BULL) RUN AREA FLOOD RESILIENCY  
 UNION COUNTY/LEWISBURG BOROUGH  
 HEAVY/HIGHWAY  
 PA20240006, MOD 2, 02/16/24**

\*Wage Determination may change within 5 days of bid opening

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/05/2024
1	01/12/2024
2	02/16/2024

BOIL0013-003 01/01/2024

	Rates	Fringes
BOILERMAKER.....	\$ 52.10	35.38
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CARP0167-006 05/01/2022

BERKS, CARBON and LANCASTER

	Rates	Fringes
CARPENTER.....	\$ 36.02	29.96
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CARP0167-007 05/01/2023

LEHIGH and NORTHAMPTON COUNTIES

**LIMESTONE (BULL) RUN AREA FLOOD RESILIENCY  
 UNION COUNTY/LEWISBURG BOROUGH  
 HEAVY/HIGHWAY  
 PA20240006, MOD 2, 02/16/24**

\*Wage Determination may change within 5 days of bid opening

	Rates	Fringes
CARPENTER.....	\$ 38.11	27.27

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CARP0219-007 05/01/2023

CARBON (Townships: East Penn, Lower Towamensing, Mahoning, Franklin, Towamensing, Penn Forest. Everything south of Route 903 and east to the Kidder Township Line. Boroughs: Hauto, Nesquehoning, Lansford, Summit Hill, Jim Thorpe, Weissport, Bownmanstown, Palmerton, Lehigh, and Parryville) , LEHIGH AND NORTHAMPTON COUNTIES

	Rates	Fringes
MILLWRIGHT.....	\$ 48.41	33.95

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CARP0274-005 05/01/2023

Adams, Bradford, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lebanon, Luzerne, Lycoming, Monroe, Montour, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York

	Rates	Fringes
CARPENTER.....	\$ 35.32	19.09
PILEDRIVERMAN.....	\$ 35.32	19.09

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CARP0443-002 05/01/2021

ADAMS, BRADFORD, CARBON (Banks, Lausanne, Lehigh, Packer, Kidder Twps., and part of Penn Forest Township north of Route

**LIMESTONE (BULL) RUN AREA FLOOD RESILIENCY  
 UNION COUNTY/LEWISBURG BOROUGH  
 HEAVY/HIGHWAY  
 PA20240006, MOD 2, 02/16/24**

\*Wage Determination may change within 5 days of bid opening

903) COLUMBIA, CUMBERLAND, DAUPHIN, JUNIATA, LEBANON,  
 LUZERNE  
 (lower part of) MONROE, MONTOUR, NORTHUMBERLAND, PERRY,  
 PIKE,  
 SCHUYLKILL, SNYDER, SULLIVAN, SUSQUEHANNA, TIOGA, UNION,  
 WAYNE,  
 WYOMING, YORK (New Cumberland Army Depot and Harrisburg  
 State  
 Airport) COUNTIES

	Rates	Fringes
MILLWRIGHT.....	\$ 36.08	53.41%+.86
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CARP0443-010 05/01/2021		

BERKS and LANCASTER COUNTIES

	Rates	Fringes
MILLWRIGHT.....	\$ 40.00	21.72
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CARP0474-005 05/01/2023		

BERKS, CARBON, LANCASTER, LEHIGH and NORTHAMPTON COUNTIES

	Rates	Fringes
PILEDRIVERMAN.....	\$ 46.73	41.69
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ELEC0126-001 05/31/2021		

ADAMS, BERKS, CUMBERLAND, DAUPHIN, JUNIATA, LANCASTER,  
 LEBANON,  
 LEHIGH, NORTHAMPTON, PERRY AND YORK COUNTIES

	Rates	Fringes
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**LIMESTONE (BULL) RUN AREA FLOOD RESILIENCY  
 UNION COUNTY/LEWISBURG BOROUGH  
 HEAVY/HIGHWAY  
 PA20240006, MOD 2, 02/16/24**

\*Wage Determination may change within 5 days of bid opening

Line Construction:

Cable Splicer.....	\$ 49.22	32.25%+11.00
Groundman.....	\$ 29.53	32.25%+11.00
Lineman.....	\$ 49.22	32.25%+11.00
Truck Driver.....	\$ 31.99	32.25%+11.00
Winch Truck Operator.....	\$ 34.45	32.25%+11.00

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ELEC1319-001 01/01/2024

BRADFORD, CARBON, COLUMBIA, LACKAWANNA, LUZERNE, LYCOMING,  
 MONROE, MONTOUR, NORTHUMBERLAND, PIKE, SCHUYLKILL, SNYDER,  
 SULLIVAN, SUSQUEHANNA, TIOGA, UNION, WAYNE, AND WYOMING  
 COUNTIES

	Rates	Fringes
Line Construction:		
Equipment Operator.....	\$ 64.46	22.92
Groundmen.....	\$ 39.97	14.15
Linemen.....	\$ 64.46	28.42
Truck Driver.....	\$ 41.90	14.29

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\* ENGI0542-004 05/01/2023

	Rates	Fringes
Power equipment operators: (HIGHWAY CONSTRUCTION AND WATER LINES CONSTRUCTION (OFF PLANT SITE))		
GROUP 1.....	\$ 40.25	28.55
GROUP 1a.....	\$ 42.50	29.23
GROUP 2.....	\$ 39.08	28.20
GROUP 3.....	\$ 38.39	27.99
GROUP 4.....	\$ 37.94	27.86
GROUP 5.....	\$ 37.42	27.72
GROUP 6.....	\$ 40.48	28.62
GROUP 6a.....	\$ 42.73	29.28

**LIMESTONE (BULL) RUN AREA FLOOD RESILIENCY  
UNION COUNTY/LEWISBURG BOROUGH  
HEAVY/HIGHWAY  
PA20240006, MOD 2, 02/16/24**

\*Wage Determination may change within 5 days of bid opening

**BOOM LENGTH PAY:**

On all machines with booms, jibs, masts and leads 100 ft. and over, twenty five cents (\$0.25) per hour additional will be paid for each increment of 25 ft. over 100 ft. On machines with booms (including jibs, masts and leads, etc.), 200 ft. and over, two (2) Operating Engineers shall be required.

**POWER EQUIPMENT OPERATORS CLASSIFICATIONS**

GROUP 1 - Pile drivers, all types of cranes, all types of backhoes, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, paver (blacktop and concrete), gradalls, all front end loaders, tandem scrapers, pippin types backhoes, boat captains, batch plant with mixer, drill self contained (drill-master type), CMI Autograde, milling machine, vemeer saw, conveyor loader (euclid type) scraper and tournapulls, bulldozers and tractors, concrete pumps, motor patrols, mechanic welders, log skidder, side boom, bobcat type (with attachments), boring machines including directional boring machines, chipper with boom, hydro ax, machines similar to the above including remote control equipment.

GROUP 1a: Crawler backhoes and Crawler gradalls over one cubic yard factory rating; Hydraulic backhoes over one cubic yard factory rating; All types of cranes 15 ton and over factory rating; Single person operation truck cranes 15 ton and over factory rating; Cherry picker type machinery and equipment 15 ton and over factory rating; Machines similar to above, including remote control equipment; Equipment in this Wage Group that does not require an oiler.

**LIMESTONE (BULL) RUN AREA FLOOD RESILIENCY  
UNION COUNTY/LEWISBURG BOROUGH  
HEAVY/HIGHWAY  
PA20240006, MOD 2, 02/16/24**

\*Wage Determination may change within 5 days of bid opening

GROUP 2 - Spreaders, asphalt plant engineers, rollers (high grade finishing), machine similar to above, including remote control equipment, and forklifts 20ft and over.

GROUP 3 - Welding machine, well points, compressors, pump heaters, farm tractors, form line graders, ditch witch type trencher, road finishing machines, concrete breaking machines, rollers, miscellaneous equipment operator, seaman pulverizing mixer, power broom, seeding spreader, tireman - (for power equipment ) conveyors, loaders other than EUC type, conveyors, driller second class, machines similar to the above including remote control equipment, and forklift under 20 ft.

GROUP 4 - Fireman and grease truck

GROUP 5 - Oilers and deck hands

GROUP 6 - All machines with booms (including jibs, masts, leads, etc.) 100 ft. and over.

GROUP 6a: All machines with Booms (including Jibs, Masts, Leads, etc.) 100 feet 15 ton and over factory rating; Machines similar to above, including remote control equipment; Equipment in this Wage Group that does not require an oiler.

\*\*\*TOXIC/HAZARDOUS WAST REMOVAL\*\*\*

Add 20 per cent to basic hourly rate for all classifications

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**LIMESTONE (BULL) RUN AREA FLOOD RESILIENCY  
 UNION COUNTY/LEWISBURG BOROUGH  
 HEAVY/HIGHWAY  
 PA20240006, MOD 2, 02/16/24**

\*Wage Determination may change within 5 days of bid opening

\* ENGI0542-022 05/01/2023

	Rates	Fringes
Power equipment operators: (HEAVY CONSTRUCTION:)		
GROUP 1.....	\$ 41.14	28.82+A
GROUP 1a.....	\$ 43.39	29.48+A
GROUP 2.....	\$ 40.86	28.73+A
GROUP 2a.....	\$ 43.11	29.40+A
GROUP 3.....	\$ 37.95	27.86+A
GROUP 4.....	\$ 36.80	27.54+A
GROUP 5.....	\$ 36.35	27.41+A
GROUP 6.....	\$ 35.48	27.14+A
HEAVY CONSTRUCTION:		

FOOTNOTE:

A: PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and the day after the holiday.

BOOM LENGTH PAY:

On all machines with booms, jibs, masts and leads 100 ft. from ground up, fifty (\$0.50) per hour additional will be paid for each increment of 25 ft. over 100 ft. On cranes with booms (including jibs, masts and leads, etc.) 200 ft. and over, two (2) operators shall be required, no Oilers will be required, with seventy five (\$0.75) in increments of 25 ft.

\*\*\*TOXIC/HAZARDOUS WASTE REMOVAL\*\*\*

Add 20 per cent to basic hourly rate for all classifications

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

**LIMESTONE (BULL) RUN AREA FLOOD RESILIENCY  
UNION COUNTY/LEWISBURG BOROUGH  
HEAVY/HIGHWAY  
PA20240006, MOD 2, 02/16/24**

**\*Wage Determination may change within 5 days of bid opening**

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above, including remote control equipment, all types of cranes, cableways, and draglines.

GROUP 1a: Machines doing hook work; Machines handling machinery; All types of cranes 15 ton and over factory rating; Cable ways; Draglines 15 ton and over factory rating; High Rail/Burro Crane 15 ton and over factory rating; Rail Loader (Winch Boom Type) 15 ton and over factory rating; Machines similar to above, including remote control equipment; Equipment in this Wage Group that does not require an oiler.

GROUP 2: Backhoes, keystones, shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnels, front end loaders, tandem scrapers, pippin type backhoes, boat captains, batch plant operators concrete drills, self-contained rotary drills, fork lifts, 20ft, lift and over, scrapers, tournapulls, spreaders, bulldozers and tractors, rollers (high grade finishing), mechanic-welder, motor patrols, concrete pumps, grease truck, bob cat type (all attachments), boring machines including directional boring machines, hydro ax, side boom, vermeer saw, chipper with boom, machines similar to the above including remote control equipment

GROUP 2a: Crawler backhoes and crawler gradalls over one cubic yard factory rating; Hydraulic backhoes over one cubic yard factory rating; Equipment 15 ton and over factory rating; Machines similar to above, including remote control equipment; Equipment in this Wage Group that does not require an oiler.

**LIMESTONE (BULL) RUN AREA FLOOD RESILIENCY  
 UNION COUNTY/LEWISBURG BOROUGH  
 HEAVY/HIGHWAY  
 PA20240006, MOD 2, 02/16/24**

*\*Wage Determination may change within 5 days of bid opening*

GROUP 3: Conveyors, building hoist (single drum), high or low pressure boilers, drill operators, well drillers, asphalt plant engineers, ditch witch type trencher, second class driller, forklift truck under 20ft. lift, stump grinder, tireman (for power equipment), machines similar to above including remote control equipment.

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power boom, seeding spreader, chipper without boom, machines similar to the above including remote control equipment.

GROUP 5: Fireman.

GROUP 6: Oilers and deck hands (personnel boats).

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IRON0404-006 07/01/2023

ADAMS, BERKS, CUMBERLAND, DAUPHIN, JUANITA, LANCASTER, LEBANON, LEHIGH, LYCOMING, MONTOUR, NORTHAMPTON, NORTHUMBERLAND, PERRY, SCHUYLKILL, SNYDER, UNION and YORK COUNTIES

	Rates	Fringes
Ironworkers:.....	\$ 36.26	31.38

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IRON0404-017 07/01/2023

BRADFORD, CARBON, COLUMBIA, LACKAWANNA, LUZERNE, MONROE, PIKE,

**LIMESTONE (BULL) RUN AREA FLOOD RESILIENCY  
 UNION COUNTY/LEWISBURG BOROUGH  
 HEAVY/HIGHWAY  
 PA20240006, MOD 2, 02/16/24**

\*Wage Determination may change within 5 days of bid opening

SULLIVAN, TIOGA, SUSQUEHANNA, WAYNE and WYOMING COUNTIES

	Rates	Fringes
IRONWORKER.....	\$ 36.26	31.38

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LABO0158-001 05/01/2023

	Rates	Fringes
Laborers:		
GROUP 1.....	\$ 24.81	18.99
GROUP 2.....	\$ 31.43	18.99
GROUP 3.....	\$ 28.42	18.99
GROUP 4.....	\$ 28.77	18.99
GROUP 5.....	\$ 29.44	18.99
GROUP 6.....	\$ 28.86	18.99
GROUP 7.....	\$ 29.15	18.99
GROUP 8.....	\$ 29.63	18.99

LABORERS CLASSIFICATIONS

GROUP 1: Flag person

GROUP 2: Hazardous/Toxic/Asbestos Waste Handler, Lead  
 Paint  
 Handler

GROUP 3: Asphalt tamper, concrete pitman, puddlers,  
 highway  
 guide rail right of way and property fence slab  
 reinforcement placers, Laborers, landscaper, seeders,  
 planters, magazine tenders, laser beam men for pipe  
 laying  
 and paving machines,, railroad trackman, signalman,  
 asphalt  
 rakers, lute or screed man, pneumatic and electric tool  
 operators, jackmammers, paving breakers, concrete saws,  
 whacker vibrator, chainsaw, highway concrete block  
 layers,

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sheet hammer, pipe layers, Walk Behind Rollers, Walk Behind  
Trencher

GROUP 4: Caisson-open air below 8 feet, cofferdam open air

below 8 feet where excavations for circular caissons and cofferdams 8 ft and below level of natural grade adjacent to starting point, form setters (road) wagon drill diamond

point drill, gunite nozzle operators, walk behind rollers and concrete rubbers, blaster.

GROUP 5: Form Setter, Reinforced Steel Placer, Bonding Aligning and Securing and Burning and welding in Conjunction wth Rebar, and Concrete Surfacers.

FREE AIR TUNNELS AND ROCK SHAFTS

GROUP 6: Outside labers in conjunction with tunnels and rock shafts

GROUP 7: Chuck tenders, muckers, nippers, miners, inside laborers

GROUP 8: Miners, drillers, blasters, pneumatic shield operators, lining, spotting and timber workmen, rebar steel placer, bonding and securing, welders, and concrete surfacers

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PAIN0021-026 05/01/2021

ADAMS, CUMBERLAND, DAUPHIN, LANCASTER, PERRY, AND YORK COUNTIES

Rates                      Fringes

Painters:



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Bridge.....	\$ 33.72	16.30
Brush.....	\$ 25.84	16.30
Spray, Sandblast.....	\$ 27.97	16.30

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PAIN0057-021 06/01/2023

JUNIATA COUNTY

	Rates	Fringes
Painters:		
Bridge, Towers.....	\$ 38.33	23.72
Commercial Brush & Roller...	\$ 30.56	23.72
Industrial Brush & Roller...	\$ 36.01	23.72
Spray.....	\$ 30.56	23.72

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PAIN1021-001 05/01/2012

BERKS, CARBON, LEBANON, LEHIGH, NORTHAMPTON, AND MONROE  
 COUNTIES

	Rates	Fringes
Painters:		
Bridge; Brush, Roller.....	\$ 30.85	14.80
Bridge; Spray.....	\$ 31.85	14.80
Brush and Roller.....	\$ 26.55	14.80
Spray and Sandblast.....	\$ 27.55	14.80

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PAIN1021-002 05/01/2009

BRADFORD, COLUMBIA, LACKWANNA, LUZERNE, LYCOMING, MONTOUR,  
 NORTHUMBERLAND, PIKE, SCHUYLKILL, SNYDER, SULLIVAN,  
 SUSQUEHANNA, TIOGA, UNION, WAYNE, WYOMING COUNTIES

	Rates	Fringes
Painters:		

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Bridge; Brush, Roller.....	\$ 25.60	12.05
Bridge; Spray.....	\$ 26.60	12.05
Brush and roller.....	\$ 22.75	12.05
Spray, Sandblast.....	\$ 23.75	12.05

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PLAS0592-004 06/01/2023

MONROE COUNTY; (EXCEPT TOBYHANNA DEPOT)

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER....	\$ 37.13	14.30

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PLAS0592-005 06/01/2023

COLUMBIA COUNTY

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER....	\$ 37.13	14.30

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PLAS0592-017 05/01/2023

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER BERKS (Northeastern part lying North of a line starting from the Southern boundary line of Lehigh County continuing through Huffs Church, Fredericksville, Dryville, Lyon Station, Kutztown, Krumsville, and Stoney Run in Berks County to the Lehigh County line), CARBON, LEHIGH, NORTHAMPTON (Northwest		

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part including the towns  
 of Walnutport, Bath, and  
 Northampton) COUNTIES.....\$ 35.18 24.25

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 PLAS0592-018 05/01/2023

	Rates	Fringes
Cement Mason/Concrete Finisher Adams, Lancaster and York Counties.....	\$ 34.05	21.25
PLASTERER Adams, Berks (Portions of), Lancaster, and Lebanon Counties.....	\$ 31.33	20.75

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 PLAS9592-002 06/01/2023

MONROE COUNTY (TOBYHANNA ARMY DEPOT)

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 37.13	14.30

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 TEAM0229-003 05/01/2021

	Rates	Fringes
TRUCK DRIVER (ADAMS, BERKS, CARBON, COLUMBIA, CUMBERLAND, DAUPHIN, JUNIATA, LACKAWANA, LANCASTER, LEBANON, LEHIGH, LUZERNE, LYCOMING, MONROE, MONTOUR, NORTHAMPTON, NORTHUMBERLAND, PERRY, PIKE, SCHUYKILL, SNYDER, SULLIVAN, SUSQUEHANNA, UNION, WAYNE, WYOMING, AND YORK COUNTIES) GROUP 1.....	\$ 37.72	0.00

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GROUP 2.....	\$ 37.79	0.00
GROUP 3.....	\$ 38.28	0.00
Truck drivers: (BRADFORD AND TIOGA COUNTIES)		
GROUP 1.....	\$ 22.66	13.46
GROUP 2.....	\$ 22.73	13.46
GROUP 3.....	\$ 23.22	13.46

TRUCK DRIVERS CLASSIFICATIONS

GROUP 1: Flat Bed Truck (Single-Axle), Dump Trucks (Under 10 Yds Single Axle), Stake Body Trck (Single Axle), Dumpster (Single Axle)

GROUP 2: Dump Truck (Over 10 Yds), Asphalt Distributors, Transit Mix (Under 5 Yds), Transit Mix (Over 5 Yds.), Flat or Stake Body (Tandem), Fuel Truck A-Frame/Winch Trucks, Dry Batch Truck, Truck Mounted Sweeper and Vac Trucks, Buses, Dumpster (Tandem)

GROUP 3: Euclid-Type, Off Highway Equipment-Back or Double Bottom Dump Trucks (Over 20 Tons), Straddle Trucks, Pusher, Articulate Dumped Trucks, Low Boy Trailers, Semi Trailers

Water Tank, Sprinkler Trucks, Winch Trucks and Fuel Trucks shall be governed by the appropriate classification as listed above.

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate

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changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union

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average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described



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in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator

(See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"