

MAKEMIE PARK SEWAGE TREATMENT AND
DISPOSAL SYSTEM
DECOMMISSIONING
ACCOMACK COUNTY
INVITATION FOR BIDS #763



June 21, 2024

INVITATION for BIDS #763 Septic Systems at Makemie Park

The County of Accomack

Section 1: Invitation

The Accomack-Northampton Planning District Commission (A-NPDC) on behalf of the County of Accomack is soliciting sealed bids from qualified, Virginia- DPOR licensed and insured contractors.

Section 2: Background Information

This project is located in the community of Makemie Park on Saxis Road, Temperanceville, Virginia, 23442. Makemie Park is a small census-designated hamlet in Accomack County with a population, according to the 2020 census, of 181. The small rural community runs along State Route 695, Saxis Road, just south of Holden's Creek.

The present community septic system, a "Recirculating Puraflo Peat Filter System," for 24 homes, was completed in September of 2007. The Makemie Park Community Association, Inc. was granted permission to operate the Puraflo (GMP #112) Sewage System with a design capacity of 7500 gallons per day, or thirty homes maximum in November of 2008.

In May 2018, the Eastern Shore Health District (ESHD) first observed evidence of community system failure. A site visit revealed multiple areas of ponding sewage on the ground surface around the treatment units and pump stations.

In June 2018, ESHD issued a Notice of Alleged Violation (NOAV) containing observations, alleged regulatory violations, and recommendations for Ownership to cease discharging raw or partially treated sewage discharge onto the ground surface and into the waters of the Commonwealth.

ESHD Staff, with the District Supervisor, Bundick Well and Pump, and representatives of the ANPDC met with members of the Ownership (community members).

In a follow-up to the community meeting, Eastern Shore Health District (ESHD) staff met with Bundick Well and Pump who determined, based on their inspection and assessment of the sewage system, that the onsite sewage system serving Makemie Park had failed.

In October 2018, ESHD sent a letter to Ownership, advising staff of observations and indicating the sewage system failed and needed immediate attention. As of that time, regulatory violations memorialized in the NOAV remain unaddressed and unchallenged by Ownership.

To relieve the situation, The Makemie Park Septic Improvement Grant will strive to increase residential self-sufficiency by replacing the current collective septic system and provide property owners with their own individual units.

System designs were performed from 2021 to 2022 when Construction Permits were issued by the Virginia Department of Health. The systems were subsequently constructed over the following months and completed in 2023. To date, 26 Advanced Onsite Septic Systems and in addition four residential wells have been installed. The communal system is offline and no longer treating and disposing of sewage.

Section 3: Scope of Work

The work includes, but is not limited to the following detailed tasks and procedures, as specified by exhibited Decommissioning Plans dated May 14, 2024, prepared by MSA, P.C.

3.1 Site Preparation

3.1.1 Physical Description of Property:

- The treatment and dispersal system area is an L-shaped portion of the overall rectangular property, encompassing approximately 8 acres. The area includes open grassland and wooded sections.
- The treatment area contains well-maintained grass, while the interior is overgrown with weedy vegetation. The area slopes southward from Elevation 10-ft to Elevation 8-ft at the wooded section.

3.1.2 Preliminary Investigation:

- Contact Virginia811 (Miss Utility) to mark all public utilities on site.
- Contract with a private utility locator, if needed, to mark private utilities before any earthwork activities.
- Locate the flow meter on the subject property and disconnect the force main inflow pipe. Observe for 48 hours to ensure no remaining active residential connections. Vacuum any sewage that drains out using a sewage pump truck.

3.1.3 Erosion and Sediment Control Measures:

- Install and maintain all vegetative and structural erosion and sediment control practices according to the Virginia Erosion and Sediment Control Handbook (1992).
- Install a temporary construction entrance with a wash station and silt fence sediment barriers as specified in the project plans.

3.2 Decommissioning Activities

3.2.1 Maintenance of Erosion and Sediment Control Measures:

- Check and maintain all E&S control measures daily and after each significant rainfall event.

3.2.2 Inspection and Valuation:

- Open control panels for each pump station and ensure circuit breakers are "On."
- Open pump tanks and manually test pumps. After testing, switch the circuit breakers to "Off."
- Disconnect and remove pumps, documenting their condition and potential for reuse.
- Inspect each of the 72 peat modules and document their condition and potential for reuse.

3.2.3 Controls and Meter Removal:

- After confirming power deactivation, remove all power panels, control panels, and the flow meter.
- Remove piping from the flow meter to the 3-way splitter box and recycle all in-ground wiring.

3.2.4 Treatment System Removal:

- Disconnect piping from the peat modules. Remove and discard peat media. Salvage module bases and lids where feasible.
- Remove remaining modules and media, disposing of them at a permitted facility.

3.2.5 Tank Removal:

- Vacuum out remaining liquids and sludge from pump stations using a licensed sewage pump truck.
- Remove all septic tanks, splitter boxes, and pump stations from the ground and dispose of them at a permitted facility.

3.2.6 Private Sewage Connections and Force Main:

- Locate and remove valve boxes around private sewage connections.
- Cut open inflow pipes and force main, vacuum out any remaining sewage, and cap the open ends of both pipes.

3.3 Site Restoration

3.3.1 Lime Application:

- Apply 5 lbs. of lime per 100 sq. ft. to excavations and peat module dispersal areas for soil disinfection.

3.3.2 Backfilling and Grading:

- Backfill all excavations using existing disposal mound soil. If additional fill is needed, use clean fill soil approved by ANPDC.
- Compact backfill soil and grade to match the surrounding ground surface.

3.3.3 Seeding and Erosion Control:

- Spread topsoil of sufficient thickness to support permanent vegetation across disturbed areas.
- Apply permanent seeding and straw or hydroseed to stabilize the topsoil.

3.3.4 Final Site Cleanup:

- Remove and clean up temporary E&S control measures, safety measures, and the temporary construction entrance within 30 days after achieving site stabilization

The County reserves the right to make multiple awards under this IFB.

These activities are funded by the Community Development Block Grant (CDBG) Program funds made available to Accomack County by the Virginia Department of Housing and Community Development (VDHCD). The A-NPDC administers the CDBG program for Accomack County. In accordance with the award of the federal grant funds, please note that Davis-Bacon wage and other Federal General Conditions apply and that information begins in detail on page **30**. There are a number of portions of these conditions that are very specific as to (for example) insurance coverage required (page **55**) or Guarantee requirements (page **58**). In accordance with 29CFR 5.5 (a) (page **91**) speaks to Federal Labor Standards Provisions that prevail on this project including adherence to wage determination as promulgated under Executive Order 14026 (see page **90**). As part of compliance, certain payroll reporting and other record retention is required.

A non-mandatory pre-bid meeting is scheduled for Monday, July 1, 2024 beginning promptly at 10:00 a.m. at 28149 Saxis Rd., Temperanceville, VA. All interested bidders are encouraged to attend.

Sealed bids will be received until 4:00 P.M., Thursday, July 11, 2024 local prevailing time at the offices of the:

**Accomack-Northampton Planning District Commission
The Enterprise Building
23372 Front Street
P.O. Box 387
Accomac, Virginia 23301.**

Bids received by the due date and time will be publicly opened and read aloud. Late bids will be returned unopened. Mailed bids or bids sent by any other delivery company must be received by the due date and time set for receipt of bids. The timekeeping mechanism shall be provided by the A-NPDC.

Bids shall be accompanied by a bid bond in an amount equal to 5% of the bid amount.

The successful bidder(s) will be expected to sign a contract with the County and work shall commence within 10 days of issue of “Notice to Proceed.” Work shall be complete within 150 days of the commencement of work. An extension of contract time may be extended by the County if a written request is received.

The successful bidder/ offeror shall be required to provide to the County a Performance Bond and Payment Bond in an amount equal to the amount of the Contract. Withdrawal of bids or proposals shall be according to procedure § 2.2-4330 of the Code of Virginia, as amended.

Please call (757) 787-2800, extension 114, Kellen Singleton, Coastal Project Manager, or Stephanie Woods, Accomack County Procurement Specialist at 757-787-5709 with questions regarding this project.

The following pages include: the Base Bid and Representation Form, Scope of Work Acknowledgement, Reference List, other required bid forms, the County’s General Terms and Conditions, a sample contract that the awarded bidder(s) will sign after receipt of Notice of Award, and Federal Conditions. Specifications, drawings, detailed tasks, and procedures, are specified by the exhibited Decommissioning Plans dated May 14, 2024, prepared by MSA, P.C.

BID FORM

Company name: _____ Date: _____

Address: _____ Phone #: _____

_____ Fax #: _____

Attn: _____ Email: _____

Base Bid

**ALL WORK AS STATED WITHIN IFB # 738 AND AS SHOWN IN THE PROJECT PLANS
DATED 5/15/24, PREPARED BY MSA, P.C.**

Lump Sum Base Bid: \$ _____

(Words:) _____

Bidders Representation:

- A. The bidding documents have been reviewed and are understood. This bid is made in accordance herewith.
- B. The project site has been visited and/ or the bidder acknowledges understanding of the local conditions under which the project is to be performed.
- C. This bid is based upon the material, systems, and equipment which meet or exceed those described in the bidding documents.

Bidder Acknowledgement of “Representation”

(Authorized signature)

(Title)

BID FORM

I certify that the following items have been considered and are provided in the bid pricing:

_____ Properly abandon pit privies on-site, provide verification and certification, *as required*.

_____ All materials, labor, and equipment required to install the new septic system in full compliance with the attached permit that was issued by the Eastern Shore Health District, *as required*.

_____ All electrical and plumbing work, complete and in place, required to connect the new septic system to the house, and abandoning any existing facilities *as required* by the Health Department and included in the Scope of this IFB.

_____ Removal and proper disposal of any plants or trees required to install the septic system and providing fill material to leave yard level and graded.

_____ Copies of final inspections reports from the Health Department for each septic system.

_____ Consideration of all relevant attachments, including site plans/ sketches.

Bidders Acknowledgement

(Authorized signature)

(Title)

BID FORM

Receipt of Addenda:	<u>Addendum No.</u>	<u>Dated</u>
	_____	_____
	_____	_____
	_____	_____

Base Bid Lead Time: _____

Exceptions: _____

Quotation Prepared By: _____
Name (printed)

Signature: _____ Date: _____

Current Licenses *if Applicable*:

VIRGINIA CONTRACTOR'S

LICENSE#: _____
attach copy)

EXPIRATION DATE: _____ (please

ACCOMACK CO. BUSINESS

LICENSE#: _____
copy)

EXPIRATION DATE: _____ (please attach

By signing this form, bidder or offeror certifies, acknowledges, understands, and agrees to be bound by the conditions set forth in this IFB and the General Terms, Conditions and Instructions to Bidders/Offerors herein.

BID FORM

REFERENCE LIST

Provide in the space below references for whom your company has successfully performed work similar in nature to the scope of work contained in this Invitation for Bids. **Bids from contractors inexperienced in this type of work will not be considered.**

BID FORM

It is the intention of the County of Accomack to comply fully with relevant federal and state laws, orders, and regulations and to promote the interests of the Virginia Department of Small Business and Supplier Diversity and like agencies. The procurement practices of the County of Accomack are non-discriminatory and promote equality of opportunity for all qualified businesses.

PLEASE INDICATE THE FOLLOWING INFORMATION RELEVANT TO YOUR FIRM, IF ANY:

DESIGNATIONS: (Please refer to the definitions provided by the Virginia Department of Small Business and Supplier Diversity.)

- | | | |
|--|------------------------------|-----------------------------|
| <u>Micro Business</u> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <u>Small Business</u> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <u>Women-Owned Business</u> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <u>Minority Business</u> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <u>Service Disabled Veteran</u> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

The above information is requested for statistical purposes only. All firms tendering responses will receive equal consideration for award.

CONTACT FOR ADMINISTRATION

Name: _____

Office Address: _____

Office Phone Number: _____

Please return this page

BID FORM

VENDOR ELIGIBILITY CERTIFICATION

This is to certify that this person/firm/corporation has neither been barred from bidding on contracts by any agency of the Commonwealth of Virginia, nor is this person/firm/corporation a part of any firm/corporation that has been barred from bidding on contracts by any agency of the Commonwealth of Virginia.

Name of Official

Title

Firm or Corporation

Please return this page.

PROOF OF AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA THIS FORM MUST BE SUBMITTED WITH YOUR PROPOSAL/BID. FAILURE TO INCLUDE THIS FORM MAY RESULT IN REJECTION OF YOUR PROPOSAL/BID.

Pursuant to Virginia Code §2.2-4311.2, an Offeror/Bidder organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the code of Virginia shall include in its proposal/bid the identification number issued to it by the State Corporation Commission (“SCC”). Any Offeror/ Bidder that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the code of Virginia or as otherwise required by law shall include in its proposal/bid a statement describing why the Offeror/ Bidder is not required to be so authorized. Any Offeror/ Bidder described herein that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the County Administrator as applicable.

If this quote for goods or services is accepted by the County of Accomack, Virginia, the undersigned agrees that the requirements of the Code of Virginia Section 2.2-4311.2 have been met.

Please complete the following by checking the appropriate line that applies and providing the requested information.

- A. _____ Offeror/Bidder is a Virginia business entity organized and authorized to transact business in Virginia by the SCC and such vendor’s Identification Number issued to it by the SCC is _____.
- B. _____ Offeror/Bidder is an out-of-state (foreign) business entity that is authorized to transact business in Virginia by the SCC and such vendor’s identification Number issued to it by the SCC is _____.
- C. _____ Offeror/Bidder does not have an Identification Number issued to it by the SCC and such vendor is not required to be authorized to transact business in Virginia by the SCC for the following reason(s):

Please attach additional sheets if you need to explain why such Offeror/ Bidder is not required to be authorized to transact business in Virginia.

Legal Name of Company (as listed on W-9)

Legal Name of Offeror/ Bidder

Date

Authorized Signature

Print or Type Name and Title

Please return this page.

Exhibit 1

Drawings

General Terms and Conditions and Instructions to Bidders and Offerors

Application:

These General Terms and Conditions and Instructions to Bidders and Offerors (“Terms and Conditions”) apply to all Invitations for Bids (IFBs) and Requests for Proposals (RFPs) and to all contracts, agreements, purchase order, memoranda of understanding, and any change order, modification or addenda thereto (“Contract”), entered by and between the County of Accomack, Virginia (County”) and an individual or **entity for goods and/or services. These Terms and Conditions do not apply to Contracts by and between the County and any public body or public agency except to the extent that the parties agree to incorporate these Terms and Conditions, in whole or in part, into said Contract.**

Where professional services are procured, as defined in Virginia Code Section 2.2-4301, the County’s General Terms and Conditions for Professional Services shall also apply. In the event of conflict between these Terms and Conditions and those contained in the General Terms and Conditions for Professional Services, the more stringent requirement shall apply, unless otherwise required by law.

Definitions:

For purposes of these Terms and Conditions, the following terms are defined generally as follows:

“**Bidder**” shall mean any individual or entity responding to an Invitation for Bids issued by the County.

“**Offeror**” shall mean any individual or entity responding to a Request for Proposals issued by the County.

“**Contract**” shall mean any contract, agreement, purchase order, or memorandum of understanding, and any change order, modification or addendum thereto.

“**Contractor**” shall mean any individual or entity that has entered into a Contract to provide goods or services to the County of Accomack.

Tax Exemption:

The County of Accomack is exempt from and will not pay Federal Excise Tax, Transportation Tax or the Commonwealth of Virginia Sales and Use Tax. The County is also exempt from the local 911 tax. A signed certificate to document the County’s tax-exempt status is available upon request **by the Contractor to the County finance office.**

Ethics in Public Contracting (§2.2-4372 et seq., Code of Virginia):

The Contractor shall not offer or receive any kickbacks or inducements from any other offeror, supplier, manufacturer, or subcontractor in connection with this project. The A/E shall not confer on any public employee having official responsibility for this project any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged. See referenced code section for further detailed remarks.

1. **Authorization to Conduct Business in the Commonwealth.** Any Contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership must be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, or as otherwise required by law. A business that enters into a Contract, including purchase orders, with

the County shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth to be revoked or cancelled at any time during the term of the Contract. The County may void any Contract with a business entity that fails to remain in compliance with the provisions of this paragraph.

2. **Contractor's License:** Bidders and Offerors (as required) must be licensed as a Contractor in the Commonwealth of Virginia and/or shall possess any professional license or certification required by state law. Bidders and Offerors are directed to Subtitle II of Title 54.1, Code of Virginia as amended. Bidder or Offeror shall include a copy of its license or certification with the completed bid form.
3. **Business License:** All businesses who wish to engage in business with the County of Accomack must possess a valid Accomack County Business License or must document why they are exempt from licensure. Some businesses who have obtained business licenses from other county jurisdictions are exempt from Accomack County licensure requirements; however, rules differ for building contractors and tradesmen who may be required to possess multiple business licenses. Businesses should contact the Commissioner of the Revenue for specific guidance on this issue. This office may be reached at 757-787-5747.
4. **Insurance:** Any Contractor doing business with the County shall maintain insurance to protect the County from claims under the Worker's Compensation Act, and from any other claim for damages for personal injury, including death, and for damage to property which may arise from operation under a contract, whether such operations by the contractor or subcontractor, or anyone directly or indirectly employed by either, such insurance to conform to the amounts as prescribed by law. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the Code of Virginia during the entire term of the contract.

Whenever work is to be performed on County-owned or -leased property or facilities, the contractor shall be required to have the insurance specified with an insurance company acceptable to the County of Accomack and licensed to do business in the state of Virginia. All insurance must be obtained before any work is commenced and kept in effect until its completion.

Minimum insurance requirements for the County of Accomack are as follows:

- A. Commercial General Liability: \$1,000,000 per occurrence /\$2,000,000 aggregate and is to include:
 - 1) Premises/Operations' Liability,
 - 2) Products and Completed Operations Coverage, and
 - 3) Independent Contractor's Liability or Owner's and Contractor's Protective Liability.

The County of Accomack, Virginia must be named and endorsed as an "additional insured" when a Contractor is required to obtain Commercial General Liability coverage.

- B. Automotive Liability: \$1,000,000 combined single limit and only if motor vehicle is to be used in the contract.
- C. Worker's Compensation Liability: Virginia statutory requirements and benefits (if the contractor has three or more employees).
- D. Employer's Liability: \$100,000 (if employees are paid a wage or salary).

- E. In addition, various Professional Liability/Errors and Omissions insurance coverages are required when providing those services as follows:

Profession/Service	Occurrence Limit	Aggregate Limit
Accounting	\$1,000,000	\$3,000,000
Architecture	\$2,000,000	\$6,000,000
Asbestos Design, Inspection, or Abatement		
Contractors	\$1,000,000	\$3,000,000
Health Care Practitioner	\$1,650,000	\$3,000,000
Insurance/Risk Management	\$1,000,000	\$3,000,000
Landscape/Architecture	\$500,000	\$1,000,000
Legal	\$1,000,000	\$5,000,000
Professional Engineer	\$2,000,000	\$6,000,000
Surveying	\$100,000	\$300,000

The minimum amount of professional liability insurance required to be carried by the A/E shall be calculated as not less than an amount equal to 5% of the estimated cost of construction of all County-owned projects designed by the A/E which are currently under construction, but in no event shall the amount of professional liability insurance be less than \$100,000 per claim. As an alternative to the calculated amount indicated above, the Architect and/or Engineer (A/E) may work with the County to procure a 'Project Insurance' package for that project which is satisfactory to the County; or the A/E may provide a Certificate of Insurance indicating coverage in the amount of \$2,000,000 per claim and \$6,000,000 in the aggregate.

5. Non Discrimination: The County of Accomack does not discriminate against faith-based organizations in accordance with the Code of Virginia, §2.2-4310 and 2.2-4343.1 or against a Bidder or Offeror because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service disabled veteran or any other basis prohibited by state law relating to discrimination in employment.

For Contracts, including purchase orders, over \$10,000, Contractor agree as follows:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service disabled veteran or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor.
- B. The Contractor shall agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, including the names of all contracting agencies with which the contractor has contracts of over \$10,000.
- C. The Contractor, shall in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that such contractor is an equal-opportunity employer. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this provision.
- D. If the Contractor employs more than five employees, the Contractor shall (i) provide annual training on the Contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the contractor owns or leases for business purposes and (b) the contractor's employee handbook.

- E. The Contractor shall include the provisions of paragraphs A – D above in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

6. Compliance with Federal Immigration Law: The Contractor does not, and shall not during the performance of the Contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

7. Drug-Free Workplace: During the performance of Contracts, including purchase orders, in excess of \$10,000, Contractors shall agree to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a Contractor in accordance with this section, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

8. Qualifications of Bidder/Offeror: Each Bidder or Offeror shall be prepared to supply evidence of qualifications and capacity to perform work as proposed. Items which may be considered evidence are as follows:

- A. Current financial statement
- B. List of current and past similar contracts
- C. Explanation of methods to be used in fulfilling this contract
- D. Statement of current work load and/or capacity

Additional particular items may be requested as needed by the County. All qualifications shall be received within ten (10) days of request by the County.

9. Competency of Bidder/Offeror:

- A. The Bidder or Offeror if requested, shall present evidence of performance ability and possession of necessary facilities, pecuniary resources, and adequate insurance to comply with the terms of these specifications and contract documents. Such evidence shall be presented within a specified time and to the satisfaction of the County.
- B. Bidders certify that their bid is made without any previous understanding, agreement, or connection with any person, firm, or corporation making a bid for the same project; without prior knowledge of competitive prices; and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action.
- C. Bidders or their authorized agents are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting bids. Failure to do so will be at the bidder's own risk.

- D. Bids and Contracts issued by the County of Accomack shall bind Bidders to applicable conditions and requirements set forth in the bid boilerplate, unless otherwise specified in the bid documents, and are subject to all federal, state, and municipal laws, rules, regulations, and limitations.

10. Completing Bid Forms:

- A. Use only the bid form(s) supplied by the County.
- B. One original signed bid shall be submitted.
- C. All blanks on the bid form(s) shall be filled in completely in ink.
- D. Any interlineation, alteration, or erasure on the bid form shall be initialed by the signer of the bid.
- E. Each bid shall be signed by the person or persons legally authorized to bind the bidder to a Contract, using the legal name of the signer.
- F. A bid submitted by an agent shall have a current Power of Attorney attached certifying the agent's authority to bind the Bidder.
- G. Bidders shall supply all information and submittals required by the bid documents to constitute a proper and responsive bid. Any ambiguity in any bid as a result of omission, error, lack of clarity or noncompliance by the bidder with specifications, instructions, and/or all conditions of bidding shall be construed in the light most favorable to the County.
- H. When an error is made in extending total prices, the unit bid price will govern.
- I. Erasures in bids must be initialed by the Bidder. Carelessness in quoting prices or in preparation of bid otherwise will not relieve the Bidder.
- J. Bidders are cautioned to recheck their bids for possible error.

11. Descriptive Literature: Bidder may be required to submit with bid complete pertinent descriptive literature and specifications fully describing the materials proposed to be furnished.

12. Specifications Exceptions: Exceptions to the specifications or general instructions must be in writing and submitted with the bid form. Exceptions to the specifications contained in bids are specifically discouraged. Bidders should attempt to submit a bid fully conforming to the specifications. Failure to clearly identify any exception may result in disqualification of the bid.

13. Use of Brand Names: The name of a certain brand, make, manufacturer, or definite specification is to set forth to convey to prospective bidders the general style, type, character, and quality of the article desired. Any article that the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose, shall be acceptable.

14. Eligible Vendors: Vendors responding to a request for supplies must be the manufacturer or authorized distributor of all products bid.

15. Delivery Terms: Bid prices must be net, based on delivery to the specified location(s) in Accomack County. Prices shall include all applicable freight charges; extra charges will not be allowed.

16. Comments/Questions: Any information relative to interpretation of specifications and drawings shall be requested of the Procurement Agent, in writing, in ample time before the opening of bids. No inquiries, if received by the Procurement Agent within five (5) business days of the date set for the opening of bids, will be given any consideration. Any material interpretation of a specification, as determined by the County Procurement Agent, will be expressed in the form of an addendum to the specification which will be posted to the websites indicated in the IFB no later than three (3) business days before the date set for receipt of bids. Oral answers will not be authoritative. Comments concerning specifications or other provisions of the bid documents may be directed to Stephanie Woods, Accomack County Procurement Specialist, via email to swoods@co.accomack.va.us.

- 17. Bid/Proposal Delivery:** Bids/proposals may be mailed or delivered as directed in the Invitation for Bids or in the Request for Proposals. Please see the specific instructions given in each individual IFB or RFP.
- 18. Bid/Proposal Preparation:** The bid/proposal and any other documents required to be submitted with the bid shall be enclosed in a sealed, opaque envelope. **The envelope must clearly reference the project title and the project number on its face.**
- 19. Bid/Proposal Receipt:** Bids/proposals shall be received before the due date and time stated in the Invitation for Bids or the Request for Proposals. The Bidder/Offeror shall assume full responsibility for taking whatever measures are necessary to ensure that the bid/proposal reaches the location indicated in the solicitation prior to the due date and time set forth in the solicitation. The County will not be responsible for any bid/proposal delayed in the postal service or any other delivery service nor any late bid/proposal or amendment thereto received after the due date and time set forth in the solicitation. Bids received after the due date and time set for receipt of bids will be returned to the bidder unopened.
- 20. Opening of Bids:** Bids received on time will be opened publicly and read aloud at the time and location specified in the Invitation for Bids. The device or mechanism for establishing the opening time shall be established by the County.

21. Acceptance or Rejection of Bids:

- A. Unless otherwise specified, the contract shall be awarded to the lowest **responsible** and **responsive** bidder complying with the provisions of the bid documents, provided the bid price is reasonable, does not exceed the funds available, and is in the best interest of the County. The County reserves the right to reject the bid of any bidder who has failed to perform properly in any way or to complete on time contracts previously awarded, or a bid from any bidder who investigation shows is not in a position to perform the Contract. The County reserves the right to reject all bids.
- B. In determining a Bidder's **responsibility**, the County may consider the following in addition to price:
- 1) The Bidder's ability, capacity, and skill to provide the goods and/or services required within the specified time.
 - 2) The Bidder's ability to provide needed maintenance and service.
 - 3) The character, integrity, reputation, experience, and efficiency of Bidder and the quality of Bidder's performance of previous and/or existing contracts.
 - 4) Whether the Bidder is in arrears to the County, in debt on a contract, or in default on any surety.
- C. In determining a Bidder's **responsiveness**, the County shall consider whether the bid conforms in all material respects to the bid documents. To be responsive, a bid must include all information required by the IFB solicitation.
- D. The County reserves the right to waive any irregularities to the extent permitted by law.
- E. The County reserves the right to reject any and all bids, to accept any bid in whole or in part, to add or delete quantities, to waive any informalities in bids received, to reject a bid not accompanied by any required bid security or other data required by bidding documents, and to accept or reject any bid which deviates from specifications when in the best interest of the County.
- F. The County cannot, by law, negotiate cost with the lowest bidder, except where the lowest responsive bid exceeds available funds.
- G. In the event that the lowest responsive bid received from a responsible Bidder exceeds available funds, the County reserves the right to negotiate with that Bidder to obtain a contract price within available funds.
- H. Such other information as may be secured by the County Procurement Agent having a bearing on the decision to award the Contract. If an apparent low bidder is not awarded a contract for reasons

- I. of non-responsibility, the County Procurement Agent shall so notify that Bidder and shall have recorded the reasons in the procurement file.

22. Acceptance or Rejection of Proposals:

- A. Requests for Proposals shall be awarded to the Offeror whose proposal most closely meets the evaluation criteria set forth in the Request for Proposals with price as one of the determining factors, but not the sole determining factor. The County reserves the right to reject the proposal of any Contractor who has failed to perform properly in any way or to complete on time contracts previously awarded, or a proposal from any Offeror who investigation shows is unqualified to perform the Contract.
- B. The County reserves the right to reject all proposals.
- C. The County reserves the right to waive any irregularities to the extent permitted by law.

23. Pricing: Prices quoted in Proposals shall be considered, but shall not be the sole determining factor in selecting a provider for the required services.

24. Notice of Consideration: Successful offeror(s) will be notified if their proposal has received the highest score(s).

25. Binding Bids/Proposals: Bids/proposals are to be binding for sixty (60) calendar days following the opening date, unless extended by mutual consent of all parties or unless otherwise specified in the terms contained in the Invitation for Bids or Request for Proposals.

26. Bid Bond: Bidders shall be required to provide a Bid Bond in an amount equal to 5% of the bid amount.

27. Withdrawal of Bids:

- a. A Bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his or her bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as *opposed* to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn. If a bid contains *both* clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn. The Bidder shall give notice in writing to the Procurement Agent of his or her claim of right to withdraw his or her bid within two (2) business days after the conclusion of the bid-opening procedure and shall submit original work papers with such notice.
- b. A Bidder for a contract other than for public construction may request withdrawal of his or her bid under the following circumstances:
 - 1) Requests for withdrawal of bids prior to opening of such bids shall be transmitted to the County Procurement Agent in writing.
 - 2) Requests for withdrawal of bids after opening of such bids but prior to award shall be transmitted to the County Procurement Agent, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show

the basis of the error. Such documentation may take the form of supplier quotations, vendor work sheets, and similar documents. If bid bonds were tendered with the bid, the County may exercise its right of collection.

- 3) No bid may be withdrawn under this section when the result would be the awarding of the Contract on another bid of the same Bidder or of another bidder in which the ownership of the withdrawing Bidder is more than five percent.
- 4) If a bid is withdrawn under the authority of this section, the lowest remaining bid shall be deemed to be the low bid.

28. Contract Award:

Bid (IFB) -- Award will be made on basis of information submitted with the bid and based on what is determined to be in the County's best interest, taking into consideration pricing and qualifications of bidders. A written award in the form of a purchase order, acceptance agreement, or formal contract shall result in a binding contract without further action by either party. If a contract or acceptance agreement is used, the same shall be executed by the successful Bidder within ten (10) working days of receipt of notice of award. All bids shall be approved by the County's Board of Supervisors prior to the award of same.

Proposal (RFP) – A Selection Committee will review and evaluate all proposals submitted in response to a Request for Proposals. The Committee shall conduct a preliminary evaluation of all proposals on the basis of the information provided with the proposal and the evaluation criteria listed herein. The Committee shall make recommendation to the County Board of Supervisors, and the Board of Supervisors shall make the final decision. The County shall be the sole judge as to the merits of qualifications submitted by Offerors. The decision of the County shall be final. In the event the County determines, in writing and in its sole discretion, that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that Offeror.

The following documents, which are included in the Request for Proposals, shall, unless otherwise provided, be incorporated by reference in the resulting Contract and become a part of said Contract:

- A. County of Accomack Solicitation Form/Acceptance Agreement (Cover Sheet),
- B. General Terms, Conditions and Instructions to Bidders and Offerors,
- C. General Terms and Conditions for Professional Services, if applicable,
- D. Special Provisions and Specifications,
- E. Pricing Schedule,
- F. Any addenda/amendments/Memoranda of Negotiations,
- G. Other documents which may be incorporated by reference, if applicable.

- 29. Tie Bids:** If all bids are for the same total amount or unit price (including authorized discounts and delivery times) and if the public interest will not permit the delay of re-advertisement for bids, the County Procurement Agent is authorized to award the Contract to the resident Accomack County tie bidder whose firm has its principal place of business in the County, or if there be none, to the resident Virginia tie bidder, or if there be none, to one of the tie bidders by drawing lots in public. The decision of the County to make award to one or more such bidders shall be final.

30. Notification of Award: Successful Bidders/Offerors will be notified immediately upon acceptance of their bid/proposal.

31. Guarantees & Warranties: All guarantees and warranties required shall be furnished by the successful

Bidder/Offeror and shall be delivered to the Procurement Agent before final payment on the Contract is made. Unless otherwise stated, manufacturer's standard warranty applies.

32. Escrow Accounts: In the case of contracts of \$200,000 or more for construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations where portions of the contract price are to be retained, the successful Bidder/Offeror may request an escrow account procedure for utilization of retainage funds by so indicating in the space provided in the proposal documents. In the event the contractor elects to use the escrow account procedure, the escrow agreement form and contract shall be submitted to the County within fifteen calendar days after notification. If the escrow agreement form is not submitted within the fifteen-day period, the successful Bidder/Offeror shall forfeit his rights to the use of the escrow account procedure.

33. Permits: Any and all required permits shall be obtained by the successful Bidder/Offeror.

34. Performance Bond and Payment Bond: The successful Bidder/Offeror shall be required to provide to the County a Performance Bond and Payment Bond in an amount equal to the amount of the Contract.

35. Termination for Convenience: A Contract may be terminated in whole or in part by the County in accordance with this clause whenever the County Procurement Agent shall determine that such a termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor at least five (5) working days prior to the termination date of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. An equitable adjustment in the Contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.

36. Termination of Contract for Cause

- A. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his or her obligations under the Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of the Contract, the County shall thereupon have the right to terminate, specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the Contract shall, at the option of the County, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.
- B. Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the County from the Contractor is determined.

37. Contract Alterations: No alterations in the terms of a Contract shall be valid or binding upon the County unless made in writing and signed by the Procurement Agent or his or her authorized agent.

38. Subletting of Contract or Assignment of Contract Funds: It is mutually understood and agreed that the Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of his or her contractual duties to any other person, firm, or corporation without the previous written consent of the Procurement Agent. If the Contractor desires to assign his or her right to payment of the Contract, Contractor shall notify the Procurement Agent immediately, in writing, of such assignment of right to payment. In no case shall such assignment of Contract relieve the Contractor from his or her obligations or change the terms of the contract.

- 39. Funding:** A Contract shall be deemed binding only to the extent of appropriations available to each Department or Office for the purchase of goods and services.
- 40. Delivery/Service Failures:** Failure of a Contractor to deliver goods or services within the time specified, or within reasonable time as interpreted by the Procurement Agent, or failure to make replacements/corrections of rejected articles/services when so requested, immediately or as directed by the Procurement Agent, shall constitute authority for the Procurement Agent to purchase in the open market articles/services of comparable grade/quality to replace the services, articles rejected, and/or not delivered. On all such purchases, the Contractor shall reimburse the County, within a reasonable time specified by the Procurement Agent, of any expense incurred in excess of contract prices. The County shall be entitled to withhold such reimbursement from payments due the Contractor under the Contract. Such purchases shall be deducted from the Contract quantities if applicable. Should public necessity demand it, the County reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Procurement Agent.
- 41. Non-Liability:** The Contractor shall not be liable in damages for delay in shipment or failure to deliver when such delay or failure is the result of fire, flood, strike, the transportation carrier, act of God, act of Government, act of an alien enemy, or by any other circumstances which, in the Procurement Agent's opinion, are beyond the control of the Contractor. Under such circumstances, however, the Procurement Agent may, at his or her discretion, cancel the contract.
- 42. Responsibility for Supplies Tendered:** Unless otherwise specified in the solicitation, the Contractor shall be responsible for the materials or supplies covered by the Contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notice of rejection. Rejected materials or supplies must be removed by and at the expense of the Contractor promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Contractor within ten (10) days after date of notification, the County may return the rejected materials or supplies to the Contractor at his or her risk and expense or dispose of them as its own property.
- 43. Replacement:** Materials or components that have been rejected by the Procurement Agent, in accordance with the terms of a Contract, shall be replaced by the Contractor at no cost to the County.

44. General Guaranty:

Contractor agrees to:

- A. Save the County, its agents, and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition; secret process, patented or unpatented; invention; article or appliance furnished or used in the performance of a contract for which the Contractor is not the patentee, assignee, licensee, or owner.
- B. Protect the County against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.
- C. Furnish adequate protection against damage to all work and to repair damages of any kind to the building or equipment, to his or her own work, or to the work of other contractors, for which his or her workers are responsible.
- D. Pay for all permits, licenses, and fees and give all notices and comply with all laws, ordinances, rules, and regulations of the County.
- E. Protect the County from loss or damage to County-owned property while it is in the custody of the Contractor.

45. Service Contract Guaranty:

Contractor agrees to:

- A. Furnish services described in the solicitation and resultant Contract at the times and places and in the manner and subject to conditions therein set forth, provided that the County may reduce the said services at any time.
- B. Meet all industry and professions standards and enter upon the performance of services with all due diligence and dispatch, assiduously press to its complete performance, and exercise therein the highest degree of skill and competence.
- C. All work and services rendered in strict conformance to all laws, statutes, and ordinances and the applicable rules, regulations, methods, and procedures of all government boards, bureaus, offices, and other agents.
- D. Allow services and products to be inspected or reviewed by an employee of the County at any reasonable time and place selected by the County.
- E. The County of Accomack shall be under no obligation to compensate the Contractor for any services not rendered in strict conformity with the Contract.

- 46. Indemnification:** The Contractor shall indemnify, keep and save harmless the County, its agents, officials, employees, and volunteers against claims of injuries, death, damage to property, patent claims, suits, liabilities, judgments, cost, and expenses which may otherwise accrue against the County in consequence of the granting of a contract or which may otherwise result therefrom, if it shall be determined that the act was caused through negligence or error or omission of the Contractor or his or her employees, or that of the subcontractor or his or her employees, if any; and, the Contractor shall, at his or her own expense, appear, defend, and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and, if any judgment shall be rendered against the County in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same.

Contractor expressly understands and agrees that any performance bond or insurance protection required by this Contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided. **This indemnity shall be construed in accordance with Virginia law.**

- 47. Virginia Freedom of Information Act:** All proceedings, records, contracts, and other public records relating to procurement transactions shall be open to the inspection of any citizen or any interested person, firm, or corporation in accordance with the Virginia Freedom of Information Act, except as provided below:
- A. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.
 - B. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the County decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the Contract. Any competitive negotiation Offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the event that the County decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to the public inspection only after award of the Contract except as provided in paragraph "C" below. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.
 - C. Trade secrets or proprietary information submitted by a Bidder, Offeror, or Contractor in connection with a procurement transaction or prequalification application submitted pursuant to the prequalification process identified in the Special Provisions, shall not be subject to the Virginia Freedom of Information Act; however, the Bidder, Offeror, or Contractor shall (i) invoke the

protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary. Any Offeror shall not identify as trade secret or proprietary information their entire completed proposal.

- D. Nothing contained in this section shall be construed to require the County, when procuring by RFP to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous to the County.

48. Applicable Law and Courts: The Contract shall be governed in all respects by the laws of the Commonwealth of Virginia, and exclusive jurisdiction for the resolution of any dispute arising out of this contract shall be in the Circuit Court of Accomack County, Virginia.

49. Payment of Subcontractors: Any contract awarded in accordance with Section 2.2-4354 of the Code of Virginia shall include the following provisions:

1. Within seven days after receipt of amounts paid to a Contractor by the County for work performed by a subcontractor under the Contract, the Contractor shall take one of the two following actions:
 - a. Pay the subcontractor for the proportionate share of the total payment received from the agency attributable to the work performed by the subcontractor under that Contract; or
 - b. Notify the agency and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.
2. A payment clause that requires (i) individual contractors to provide their social security numbers and (ii) proprietorships, partnerships, and corporations to provide their federal employer identification numbers.
3. An interest clause that obligates the Contractor to pay interest to the subcontractor on all amounts owed by the Contractor that remain unpaid after seven days following receipt by the Contractor of payment from the County for work performed by the subcontractor under the contract, except for amounts withheld as allowed in subdivision 1.
4. An interest rate clause stating, "Unless otherwise provided under the terms of the Contract, interest shall accrue at the rate of one percent per month."

Any such Contract awarded shall further require the Contractor to include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

A Contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of the County. A Contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

50. General Terms and Conditions Controlling: These General Terms and Conditions are controlling, and unless expressly provided to the contrary, any variance or inconsistency with terms elsewhere in the Contract documents shall be resolved in favor of these General Terms and Conditions and if applicable, the County's General Terms and Conditions for Professional Services.

***End - Revised July 11, 2023**

SAMPLE CONTRACT



The County of Accomack

THIS CONTRACT, made this _____, 2021, by and between the County of Accomack, Virginia (the "COUNTY"), a political subdivision of the Commonwealth of Virginia, located at 23296 Courthouse Ave., Accomack, VA 23301, and _____ (the "CONTRACTOR") located at _____, WITNESSETH THAT:

1. RECITALS

WHEREAS, the CONTRACTOR who has demonstrated to be both responsive and responsible, and is authorized to conduct business in the Commonwealth of Virginia and is a licensed contractor in same, submitted a bid price for Invitation for Bids #763 in the amount of \$ _____ for the Bid Item(s): _____; and

WHEREAS, the COUNTY has awarded the contract to _____ in the amount of \$ _____.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein and for other good and valuable consideration, the parties agree to the terms herein.

2. CONTRACTOR TO PROVIDE SERVICES TO COUNTY

The COUNTY hereby engages the CONTRACTOR and CONTRACTOR hereby agrees to provide the following: "Bid Items numbered _____ - as described in the Scope of Work and according to the Specifications and Drawings in Accomack County Invitation for Bids #763. All work by the CONTRACTOR shall be performed in a workmanlike manner.

3. TERM OF CONTRACT

The CONTRACTOR agrees to commence work no later than ten (10) days after the COUNTY issues a Notice to Proceed. The CONTRACTOR shall provide the COUNTY a start date within 10 days of CONTRACTOR's receipt of Notice to Proceed and the project shall be completed no later than one hundred fifty (150) calendar days from the date the work is commenced.

4. COMPENSATION

The COUNTY shall compensate the CONTRACTOR the sum of \$ _____ for performance and completion of the services described in this Contract. Progress payments shall be made subject to inspections and approval by the project engineer and the COUNTY and in accordance

with the COUNTY'S Accounts Payable Cycle. The COUNTY'S payable terms are "Net 45," meaning that the COUNTY shall have 45 days after receipt of an invoice for payment to remit same.

For each progress payment made prior to completion of the Work, The COUNTY may hold five percent (5%) retainage from the payment until the CONTRACTOR has completed the work required under this Contract. Prior to final payment, the COUNTY shall conduct a final inspection of the work. Funds due and all retained funds will be released upon satisfactory completion of all work approved by the COUNTY.

The County of Accomack will not pay any finance charges imposed on any invoices submitted by the CONTRACTOR relative to this Contract.

5. SCOPE OF WORK

The CONTRACTOR agrees to provide the services listed in Invitation for Bids #763 and specified on the Drawings in the Invitation for Bids #763.

6. ENUMERATION OF CONTRACT DOCUMENTS

This CONTRACT is comprised of this agreement and the following documents, which are attached hereto as part of this Contract or are incorporated by reference herein:

- a. Invitation for Bids #763
- b. Accomack County's General Terms & Conditions
- c. Federal General Conditions
- d. Exhibit 1: Specifications, Disposal Area

7. TRANSFER, ASSIGNMENT, AND SUBLETTING OF CONTRACT

The CONTRACTOR agrees that it shall not transfer, assign, or sublet the Contract, or any part thereof, or any interest therein, except as indicated in the CONTRACTOR'S "Bid" without first receiving prior written approval from the COUNTY. CONTRACTOR further agrees that any such assignment or transfer without prior written approval by the COUNTY shall not release the CONTRACTOR from any responsibility of liability as set forth in this Contract.

8. INDEMNIFICATION AND CONDITIONS

A) The CONTRACTOR is an independent contractor and, as such, is not and shall not be construed to be an agent or employee of the COUNTY. The CONTRACTOR agrees to indemnify, hold harmless and defend the COUNTY at the CONTRACTOR'S expense from and against any and all liability for loss, damage, or expense for which it may be held liable by reason of injury, including death, to any person or damage to any property arising out of or in any manner connected with the work to be performed under this Contract, or costs and expenses for, or on account of, any patented or copyrighted equipment, materials, articles or processes used in the performance of this Contract.

B) Upon execution of this Contract, and thereafter no less than fifteen (15) days prior to the expiration date of any insurance policy delivered pursuant to this Contract, the CONTRACTOR shall deliver to the COUNTY a certificate(s) of insurance in compliance with Accomack County's General Terms & Conditions, Item #4.

C) Each policy of insurance shall be issued by financially responsible insurers duly licensed to do business in the Commonwealth of Virginia.

D) Each policy of insurance shall include a waiver of subrogation in favor of the County and shall provide no less than thirty (30) days' notice to the County in the event of a cancellation or change in conditions or amounts of coverage.

E) The CONTRACTOR shall be responsible at its own expense for obtaining all necessary federal, state and county permits for the work to be performed under this Contract.

F) The CONTRACTOR shall obtain all required federal, state and county licenses for the work to be performed under this Contract, including without limitation, a business license from Accomack County. The CONTRACTOR shall dispose of all materials resulting from this work in a manner in compliance with all federal, state and county laws, ordinances, and regulations. The CONTRACTOR agrees that under no circumstance will debris resulting from any necessary demolition be burned on site. The CONTRACTOR may contact the Project Manager to obtain a waiver of landfill tipping fees with at least a 24-hour notice. (See Item 13, Point of Contact.)

9. MODIFICATION

This Contract constitutes the entire understanding of the parties and shall not be amended, modified, or otherwise changed except by the written consent of the CONTRACTOR and the COUNTY given in the same manner and form as the original signing of the Contract.

10. MISREPRESENTATION OR DEFAULT

The COUNTY may void this Contract if the CONTRACTOR has materially misrepresented any offering or if the CONTRACTOR defaults on any contract with a Virginia locality.

11. CANCELLATION

If the CONTRACTOR does not pay its debts as they become due or if a receiver shall be appointed for its business or its assets and not voided within forty-five (45) days, or if the CONTRACTOR shall make an assignment for the benefit of creditors, or otherwise, or if interest herein shall be sold under execution or if it shall be adjudicated insolvent or bankrupt then and forthwith thereafter, the COUNTY shall have the right at its option and without prejudice to its right hereunder to terminate the Contract and withhold any payments due.

If the CONTRACTOR fails to perform in accordance with the terms of this Contract, or if the COUNTY reasonably doubts that the CONTRACTOR'S work is progressing in such a manner as to ensure compliance with the scope of services set forth in this Contract, Section 5 above, the COUNTY shall have the right, in addition to all other remedies it may have, upon seven (7) days written notice to the CONTRACTOR to declare the Contract in default and thereby terminated.

12. LIQUIDATED DAMAGES

n/a this contract (IFB #763)

13. POINT OF CONTACT

Upon receipt of Notice to Proceed, the CONTRACTOR'S point of contact for the project shall be Kellen Singleton, Interdisciplinary Project Manager, Accomack-Northampton Planning District Commission. 757-787-2800.

Engineer of Record:

MSA, P.C.
5032 Rouse Drive, Suite 200
Virginia Beach, VA 23462-3764
Ph: 757-490-9264

14. NOTICES

All notices and other communications required or permitted by this Contract shall be in writing and shall be given either by personal delivery, facsimile or certified United States mail, return receipt requested, addressed as follows:

COUNTY
Michael T. Mason, County Administrator
County of Accomack Virginia
P.O. Box 388
Accomac, VA 23301

CONTRACTOR

IN WITNESS HEREOF, THE COUNTY OF ACCOMACK, VIRGINIA AND _____ have executed this contract on the date first above-mentioned.

COUNTY OF ACCOMACK, VIRGINIA
(COUNTY)

(CONTRACTOR)

BY: Michael T. Mason, CPA

(NAME)

BY: _____
(NAME)

ITS: County Administrator

(TITLE)

ITS: _____
(TITLE)

SIGNATURE:

SIGNATURE:

Federal Contract Inserts

CD - 8.1

General Conditions - Part I

1. Definitions
2. Engineer's Authority
3. Materials, Services, Workmanship and Facilities
4. Equals
5. Additional Instructions and Detail Drawings
6. Requests for Supplemental Information
7. Shop Drawings
8. Drawings and Specifications
9. Warranty of Title
10. Samples, Certificates and Tests
11. Surveys, Permits, and Codes
12. Patents
13. Superintendence by Contractor
14. Protection of Work, Property and Persons
15. Accident Prevention
16. Sanitary Facilities
17. Use of Premises/Storage
18. Schedules, Reports and Records
19. Inspection
20. Payments to Contractor
21. Payments by Contractor
22. Public Body's Use of Premises
23. Changes in the Work
24. Claims for Extra Cost/Subsurface Conditions
25. Time for Completion and Liquidated Damages
26. Suspension of Work, Termination and Delay
27. Correction of Work
28. Cleanup Requirements
29. Fitting and Coordination of the Work
30. Subcontracting
31. Separate Contracts
32. Lands and Rights-of-Way
33. As Constructed Drawings
34. Final Inspection and Closeout
35. Insurance
36. Assignment of Contract
37. Indemnification
38. Guarantee
39. Notices
40. Access to Records
41. Withholding of Funds
42. Federal Funding Termination
43. Interest of Contractor
44. Political Activity
45. Interest of Officials
46. Provisions Required by Law Deem Inserted
47. Contract Security
48. Contractual Disputes
49. Administrative Appeals Procedure and Arbitration
50. Other Contractual Requirements

General Conditions Part I must be included in CDBG contracts unless another substantially equivalent contract is provided by another state or federal agency which provides funding for the same activity and **equivalency is certified by the Project Engineer**. In such case, Section 40 Access to Records and all reference to Virginia Code provisions must be included.

1. Definitions

- A. Wherever used in the CONTRACT DOCUMENTS, the following terms shall have the meanings indicated and shall be applicable to both the singular and plural thereof:
- B. ADDENDA - Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the CONTRACT DOCUMENTS, DRAWINGS and SPECIFICATIONS, by additions, deletions, clarifications, or corrections.
- C. BID - The offer or proposal of the BIDDER submitted on the prescribed form setting forth the prices for the WORK to be performed.
- D. BIDDER - Any person, firm, or corporation submitting a BID for the WORK.
- E. BONDS - Bid, Performance, and Payment Bonds and other instruments of surety, furnished by the CONTRACTOR and the CONTRACTOR'S surety in accordance with the CONTRACT DOCUMENTS.
- F. CHANGE ORDER – A written amendment to the construction contract between the CONTRACTOR and OWNER that changes either the CONTRACT PRICE and/or the CONTRACT TIME. All change orders must be approved by DHCD prior to their execution and must be signed by the ENGINEER/ARCHITECT, OWNER, CONTRACTOR and DHCD.
- G. CONTRACT DOCUMENTS - The contract, including Invitation to BID, Instructions for BIDDERS, BID, BID BOND, Agreement, Payment BOND, Performance BOND, NOTICE OF AWARD, NOTICE TO PROCEED, CHANGE ORDER, DRAWINGS, SPECIFICATIONS, and ADDENDA.
- H. CONTRACT PRICE - The total monies payable to the CONTRACTOR under the terms and conditions of the CONTRACT DOCUMENTS.
- I. CONTRACT TIME - The number of calendar days stated in the CONTRACT DOCUMENTS for the completion of the WORK.
- J. CONTRACTOR - The person, firm, or corporation with whom the OWNER has executed the Agreement.
- K. DRAWINGS - The parts of the CONTRACT DOCUMENTS which show the characteristics and scope of the WORK to be performed and which have been prepared or approved by the ENGINEER.
- L. ENGINEER - The engineer or architect responsible for the design and quality control of the WORK and so designated by the CONTRACT DOCUMENTS; or any other person or firm so designated by the PUBLIC BODY.

- M. FIELD ORDER - A written order effecting a change in the WORK but not altering the scope of the project or involving an adjustment in the CONTRACT PRICE or an extension of the CONTRACT TIME, issued by the ENGINEER to the CONTRACTOR during construction.
- N. NOTICE OF AWARD - The written notice of the acceptance of the BID from the OWNER to the successful BIDDER.
- O. NOTICE TO PROCEED - Written communication issued by the OWNER to the CONTRACTOR authorizing him to proceed with the WORK and establishing the date for commencement of the WORK.
- P. PROJECT - The undertaking to be performed in the manner as provided in the CONTRACT DOCUMENTS.
- Q. PROJECT MANAGER - The authorized representative of the PUBLIC BODY for the PROJECT so named in the CONTRACT DOCUMENTS or any other person so designated by the PUBLIC BODY.
- R. PUBLIC BODY - The legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created to perform some governmental duty, and which is empowered by law to undertake the activities described in the CONTRACT DOCUMENTS; and which is designated as such in the Agreement of the CONTRACT DOCUMENTS.
- S. SCOPE OF THE PROJECT - The defined geographic area as set forth in the CDBG contract between the GRANTEE and DHCD within which construction improvements are being made that will benefit LMI persons who reside within that area.
- T. SHOP DRAWINGS - All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the CONTRACTOR, SUBCONTRACTOR, manufacturer, SUPPLIER or distributor, which illustrate how specific portions of the WORK shall be fabricated or installed.
- U. SPECIFICATIONS - A part of the CONTRACT DOCUMENTS consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.
- V. 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.
- W. SUBSTANTIAL COMPLETION - That date certified by the ENGINEER when the construction of the PROJECT or a specified part thereof is sufficiently completed, in

accordance with the CONTRACT DOCUMENTS, so that the PROJECT or specified part can be utilized for the purposes for which it is intended.

- X. SUPPLIER - Any person or organization who supplies materials or equipment for the WORK, including that fabricated to a special design, but who does not perform labor at the site.
- Y. WORK - All labor necessary to produce the construction required by the CONTRACT DOCUMENTS, and all materials and equipment incorporated or to be incorporated in the PROJECT.
- Z. WRITTEN NOTICE - Any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at their last given address, or delivered in person to said party or their authorized representative on the WORK.

2. Engineer's Authority

- A. The ENGINEER shall act as the PUBLIC BODY's representative during the construction period in the capacity as detailed in the CONTRACT DOCUMENTS. The ENGINEER shall decide questions which may arise as to quality and acceptability of materials furnished and WORK performed, and shall interpret the intent of the CONTRACT DOCUMENTS in a fair and unbiased manner. The ENGINEER shall make visits to the site and determine if the WORK is proceeding in accordance with the CONTRACT DOCUMENTS.
- B. Inspections may be at the factory or fabrication plant of the source of material supply.
- C. The ENGINEER shall not be responsible for the construction means, controls, techniques, sequences, procedures or construction safety.
- D. The ENGINEER shall promptly make decisions relative to the interpretation of the CONTRACT DOCUMENTS, insofar as he has the authority to do so by provisions of the CONTRACT DOCUMENTS in his capacity as representative of the PUBLIC BODY.

3. Materials, Services, Workmanship and Facilities

- A. It is understood that, except as otherwise specifically stated in the CONTRACT DOCUMENTS, the CONTRACTOR shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary

- construction of any nature, all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the WORK within the specified time.
- B. Materials shall be stored so as to insure the preservation of their quality and fitness for the work. Stored materials and equipment to be incorporated in the WORK shall be located so as to facilitate prompt inspection.
 - C. Manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.
 - D. Materials, supplies and equipment shall be in accordance with samples submitted by the CONTRACTOR and approved by the ENGINEER.
 - E. The CONTRACTOR shall submit to the ENGINEER for approval the manufacturer's detailed specifications for all machinery, mechanical and other special equipment, which is to be installed in the WORK. The CONTRACTOR shall further submit full information as to type, performance characteristics, and all other pertinent information as required concerning such equipment. The CONTRACTOR shall submit to the ENGINEER for approval full information, as required, concerning all other materials or articles which he proposes to incorporate in the WORK.
 - F. Machinery, mechanical and other equipment, materials and articles installed or used without such prior approval shall be at the risk of subsequent rejection.
 - G. Materials specified by reference to the number or symbol of a specific standard, such as on A.S.T.M. Standards, a Federal Specification or other similar standard, shall comply with requirements in the latest revision thereof and any amendment or supplement thereto in effect on the date of the Invitation To Bids, except as limited to type, class, or grade, or modified in such reference. The standards referred to, except as modified in the SPECIFICATIONS, shall have full force and effect as though printed therein.
 - H. Unless otherwise specifically provided for in the SPECIFICATIONS, all workmanship, equipment, materials and articles incorporated into the WORK shall be new and the best grade of respective kinds for the purpose.

4. Equals

Whenever a material, article or piece of equipment is identified in the SPECIFICATIONS by reference to manufacturer's or vendor's names, trade names, catalog numbers, etc. it is intended merely to establish a standard; and unless otherwise provided in the Invitation to Bid any material, article, or equipment of other manufacturers and vendors which the ENGINEER determines to be equal of that specified, considering quality, workmanship, economy of operation, and suitability of purpose intended, shall be accepted. The purchase

or installation of such substituted material or equipment will not be allowed without the ENGINEER'S prior written approval.

5. Additional Instructions and Detail Drawings

- A. The CONTRACTOR may be furnished, with additional instructions and detail drawings by the ENGINEER, as necessary to carry out the CONTRACT DOCUMENTS.
- B. The additional drawings and instructions thus supplied will become a part of the CONTRACT DOCUMENTS. The CONTRACTOR shall carry out the WORK in accordance with the additional detail drawing and instructions.

6. Requests for Supplemental Information

- A. The CONTRACTOR shall request that the ENGINEER provide any additional information not already in his possession in order to execute the WORK. Such requests shall be made in a timely manner as the need appears, and shall be submitted in sufficient advance to allow preparation and appropriate action to be taken so as to avoid delay.
- B. Requests which shall be in writing must list the necessary items and the date by which each will be required by the CONTRACTOR. The first such list shall be submitted within two weeks after AWARD of CONTRACT and shall be as complete as possible at that time.
- C. The CONTRACTOR shall furnish any assistance and information the ENGINEER may require in responding to these requests.
- D. The CONTRACTOR shall be fully responsible for any delays in his work or to others due to his failure to comply with the provisions of this section.

7. Shop Drawings

- A. The CONTRACTOR shall provide SHOP DRAWINGS as may be necessary for the prosecution of the WORK as required by the CONTRACT DOCUMENTS. The ENGINEER shall promptly review all SHOP DRAWINGS. The ENGINEER'S approval of any SHOP DRAWING shall not release the CONTRACTOR from responsibility for deviations from the CONTRACT DOCUMENTS.

- B. The approval of a SHOP DRAWING which substantially deviates from the requirement of the CONTRACT DOCUMENTS shall be evidenced by a CHANGE ORDER.
- C. The approval of a SHOP DRAWING which the ENGINEER deems to be a minor adjustment of the CONTRACT DOCUMENTS not involving scope change a change in the contract price or extension of time shall be evidenced by written documentation in substance, as follows:

"The modification shown on the attached drawing is approved in the interest of the PUBLIC BODY to effect an improvement for the project and is ordered with the understanding that it does not involve any change in scope, contract price or time; that it is subject generally to all CONTRACT DOCUMENTS and that it is without prejudice to any and all rights of the PUBLIC BODY under the CONTRACT and bond or bonds."
- D. When submitted for the ENGINEER'S review, SHOP DRAWINGS shall be the CONTRACTOR'S certification that he has reviewed, checked and approved the SHOP DRAWINGS and that they are in conformance with the requirements of the CONTRACT DOCUMENTS.
- E. Portions of the WORK requiring a SHOP DRAWING or sample submission shall not begin until the SHOP DRAWING or submission have been approved by the ENGINEER. A copy of each approved SHOP DRAWING and each approved sample shall be kept in good order by the CONTRACTOR on the site and shall be available to the ENGINEER.

8. Drawings and Specifications

- A. The intent of the DRAWINGS AND SPECIFICATIONS is that the CONTRACTOR shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the WORK in accordance with the CONTRACT DOCUMENTS and for all incidental work necessary to complete the PROJECT in an acceptable manner, ready for use, occupancy, or operation by the PUBLIC BODY.
- B. In case of conflict between the DRAWINGS and SPECIFICATIONS, the SPECIFICATIONS shall govern. Figure dimensions on DRAWINGS shall govern over general DRAWINGS.
- C. 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, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. WORK done

by the CONTRACTOR after discovery of such discrepancies, inconsistencies, or ambiguities shall be done at the CONTRACTOR'S risk.

9. Warranty of Title

- A. No material, supplies, or equipment to be installed or furnished under this contract shall be purchased subject to any chattel mortgage or under a conditional sale, lease purchase or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. The CONTRACTOR shall warrant good title to all materials, supplies, and equipment installed or incorporated in the WORK, and upon completion of all work, shall deliver the same together with all improvements and appurtenances constructed or placed thereon by him to the PUBLIC BODY free from any claims, liens or charges.
- B. Neither the CONTRACTOR nor any person, firm, or corporation furnishing any material or labor for any work covered by this contract shall have any right to lien upon any improvement or appurtenance thereon.
- C. Nothing in this section, however, shall impair the right of persons furnishing materials or labor to recover under any bond given by the CONTRACTOR or any rights under the law permitting such persons to look to the funds due the CONTRACTOR in the hands of the PUBLIC BODY.
- D. The provisions of this section shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing materials for the WORK when no formal contract is entered into for such materials.

10. Samples, Certificates and Tests

- A. The CONTRACTOR shall submit all materials or equipment samples, certificates, affidavits, etc. as required by the ENGINEER or called for in the CONTRACT DOCUMENTS. No such material or equipment shall be manufactured or delivered at the site except at the CONTRACTOR'S BOND, and except at the CONTRACTOR'S risk until required samples have been approved in writing by the ENGINEER. Any delay in the WORK caused by late or improper submission of samples or certificates for approval shall not be considered just cause for extension of contract time.
- B. Each sample submitted by the CONTRACTOR shall carry a label giving the name of the CONTRACTOR, the PROJECT, and the name of the producer. The accompanying certificate or letter from the CONTRACTOR shall state that the sample complies with contract requirements, shall state the name and brand of the product, its place of origin, the name and address of the producer and all specifications or other detailed information. It should also include a statement that all

materials or equipment furnished for use in the PROJECT shall comply with the samples and/or certified statements.

- C. Approval of materials shall be general only and shall not constitute a waiver of the PUBLIC BODY'S right to demand full compliance with the CONTRACT DOCUMENTS. After actual deliveries, the ENGINEER shall have such tests made as he deems necessary and may reject materials, equipment and accessories for cause, even though such materials and equipment have been given general approval. If materials, equipment or accessories which fail check tests have been incorporated into the WORK, the ENGINEER shall have the right to cause their removal, and replacement by proper materials or to secure such preparation by the CONTRACTOR as is equitable.
- D. Except as otherwise specifically stated in the CONTRACT DOCUMENTS the costs of sampling and testing will be divided as follows:
 - (1) The CONTRACTOR shall furnish without extra cost, including packing and delivery charges, all samples required for testing purposes.
 - (2) The CONTRACTOR shall assume all costs of re-testing materials which fail to meet contract requirements.
 - (3) The CONTRACTOR shall assume all costs of testing materials offered in substitution for those found deficient.
 - (4) The PUBLIC BODY will pay all other expenses.
- E. If the CONTRACT DOCUMENTS, laws, rules, regulations or orders of any public authority having jurisdiction require any WORK to specifically be inspected, tested or approved by someone other than the CONTRACTOR or ENGINEER, the CONTRACTOR will give the ENGINEER notice of readiness. The CONTRACTOR will then furnish the ENGINEER the required certificates of inspection, testing or approval.

11. Surveys, Permits, and Codes

- A. The PUBLIC BODY shall furnish all boundary surveys and establish all base lines for locating the principal component parts of the WORK together with a suitable number of benchmarks adjacent to the WORK as shown in the CONTRACT DOCUMENTS. From the information provided by the PUBLIC BODY, unless otherwise specified in the CONTRACT DOCUMENTS, the CONTRACTOR shall develop and make all detail surveys needed for construction such as slopes, stakes, batter boards, stakes for pipe locations and other working points, lines, elevations and cutsheets.

- B. The CONTRACTOR shall carefully preserve benchmarks, reference points and stakes and, in case of willful or careless destruction, shall be charged with the resulting expense and shall be responsible for any mistake that may be caused by their unnecessary loss or disturbance.
- C. Permits and licenses of a temporary nature necessary for prosecution of the WORK shall be secured and paid for by the CONTRACTOR unless otherwise stated in the CONTRACT DOCUMENTS.

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

- D. The CONTRACTOR shall give all notices and comply with all applicable laws, ordinances and codes of the appropriate jurisdictions for the WORK as drawn and specified. Before installing any work, the CONTRACTOR shall examine the CONTRACT DOCUMENTS for compliance with applicable ordinances and codes and shall immediately report any discrepancy to the ENGINEER in writing and any necessary changes shall be adjusted as provided for in Section 23, CHANGES IN THE WORK.

Should the CONTRACTOR fail to observe the foregoing provisions and proceed with the WORK or variance with any applicable ordinance or code (Notwithstanding compliance with the CONTRACT DOCUMENTS), the CONTRACTOR shall remove such work without cost to the PUBLIC BODY, and proceed in the manner specified in this section.

- E. The CONTRACTOR shall at his own expense secure and pay the appropriate department of the appropriate public authority fees or charges for all permits for street pavement, sidewalks, sheds, removal of abandoned water taps, sealing of house connection drains, pavement cuts, buildings, electrical, plumbing, gas and sewer permits required within the jurisdiction.
- F. The CONTRACTOR shall comply with applicable laws, and ordinances governing the disposal of surplus excavation, materials, debris and rubbish on or off the PROJECT and commit no trespass on any public or private property in any operation due to or connected with the WORK.

12. Patents

The CONTRACTOR shall pay all applicable royalties and license fees, and shall defend all suits or claims for infringement of any patent rights, and save the PUBLIC BODY harmless from loss on account thereof, except that the PUBLIC BODY shall be responsible for any such loss when a particular manufacturer is specified, however

if the CONTRACTOR has reason to believe that the design, process or product specified is an infringement of a patent the CONTRACTOR shall be responsible for such loss unless the CONTRACTOR promptly gives such information to the ENGINEER.

13. Superintendence by Contractor

- A. Except where the CONTRACTOR is an individual and provides personal superintendence to the WORK, the CONTRACTOR shall provide a competent superintendent, satisfactory to the ENGINEER and PUBLIC BODY, on the WORK at all times during working hours with full authority to act. The CONTRACTOR shall also provide adequate personnel for the proper coordination and expediting of his work.
- B. The CONTRACTOR will be held strictly to the intent of the CONTRACT DOCUMENTS in regard to the quality of materials, workmanship and execution of the WORK.
- C. The CONTRACTOR shall lay out his own work and he shall be responsible for all work executed by him under the CONTRACT. He shall verify all figures and elevations before proceeding with the WORK and will be held responsible for any error resulting from his failure to do so.

14. Protection of Work, Property and Persons

- A. The CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the WORK. The CONTRACTOR will take all necessary precautions for the safety of, and will provide the necessary protection: (1) to prevent damage, injury or loss to all employees on the WORK and other persons who may be affected thereby; and, (2) all material and equipment to be incorporated therein, whether in storage on or off the site or adjacent thereof, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities not designated for removal, relocation or replacement during the course of construction.
- B. The CONTRACTOR will comply with applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. The CONTRACTOR will notify owners of adjacent utilities when prosecution of the WORK may affect them.

The CONTRACTOR will erect and maintain, as required by the conditions and progress of the WORK all necessary safeguards for safety and protection. The CONTRACTOR shall remedy all damage or loss to any property caused directly or indirectly, in whole or part, by the CONTRACTOR, any SUBCONTRACTOR or

anyone directly or indirectly employed by any of them or anyone of whose acts any of them may be liable, except damage or loss attributable to the fault of the CONTRACT DOCUMENTS or to the acts or omissions of the PUBLIC BODY, of the ENGINEER or anyone employed by either of them or anyone whose acts either of them may be liable, and not attributable, directly or indirectly in whole or in part, to the fault or negligence of the CONTRACTOR.

- C. The CONTRACTOR shall shore up, brace, underpin, secure and protect as may be necessary all foundations and other parts of existing structures adjacent to, or in the vicinity of the WORK, which may be affected in any manner by the WORK. The CONTRACTOR shall be responsible for giving any and all required notices to any potentially affected property owner or other affected party prior to commencement of any work.
- D. In an emergency affecting the safety of life, limb or property, including adjoining property, the CONTRACTOR, without special instructions or authorization from the PUBLIC BODY, is authorized to act at his discretion to prevent such threatened loss or injury and he shall so act. He shall likewise act if instructed by the PUBLIC BODY or the ENGINEER. Any compensation claimed will be determined by the procedure in Section 23, CHANGES IN THE WORK.

15. Accident Prevention

- A. No person employed in the performance of this CONTRACT shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health or safety as determined under construction and health standards promulgated by the Secretary of Labor.
- B. Machinery, equipment and all site hazards shall be guarded in accordance with the safety provisions of the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, Inc. , to the extent that such provisions do not conflict with applicable law.
- C. The CONTRACTOR shall maintain an accurate record of all cases of death, occupational disease or injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment on this PROJECT.

16. Sanitary Facilities

The CONTRACTOR shall furnish, install and maintain ample sanitary facilities for workers. These facilities shall be sufficient to meet the needs of the PROJECT and be located to the satisfaction of the PUBLIC BODY. All such facilities and services shall be furnished in strict accordance with applicable health regulations.

17. Use of Premises/Storage

- A. The CONTRACTOR shall confine his equipment, storage of materials, and construction operations to PROJECT area as shown in the CONTRACT DOCUMENTS and prescribed by ordinances or permits, or as may be desired by the PUBLIC BODY, and shall not unreasonably encumber the PROJECT area or public rights-of-way with his materials and construction equipment.
- B. The CONTRACTOR shall consult with the PUBLIC BODY and the ENGINEER for suitable storage space for bulk materials on each project. If sufficient storage is not available on the PROJECT site the CONTRACTOR shall arrange for storage elsewhere.
- C. The CONTRACTOR shall comply with all reasonable instructions of the PUBLIC BODY, the ENGINEER, and all applicable regulations regarding signs, advertising, traffic, fires, explosives, danger signals and barricades.

18. Schedules, Reports and Records

- A. The CONTRACTOR shall submit to the PUBLIC BODY such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data where applicable as are required for the WORK to be performed.
- B. Prior to the first partial payment estimate the CONTRACTOR shall submit construction progress schedules showing the order in which the CONTRACTOR proposes to carry out the WORK, including dates at which various parts of the WORK will be started, estimated dates of completion of each part, and as applicable:
 - (1) The dates at which special detail drawings will be required.
 - (2) Respective dates for submission of SHOP DRAWINGS, the beginning of manufacturer, testing and the installation of materials, supplies and equipment.
- C. The CONTRACTOR shall submit a schedule of payments that the CONTRACTOR anticipates will be earned during the course of the WORK.
- D. The PUBLIC BODY, the ENGINEER, their authorized representatives, and authorized representatives of participating state and federal agencies shall have at all times access to the WORK, materials, payrolls, records, personnel, invoices of materials or other relevant data and records. The CONTRACTOR shall provide proper facilities for such access and observation of the WORK and also for any inspection or testing thereof.

19. Inspection

- A. All materials and workmanship shall be subject to inspection, examination, or test by the PUBLIC BODY and the ENGINEER of any and all items during manufacture or construction, and at any and all places where such manufacture or construction is carried on. The PUBLIC BODY and ENGINEER shall have the right to reject defective materials and workmanship or require its correction. Unacceptable workmanship shall be satisfactorily corrected.
- B. The ENGINEER shall act as the PUBLIC BODY'S representative in carrying out inspection and in assessing the acceptability of all aspects of the WORK in accordance with the CONTRACT DOCUMENTS. The opinions and directives of the ENGINEER concerning the WORK shall be adhered to at all times unless they conflict with the CONTRACT DOCUMENTS or are superseded by the PUBLIC BODY.
- C. The CONTRACTOR shall promptly furnish all materials reasonably necessary for any tests which may be required. All tests performed by the ENGINEER will be performed in such a manner as not to delay the WORK unnecessarily and will be made in accordance with the provisions of the CONTRACT DOCUMENTS.
- D. The CONTRACTOR shall notify the ENGINEER sufficiently in advance of backfilling or concealing any facilities to permit proper inspection. If any facilities are concealed without approval of the ENGINEER, the CONTRACTOR shall uncover for inspection and re-cover such facilities all at his Ohm expense.
- E. Should the PUBLIC BODY consider it necessary at any time prior to final acceptance of the WORK to examine any work already approved and completed, the CONTRACTOR shall on request promptly furnish all necessary facilities, labor and material. If such work is found to be defective due to the fault of the CONTRACTOR or his SUBCONTRACTORS, the CONTRACTOR shall defray the cost of such re-examination and of satisfactory reconstruction.

If such work is found to be acceptable according to the CONTRACT DOCUMENTS, the actual cost of such re-examination in labor and materials, plus 15% of such costs to cover general expenses shall be allowed the CONTRACTOR, and if such re-examination has delayed the WORK to a significant degree he shall be allowed a commensurate time extension.

20. Payments to Contractor

- A. Partial Payments

- (1) The CONTRACTOR shall prepare his requisition for partial payment as of the last day of the month (unless the payment schedule is tied to milestone, in such case requisition is prepared at appropriate stage of completion) and submit it with the required number of copies to the ENGINEER for his approval. The amount of the payment due the CONTRACTOR shall be determined by adding the total value of the work completed to date to the value of the materials properly stored at the site, and deducting (a) five percent (5%) of the total amount to be retained until final payment, (b) the amount of all previous payments, and, (c) such claims as may be specifically excepted by the CONTRACTOR as provided for in Section 48 hereof. The total value of work completed to date shall be based upon the estimated quantities of work completed and on the unit prices contained in the agreement; mobilization costs shall not be included. The value of the materials properly stored on site shall be based upon the estimated quantities of such materials and the invoice prices. Copies of all invoices shall be available for inspection by the ENGINEER.
- (2) The ENGINEER will, within ten (10) days after receipt of each partial payment estimate, either indicate in writing approval of payment and submit the partial payment estimate to the PUBLIC BODY, or return the partial payment estimate to the CONTRACTOR indicating in writing the reason for refusing to approve payment. In such case the CONTRACTOR may make the necessary corrections and resubmit the partial payment estimate. The PUBLIC BODY will within thirty (30) days of presentation of an approved partial payment estimate, pay the CONTRACTOR a progress payment on the basis of the approved partial payment.
- (3) Monthly or partial payments made by the PUBLIC BODY to the CONTRACTOR are moneys advanced for the purpose of assisting the CONTRACTOR to expedite the WORK. The CONTRACTOR shall be responsible for the care and protection of all materials and work upon which such payments have been made until final acceptance of the PROJECT by the PUBLIC BODY. Such payments shall not constitute a waiver of the right of the PUBLIC BODY to require the fulfillment of all terms of the CONTRACT DOCUMENTS and all improvement embraced therein to the satisfaction of the PUBLIC BODY.

B. Final Payment

- (1) After final inspection and acceptance by the PUBLIC BODY of all WORK according to the CONTRACT DOCUMENTS, the CONTRACTOR shall prepare his requisition for final payment which shall be based upon the carefully measured or computed quantity of each item of work and the applicable unit prices stipulated in the CONTRACT DOCUMENTS. The total amount of the final payment due the CONTRACTOR under this CONTRACT shall be the amount computed as described above less all previous payments. Final

payment shall be made subject to the CONTRACTOR furnishing the PUBLIC BODY with a release in satisfactory form of all claims against the PUBLIC BODY arising under and by virtue of the CONTRACT DOCUMENTS, other than such claims as may be specifically excepted by the CONTRACTOR from the operation of the release as provided for under Section 48, CONTRACTUAL DISPUTES.

- (2) If a lump sum CONTRACT price is in effect the following wording is operative "The amount of the final payment due the CONTRACTOR shall be the lump sum shown in the CONTRACT DOCUMENTS or this sum as adjusted by approved CHANGE ORDERS.
- (3) The PUBLIC BODY, before paying the final payment, may require the CONTRACTOR to furnish releases or receipts from all SUBCONTRACTORS having performed any work and all persons having supplied materials, equipment and services to the CONTRACTOR, if the PUBLIC BODY deems the same necessary in order to protect its interests. The PUBLIC BODY may if it deems it advisable make payment to the CONTRACTOR in part or in full without requiring the furnishing of such releases or receipts, and any payments so made shall in no way impair the obligations of any surety furnished under the terms of the CONTRACT DOCUMENTS.
- (4) Any amount withheld by the PUBLIC BODY as "Liquidated Damages" under the terms of the CONTRACT DOCUMENTS shall be deducted from the final payment due the CONTRACTOR.
- (5) Upon completion and acceptance of the WORK, the ENGINEER shall issue a certificate to be attached to the final payment request that the WORK has been accepted under the conditions of the CONTRACT DOCUMENTS. The entire amount due the CONTRACTOR as described in provisions of this section shall be paid to the CONTRACTOR within thirty (30) days of completion and acceptance of the WORK. If the PUBLIC BODY fails to make payment thirty (30) days after approval by the ENGINEER, in addition to other remedies available to the CONTRACTOR, there shall be added to each such payment, interest of the maximum legal rate commencing on the first day after said payment is due and continuing until payment is received by the CONTRACTOR.

C. Acceptance of Final Payment

The acceptance by the CONTRACTOR of final payment shall be and shall operate as a release to the PUBLIC BODY of all claims and all liability to the CONTRACTOR other than claims in stated amounts which may be specifically excepted by the CONTRACTOR for all things done or furnished in connection with this WORK and for every act and neglect of the PUBLIC BODY and others relating to or arising out

of this WORK. Any payment, however, final or otherwise, shall not release the CONTRACTOR or its sureties from any obligations under the CONTRACT DOCUMENTS or the Performance or Payment BONDS.

21. Payments by Contractor

Except in cases of bona fide disputes, or where the CONTRACTOR has some other justifiable reason for delay, the CONTRACTOR shall pay:

- A. For all transportation and utility services not later than the end of the calendar month following that in which the services are rendered.
- B. For all materials, tools and other expendable equipment to the extent of ninety percent (90%) of the cost thereof not later than the end of the calendar month following that in which such materials, tools and equipment are delivered at the site of the PROJECT.
- C. To each of his SUBCONTRACTORS, not later than the end of the calendar month in which each payment is made to the CONTRACTOR, the representative amount allowed the CONTRACTOR on account of the work performed by his SUBCONTRACTORS, to the extent of each SUBCONTRACTOR'S interest therein.

22. Public Body's Use of Premises

- A. Prior to SUBSTANTIAL COMPLETION, the PUBLIC BODY with the concurrence of the ENGINEER and the CONTRACTOR, may use any completed or substantially completed portions of the WORK. Such use shall not constitute an acceptance of such portions of the WORK.
- B. The PUBLIC BODY shall have the right to enter the premises for the purpose of doing work not covered by the CONTRACT DOCUMENTS. This provision shall not be construed as relieving the CONTRACTOR of the sole responsibility for the care and protection of the WORK, or the restoration of any damaged WORK except such as may be caused by agents or employees of the PUBLIC BODY.

23. Changes in The Work

- A. The PUBLIC BODY may make changes in the WORK required to be performed by the CONTRACTOR under the CONTRACT DOCUMENTS without releasing the CONTRACTOR from any of his obligations under the CONTRACT DOCUMENTS or any guarantee given by him pursuant to the CONTRACT provisions, and without affecting the validity of the guaranty BONDS, and without relieving or releasing the

surety or sureties of said BONDS. All WORK shall be executed under the terms of the original CONTRACT DOCUMENTS unless it is expressly provided otherwise. If such changes increase or decrease the amount due under the CONTRACT DOCUMENTS, or in time required for performance of the WORK, an equitable adjustment shall be authorized by CHANGE ORDER. All change Orders must be approved by the Virginia Department of Housing and Community Development (DHCD) and may not alter the scope of the project. DHCD must receive justification for Change Orders from the grantee.

- B. Except for the purpose of affording protection against any emergency endangering health, life, limb or property as specified in Section 14, the CONTRACTOR shall make no change in the WORK as specified in the CONTRACT DOCUMENTS unless in pursuance of a written approved CHANGE ORDER from the PUBLIC BODY authorizing the CONTRACTOR to proceed with the change. No claim for an adjustment of the CONTRACT PRICE or time will be valid unless so ordered.
- C. If applicable unit prices are contained in the CONTRACT DOCUMENTS, the PUBLIC BODY may order the CONTRACTOR to proceed with the applicable unit prices specified in the CONTRACT DOCUMENTS; provided that in the case of a unit price contract the net value of all changes does not increase or decrease the original total amount shown in the CONTRACT DOCUMENTS by more than twenty five percent (25%).
- D. If the applicable unit prices are not contained in the CONTRACT DOCUMENTS or if the total net change increases or decreases the total CONTRACT PRICE more than twenty five percent (25%), or \$10,000 (whichever is greater) the PUBLIC BODY shall, before ordering the CONTRACTOR to proceed with the desired changes, request from him an itemized proposal covering the WORK involved in the change after which the procedure shall be as follows:
 - (1) If the proposal is acceptable the PUBLIC BODY will prepare the CHANGE ORDER in accordance therewith for acceptance by the CONTRACTOR.
 - (2) If the proposal is not acceptable, the PUBLIC BODY shall order the WORK change to be commenced and the CONTRACTOR and PUBLIC BODY shall follow the procedure detailed in Section 48, Contractual Disputes.
- E. Each CHANGE ORDER shall include in its final form:
 - (1) A detailed description of the change in the WORK
 - (2) The CONTRACTOR'S proposal (if any) or a confirmed copy thereof

- (3) A definite statement as to the resulting change in the CONTRACT PRICE or TIME
 - (4) The statement that all WORK involved in the change shall be performed in accordance with the CONTRACT DOCUMENTS except as modified by the CHANGE ORDER.
- F. The procedures as outlined in this section for a unit price CONTRACT also apply in the case of a lump sum CONTRACT.
- G. The ENGINEER also, may at any time, by issuing a FIELD ORDER make changes in the details of the WORK. The CONTRACTOR shall proceed with the performance of any changes in the WORK so ordered by the ENGINEER unless the CONTRACTOR believes that such FIELD ORDER entitles the CONTRACTOR to a change in CONTRACT PRICE or TIME, or both, in which event the CONTRACTOR shall give the ENGINEER WRITTEN NOTICE thereof within seven (7) days after the receipt of such ordered change. Thereafter the CONTRACTOR shall document the basis for the change in CONTRACT PRICE or TIME within thirty (30) days. The CONTRACTOR shall not execute such changes pending the receipt of an executed CHANGE ORDER or further instructions from the PUBLIC BODY.
- H. All change orders must be approved in writing and in advance of any associated work performance by DHCD. Any change order, regardless of the cost, which results in a change in project scope will be disallowed.

24. Claims for Extra Cost/Subsurface Conditions

- A. Should the CONTRACTOR claim that any instructions by DRAWINGS or otherwise entitles him to a change in CONTRACT PRICE or TIME he shall follow the procedures in SECTION 23.
- B. Claims for additional compensation for extra work, due to alleged errors in ground elevations, contour lines or bench marks, will not be recognized unless accompanied by certified survey data made prior to the time the original ground was disturbed, clearly showing that errors exist which result in handling more material, or performing more work, than could be reasonably estimated from the CONTRACT DOCUMENTS.
- C. Any discrepancies which may be discovered between the actual conditions and those represented by the CONTRACT DOCUMENTS shall at once be reported to the PUBLIC BODY and work shall not proceed except at the CONTRACTOR' S risk until written instructions have been issued by the PUBLIC BODY.

- D. The PUBLIC BODY shall promptly investigate the conditions, and if it is found that such conditions do so materially differ from those upon which the CONTRACT DOCUMENTS are based, and cause an increase or decrease in the cost of, or time required for, performance of the WORK an equitable adjustment shall be made and the CONTRACT DOCUMENTS shall be modified by a CHANGE ORDER.

Any claim of the CONTRACTOR for adjustment hereunder shall not be allowed unless required WRITTEN NOTICE has been given; provided that the PUBLIC BODY may, if it determines the facts so justify, consider and adjust any such claims asserted before the date of final payment.

25. Time for Completion and Liquidated Damages

- A. The date of beginning and the time for completion of the WORK are essential conditions of the CONTRACT DOCUMENTS and the WORK embraced shall be commenced on the date specified in the NOTICE TO PROCEED.
- B. The CONTRACTOR will proceed with the WORK at such rate of PROGRESS to insure full completion within the CONTRACT TIME. It is expressly understood and agreed by and between the CONTRACTOR and the PUBLIC BODY that the CONTRACT TIME for the completion of the WORK described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the WORK.
- C. Liquidated Damages for Delays

If the WORK is not completed within the time stipulated in the CONTRACT DOCUMENTS including any extensions of time for excusable delays as herein provided, the CONTRACTOR shall pay to the PUBLIC BODY as fixed, agreed and liquidated damages for each calendar day of delay, until the WORK is completed, the amount set forth in the CONTRACT DOCUMENTS hereof and the CONTRACTOR and his sureties shall be liable to the PUBLIC BODY for the amount thereof. These fixed, agreed and liquidated damages are being set for delay because fixing actual damages for delay is impractical and extremely difficult.

The CONTRACTOR shall not be charged with liquidated damages or any excess cost when the delay in completion of the WORK is due to the following and the CONTRACTOR has promptly given WRITTEN NOTICE of such delay to the PUBLIC BODY and the ENGINEER:

- (1) To any preference, priority or allocation order duly issued by the PUBLIC BODY.

- (2) To unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR, including but not restricted to, acts of God, or of the public enemy, acts of the PUBLIC BODY, acts of another CONTRACTOR in the performance of a contract with the PUBLIC BODY, fires, floods, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather, and
- (3) To any delays of SUBCONTRACTORS occasioned by any of the causes specified in paragraphs C.(1) and C.(2) of this Section.

The aforementioned exemptions from payment of liquidated damages shall apply only if the CONTRACTOR promptly notifies the PUBLIC BODY within ten (10) days with WRITTEN NOTICE documenting the cause of such delay.

Upon receipt of such NOTICE the PUBLIC BODY shall ascertain the facts and the cause and the extent of such delay. If upon the basis of the facts and the terms of the CONTRACT DOCUMENTS, the delay is properly excusable, the PUBLIC BODY shall extend the CONTRACT TIME for completion of the WORK for a period commensurate with the period of excusable delay.

26. Suspension of Work, Termination And Delay

- A. The PUBLIC BODY may suspend the WORK or any portion thereof for a period of not more than ninety (90) days or such further time as agreed upon by the CONTRACTOR by WRITTEN NOTICE to the CONTRACTOR and the ENGINEER which shall fix the date on which the WORK shall be resumed. The CONTRACTOR will resume that WORK on the date so fixed. The CONTRACTOR will be allowed an increase in the CONTRACT PRICE or an extension of the CONTRACT TIME, or both, directly attributable to any suspension.
- B. If the CONTRACTOR is adjudged bankrupt or insolvent, or makes a general assignment for the benefit of its creditors, or if a trustee or receiver is appointed for the CONTRACTOR or for any of its property or if the CONTRACTOR files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or repeatedly fails to make prompt payments to SUBCONTRACTORS or for labor, materials or equipment, or disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the WORK, or disregards the authority of the ENGINEER, or otherwise violates any provision of the CONTRACT DOCUMENTS, then the PUBLIC BODY may, without prejudice to any other right or remedy and after giving the CONTRACTOR and its surety a minimum of ten (10) days from delivery of a WRITTEN NOTICE, terminate services of the CONTRACTOR and take possession of the PROJECT and all materials, equipment, tools, construction equipment and machinery thereon owned by the CONTRACTOR and finish the WORK by whatever method the PUBLIC

BODY 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 CONTRACT PRICE exceeds the direct and indirect costs of completing the PROJECT, including compensation for additional professional services, such excess shall be paid to the CONTRACTOR. If such costs exceed such unpaid balance, the CONTRACTOR will pay the difference to the PUBLIC BODY. Such costs incurred by the PUBLIC BODY will be determined by the ENGINEER and incorporated in a CHANGE ORDER.

- C. Where the CONTRACTOR'S services have been so terminated by the PUBLIC BODY, said termination shall not affect any right of the PUBLIC BODY against the CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of monies by the PUBLIC BODY due the CONTRACTOR will not release the CONTRACTOR from compliance with the CONTRACT DOCUMENTS.
- D. After ten (10) days from delivery of a WRITTEN NOTICE to the CONTRACTOR and the ENGINEER, the PUBLIC BODY may, without cause or prejudice to any other right or remedy, elect to abandon the PROJECT and to terminate the CONTRACT. In such case the CONTRACTOR shall be paid for all WORK executed and any expense sustained plus reasonable profit.
- E. It through no act or fault of the CONTRACTOR, the WORK is suspended for a period of more than ninety (90) days by the PUBLIC BODY or under an order of court or other public authority, or the ENGINEER fails to act on any request for payment within thirty (30) days after it is submitted, or the PUBLIC BODY fails to pay the CONTRACTOR substantially the sum approved by the ENGINEER or awarded through the legally recognized disputed claim procedure within thirty (30) days of its approval and presentation, then the CONTRACTOR may, after ten (10) days from delivery of a WRITTEN NOTICE to the PUBLIC BODY terminate the CONTRACT and recover from the PUBLIC BODY payment for all WORK executed and expenses sustained. In addition and in lieu of terminating the CONTRACT, if the ENGINEER has failed to act on a request for payment or if the PUBLIC BODY has failed to make any payment as foresaid, the CONTRACTOR may upon ten (10) days WRITTEN NOTICE to the PUBLIC BODY and ENGINEER stop the WORK until all amounts then due are paid, in which event and upon resumption of the WORK CHANGE ORDERS shall be issued for adjusting the CONTRACT PRICE or extending the CONTRACT TIME, or both, to compensate for the costs and delays attributable to the stoppage of the WORK.
- F. If the performance of all or any portion of the WORK is suspended, delayed, or interrupted as a result of the PUBLIC BODY or ENGINEER to act within the time specified in the CONTRACT DOCUMENTS, or if no time is specified, within a reasonable time, an adjustment in the CONTRACT PRICE or an extension of the CONTRACT TIME, or both, shall be made by CHANGE ORDER to compensate the

CONTRACTOR for the Costs and delays necessarily caused by the failure of the PUBLIC BODY or ENGINEER.

27. Correction of Work

- A. The CONTRACTOR shall promptly remove from the premises all WORK rejected by the ENGINEER for failure to comply with the CONTRACT DOCUMENTS, whether incorporated in the construction or not, and the CONTRACTOR shall promptly replace and re-execute the WORK in accordance with the CONTRACT DOCUMENTS and without expense to the PUBLIC BODY and shall bear the expense of making good all WORK of other CONTRACTORS destroyed or damaged by such removal or replacement.
- B. All removal and replacement WORK shall be done at the CONTRACTOR'S expense. If the CONTRACTOR does not take action to remove such rejected WORK within ten (10) days after receipt of WRITTEN NOTICE, the PUBLIC BODY may remove such WORK and store the materials at the expense of the CONTRACTOR.
- C. If the PUBLIC BODY deems it not expedient to require the CONTRACTOR to correct WORK not done in accordance with the CONTRACT DOCUMENTS, an agreement may be made between the PUBLIC BODY and the CONTRACTOR for a change in CONTRACT PRICE with an equitable deduction in lieu of replacement and removal.

28. Cleanup Requirements

- A. The construction premises, job sites and any property leased for storage of equipment or materials shall be maintained by the CONTRACTOR in reasonably neat and orderly condition, free from accumulation of waste material and rubbish during the entire construction period. All crates, cartons and other flammable and trash shall be removed from work areas at the end of each working day. Trash burning on the site shall be prohibited unless done in accordance with local ordinance.
- B. The CONTRACTOR shall remove all rubbish and debris from WORK with reasonable promptness. Rubbish and debris shall not be permitted to accumulate in excessive amounts that will become hazardous underfoot and to vehicular traffic.
- C. Upon completion of the WORK, the CONTRACTOR shall remove all temporary construction facilities, including buildings, fences, scaffolding, unused materials; and rubbish of any kind. Buildings, job site and adjacent property shall be left in a neat and clean condition acceptable to the PUBLIC BODY.

29. Fitting and Coordination of the Work

The CONTRACTOR shall be responsible for the proper fitting of all WORK and for the coordination of the operation of all trades, SUBCONTRACTORS, or material supplies engaged in the WORK. The CONTRACTOR shall guarantee to each of his SUBCONTRACTORS the locations and measurements which they may require for the fitting of their work to all surrounding work.

30. Subcontracting

- A. The CONTRACTOR may utilize specialty SUBCONTRACTS on those parts of the WORK which, under normal contracting practices, are performed by specialty SUBCONTRACTORS.
- B. The CONTRACTOR shall not contract with any proposed SUBCONTRACTOR without the prior written approval of the PUBLIC BODY. Prior to the award of each SUBCONTRACT, the CONTRACTOR shall notify the PUBLIC BODY and the ENGINEER in writing of the name and trade of each SUBCONTRACTOR proposed, and furnish such written information as the PUBLIC BODY and the ENGINEER may require concerning the proposed SUBCONTRACTOR. Any objection the PUBLIC BODY may have concerning the proposed SUBCONTRACT shall be expressed in writing within seven (7) days after receipt by the PUBLIC BODY of the CONTRACTOR'S proposal of a SUBCONTRACT.
- C. The PUBLIC BODY may, without claim for extra cost by the CONTRACTOR, disapprove of any SUBCONTRACTOR based upon its own determination, or because of the fact that the proposed SUBCONTRACTOR is listed as ineligible to receive award of CONTRACTS for federally funded jobs due to being listed as debarred by the U. S. Department of Housing and Urban Development, the U. S. Department of Labor, or the Commonwealth of Virginia.
- D. The CONTRACTOR shall be as fully responsible for the acts and omissions of its SUBCONTRACTORS, and for persons either directly or indirectly employed by them, as the CONTRACTOR is for the acts and omissions of persons employed by the CONTRACTOR.
- E. The CONTRACTOR shall cause appropriate provisions to be inserted in all SUBCONTRACTS relative to the WORK to bind SUBCONTRACTORS to applicable provisions of the CONTRACT DOCUMENTS.
- F. There shall be nothing contained in the CONTRACT DOCUMENTS that shall create any contractual relation between any SUBCONTRACTOR and the PUBLIC BODY.

31. Separate Contracts

- A. The PUBLIC BODY reserves the right to let other contracts in connection with this PROJECT. The CONTRACTOR shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate the WORK with theirs. If the proper execution or results of any part of the CONTRACTOR'S WORK depends on the work of any other contractors, the CONTRACTOR shall inspect and promptly report to the ENGINEER any defect in such work that render it unsuitable for such proper execution and results.
- B. The PUBLIC BODY may perform additional work related to this PROJECT or the PUBLIC BODY may let other contracts containing provisions similar to these. The CONTRACTOR shall afford the other contractors who are parties to such contracts (or the PUBLIC BODY if the PUBLIC BODY is performing the additional work) reasonable opportunity for the introduction and storage of equipment and materials and the execution of work, and shall properly connect and coordinate the WORK with theirs.
- C. If the performance of additional work by other contractors or the PUBLIC BODY 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 PUBLIC BODY entitles him to an extension of CONTRACT TIME, the CONTRACTOR may make a claim thereof for a CHANGE ORDER.

32. Lands and Rights-Of-Way

- A. Prior to issuance of NOTICE TO PROCEED the PUBLIC BODY shall obtain all land and rights-of-way necessary for carrying out and for completion of the WORK to be performed pursuant to the CONTRACT DOCUMENTS, unless otherwise mutually agreed.
- B. The PUBLIC BODY shall provide to the CONTRACTOR information which delineates and describes the lands owned and rights-of-way acquired.

33. As Constructed Drawings

The CONTRACTOR shall provide the ENGINEER with accurate information to be used in the preparation of permanent As Constructed Drawings. For this purpose, the CONTRACTOR shall record on one set of CONTRACT DRAWINGS all changes from the installations originally indicated, and record final locations of underground lines by

depth from finish grade and by accurate horizontal offset distances to permanent surface improvements such as buildings, curbs, or edges of walks etc.

34. Final Completion Inspection and Closeout

- A. When the WORK as described in the CONTRACT DOCUMENTS is substantially completed, the CONTRACTOR shall notify the ENGINEER and PUBLIC BODY by WRITTEN NOTICE that the WORK will be ready for final inspection on a definite date specified in such NOTICE. The WRITTEN NOTICE shall be given at least ten (10) days prior to the date state for final inspection. If the PUBLIC BODY determines that the status of the WORK is as represented, it will make arrangements necessary to conduct final inspection on the date stated in the NOTICE, or as soon thereafter as is practicable. The inspection party will include the ENGINEER and such representatives of the PUBLIC BODY as deemed appropriate.
- B. After the ENGINEER and the PUBLIC BODY have been satisfied that the CONTRACTOR has performed satisfactorily in accordance with the CONTRACT DOCUMENTS, the ENGINEER will certify that the CONTRACTOR is eligible for final payment by the PUBLIC BODY.
- C. The CONTRACTOR is required to execute a Release of Liens, Payment in Full to Subcontractors and Material Suppliers Certification, Warranty of Materials and Workmanship and all other appropriate documents that are essential to close out of the PROJECT as requested by the PUBLIC BODY.
- D. The PUBLIC BODY'S attorney will review the CONTRACTOR'S close out documents prior to acceptance by the PUBLIC BODY. If the PUBLIC BODY and its attorney are satisfied that the PUBLIC BODY is released from all liens, claims or other charges connected with the WORK, the PUBLIC BODY will make payment to the CONTRACTOR.

35. Insurance

- A. The CONTRACTOR shall purchase and maintain such insurance as will protect it from claims set forth below which may arise out of, or result from, the CONTRACTOR'S execution of the WORK, whether such execution be by the CONTRACTOR, any SUBCONTRACTOR, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:
 - (1) Claims under workmen's compensation, disability benefit and other similar employee benefit acts;

- (2) Claims for damages because of bodily injury, occupational sickness or disease, or death of employees;
 - (3) Claims for damages because of bodily injury, sickness or disease, or death of any person other than employees;
 - (4) Claims for damages insured by usual personal injury liability coverage which are sustained (a) by any person as a result of an offense directly or indirectly related to the employment of such person by the CONTRACTOR, or (b) by any other person; and
 - (5) Claims for damages because of injury to or destruction of tangible property, including loss of use resulting there from.
- B. Certificates of Insurance acceptable to the PUBLIC BODY shall be filed with the PUBLIC BODY prior to commencement of the WORK. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least fifteen (15) days prior WRITTEN NOTICE has been given to the PUBLIC BODY.
- C. The CONTRACTOR shall procure and maintain, at the CONTRACTOR'S own expense, during the CONTRACT TIME, Liability insurance as herein- after specified:
- (1) Contractor's General Public Liability and Property Damage Insurance including vehicle coverage issued to the CONTRACTOR and protecting the CONTRACTOR from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under the CONTRACT DOCUMENTS, whether such operations be by the CONTRACTOR or by any SUBCONTRACTOR employed by the CONTRACTOR or anyone directly or indirectly employed by the CONTRACTOR or by a SUBCONTRACTOR employed by the CONTRACTOR. Insurance shall be written with a limit of liability of not less than \$500,000 for all damages arising out of bodily injury, including death, at any time resulting there from, sustained by anyone person in any one accident; and a limit of liability of not less than \$500,000 aggregate for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$200,000 for all property damage sustained by any one person in any one accident; and a limit of liability of not less than \$200,000 aggregate for any such damage sustained by two or more persons in any accident.
 - (2) The CONTRACTOR shall acquire and maintain, if applicable, Fire and Extended Coverage insurance upon the PROJECT to the full insurable value thereof for the benefit of the PUBLIC BODY, the CONTRACTOR, and

SUBCONTRACTORS as their interest may appear. This provision shall in no way release the CONTRACTOR or CONTRACTOR'S surety from obligations under the CONTRACT DOCUMENTS to fully complete the PROJECT.

- D. The CONTRACTOR shall procure and maintain, at the CONTRACTOR'S own expense, during the CONTRACT TIME, in accordance with the provisions of State law, Workman's Compensation Insurance, including occupational disease provisions, for all of the CONTRACTOR'S employees at the site of the PROJECT and in case any WORK is sublet, the CONTRACTOR shall require such SUBCONTRACTOR similarly to provide Workmen's Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. In case any class of employees engaged in hazardous work under this contract at the site for the PROJECT is not protected under Workmen's Compensation statute, the CONTRACTOR shall provide, and shall cause each SUBCONTRACTOR to provide, adequate and suitable insurance for the protection of its employees not otherwise protected.
- E. The CONTRACTOR shall secure, if applicable, "All Risk" type Builder's Risk Insurance for WORK to be performed. Unless specifically authorized by the PUBLIC BODY, the amount of such insurance shall not be less than the CONTRACT PRICE totaled in the BID. The policy shall cover not less than the losses due to fire, explosion, hail, lightning, vandalism, malicious mischief, wind, collapse, riot, aircraft, and smoke during the CONTRACT TIME, and until the WORK is accepted by the PUBLIC BODY. The policy shall name as the insured the CONTRACTOR, and the PUBLIC BODY.

36. Assignment of Contract

- A. The CONTRACTOR'S obligations and duties under this CONTRACT shall not be assigned in whole or in part by the CONTRACTOR without the prior written approval of the PUBLIC BODY. This shall not prohibit the assignment of the proceeds due hereunder to a bank or financial institution, provided however that such assignment does not encumber or in any way lay claim to materials, equipment or machinery to be incorporated into the WORK or otherwise to be vested in the PUBLIC BODY by terms of the CONTRACT DOCUMENTS. This provision shall not preclude the CONTRACTOR from subletting as provided in the CONTRACT DOCUMENTS, parts of the WORK.
- B. This CONTRACT may be assigned by the PUBLIC BODY to any corporation, agency, or instrumentally authorized to accept such assignment.

37. Indemnification

- A. The CONTRACTOR will indemnify and hold harmless the PUBLIC BODY and the ENGINEER and their agents and employees from and against all claims, damages, losses, and expenses including attorney fees arising out of or resulting from the performance of the WORK, provided that such claims, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use there- from; and is caused in whole or in part by any negligent or willful act or omission of the CONTRACTOR, and SUBCONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.
- B. In any and all claims against the PUBLIC BODY or the ENGINEER, or any of their agents or employees, by any employee 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, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, of benefits payable by or for the CONTRACTOR or any SUBCONTRACTOR under workmen's compensation acts, disability benefit acts or any other employee benefit acts.
- C. The obligation of the CONTRACTOR under this paragraph shall not extend to the liability of the ENGINEER, its agents, or employees arising out of the preparation or approval of maps, DRAWINGS, opinions, reports, surveys, CHANGE ORDERS, designs or SPECIFICATIONS.

38. Guarantee

The CONTRACTOR shall guarantee all materials and equipment furnished and WORK performed for a period of one (1) year from the date of substantial inspection. The CONTRACTOR warrants and guarantees for a period of one (1) year from the date of final inspection of the facility that the facility is free from all defects due to faulty materials and workmanship and the CONTRACTOR shall promptly make such corrections as may be necessary by reason of such defects including the repairs of the damages of other parts of the system resulting from such defects. The PUBLIC BODY will give notice of observed defects with reasonable promptness. In the event that the CONTRACTOR should fail to make such repairs, adjustments or other WORK that may be made necessary by such defects, the PUBLIC BODY may do so and charge the CONTRACTOR the cost thereby incurred. The Performance BOND shall remain in full force and effect through the guarantee period.

39. Notices

- A. All NOTICES, demands, requests, instructions, approvals, proposals, and claims must be made in writing.
- B. 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 CONTRACT DOCUMENTS (or at such other office as he may from time to time designate in writing to the PUBLIC BODY, or deposited in the United States Mail in a sealed, postage paid envelope, or if delivered with charges prepaid to any telegraph company for transmission in each case addressed to such office).
- C. All NOTICES required to be delivered to the PUBLIC BODY shall, unless otherwise specified in writing to the CONTRACTOR, be delivered to the designated representative and any NOTICE to or demand upon the PUBLIC BODY shall be sufficiently given if so delivered in writing, or deposited in the United States Mail in a sealed, postage paid envelope, or delivered with charges prepaid to any telegraph company for transmission to said designated representative at such address, or to such other address as the PUBLIC BODY may subsequently specify in writing to the CONTRACTOR for such purposes.
- D. Any such WRITTEN NOTICE shall be deemed to have been given as of the time of actual delivery, or in the 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.

40. Access to Records

The PUBLIC BODY, the Inspector General of the United States, U. S. Department of Housing and Urban Development, U. S. Department of Labor, the General Accounting Office, and DHCD shall be permitted by the CONTRACTOR to have full access to, and right to examine any pertinent books, documents, papers and records of the CONTRACTOR involving transactions related to this CONTRACT, during the period of this PROJECT and for five (5) years from the date of final payment or until all findings have been resolved to the satisfaction of the Commonwealth of Virginia. The CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The CONTRACTOR agrees to maintain all books, documents, papers and records required under this CONTRACT for a period of not less than five (5) years from the date of final payment or until all findings have been resolved to the satisfaction of the Commonwealth of Virginia.

41. Withholding Of Funds

Notwithstanding the provisions of Section 20 herein, the following shall apply:

- A. The PUBLIC BODY may withhold or cause to be withheld from the CONTRACTOR so much of the accrued payments or advances as may be considered necessary to satisfy any liability of the CONTRACTOR or any SUBCONTRACTOR for liquidated damages under the CONTRACT Work Hours and Safety Standards Act - Overtime Compensation.
- B. If the CONTRACTOR or any SUBCONTRACTOR fails to pay any laborer, mechanic, apprentice, trainee, watchman or guard employed on the WORK all or part of the wages required by the CONTRACT DOCUMENTS, the PUBLIC BODY may, upon WRITTEN NOTICE to the CONTRACTOR, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

42. Federal Funding Termination

In the event that federal funding is terminated or otherwise unavailable for the purpose of compensating the CONTRACTOR, the CONTRACT is null and void, releasing the CONTRACTOR from further obligations contained therein.

43. Interest of Contractor

The CONTRACTOR covenants that the CONTRACTOR presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the CONTRACTOR'S services hereunder. The CONTRACTOR further covenants that in the performance of this CONTRACT no person having any such interest shall be employed.

44. Political Activity

No portion of CONTRACT funds shall be directly used for any political activity or to further the election or defeat of any candidate for public office.

45. Interest of Officials

- A. No member of or delegate to the Congress of the United States, shall be admitted to any share or part of this CONTRACT or to any benefit to arise there from; but this

provision shall not be construed to extend to this CONTRACT if made with a corporation for its general benefit.

- B. No employee, officer or agent of the PUBLIC BODY shall participate in selection, or in the award or administration of this CONTRACT if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: the employee, officer or agent; any member of his immediate family; his partner; or an organization which employs or is about to employ any of the preceding persons has a financial or other interest in the CONTRACTOR or this CONTRACT.

46. Provisions Required By Law Deem Inserted

Each and every provision of law and clause required by law to be inserted in this CONTRACT shall be deemed to be inserted herein and the CONTRACT shall be read and enforced as though it were included herein.

47. Contract Security

Requirements: Section 2.2-4337 of the Virginia Public Procurement Act requires performance and payment bonds in the amount of the contract for construction contracts exceeding \$500,000 awarded to any prime contractor. State law does not preclude public bodies from requiring such bonds for construction contracts below \$500,000. Section 2.2-4337 also allows the contractor to require of each subcontractor a payment bond (but not a performance bond). HUD regulations at 24 CFR Part 85 requires performance and payment bonds for 100 percent of the contract price for contracts exceeding \$150,000 and such bonds must be obtained from companies listed in the U.S. Treasury Circular 570.

NOTE: The public body must use the sample wording or develop its own wording consistent with the requirements.

Sample

- A. Simultaneous with the delivery of the executed CONTRACT, the CONTRACTOR shall furnish to the PUBLIC BODY the following BONDS payable to the PUBLIC BODY:
 - 1. A performance BOND in the sum of the CONTRACT amount conditioned upon the faithful performance of the CONTRACT in strict conformity with the CONTRACT DOCUMENTS.
 - 2. A payment BOND in the sum of the CONTRACT amount. Such BOND shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the CONTRACTOR, or to any of his SUBCONTRACTORS, in

the prosecution of the WORK, and shall be conditioned upon the prompt payment for all such material furnished or labor supplied or performed in the prosecution of the WORK. "Labor or materials" shall include public utility services and reasonable rental of equipment, but only for periods when the equipment rented is actually used at the site.

- B. Each of the BONDS shall be executed by one or more surety companies authorized to do business in Virginia. When the CONTRACT amount exceeds \$150,000, such company shall also be listed in the latest issue of the U.S. Treasury Circular 570 and the penal sum shall be within the maximum specified for such company in said Circular 570.
- C. In lieu of a payment or performance BOND, the CONTRACTOR may furnish a certified check or cash escrow in the face amount required by the BOND.

48. Contractual Disputes

Requirements: Section 2.2-4363 of the Virginia Public Procurement Act requires public bodies to include in their contracts (or by reference) a procedure for consideration of contractual claims. Such procedure must establish a time limit for a final decision in writing by the public body. OMB Part 85 provides that "The grantee is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements entered in support of a grant. These include but are not limited to source evaluation, protests, disputes, and claims." As a minimum, ALL PUBLIC BODIES MUST ESTABLISH a procedure for consideration of contractual claims including a time limit for a final decision. TWO EXCEPTIONS MUST BE PROVIDED for in a general contractual disputes clause. These exceptions concern disputes arising out of the labor standards provisions of the contract and disputes relative to a contractor's compliance with the affirmative action clauses.

Sample

- A. Contractual claims whether for money or other relief, except disputes arising out of the Labor Standards Provisions of this CONTRACT and disputes relative to the CONTRACTOR'S compliance with the affirmative action clauses shall be submitted in writing no later than sixty (60) days after final payment, however, WRITTEN NOTICE of the CONTRACTOR'S intention to file such a claim must be given at the time of the occurrence or prior to beginning of that part of the WORK upon which the claim is based. Such WRITTEN NOTICE of the CONTRACTOR'S intention to file a claim need not detail the amount of the claim, but shall state the facts or issues relating to the claim in sufficient detail to identify the claim, together with its character and scope. Upon the filing of such WRITTEN NOTICE the CONTRACTOR shall proceed with the WORK as directed.

- B. The PUBLIC BODY, upon receipt of a detailed claim, may at any time render its decision and shall render such decision within days of final payment. Each such decision rendered by the PUBLIC BODY shall be forwarded to the CONTRACTOR by WRITTEN NOTICE.
- C. If the CONTRACTOR disagrees with the decision of the PUBLIC BODY concerning any pending claim he shall promptly notify the PUBLIC BODY by WRITTEN NOTICE that he is proceeding with the WORK under protest. Any claim not resolved, whether by failure of the CONTRACTOR to accept the decision of the PUBLIC BODY or under a WRITTEN NOTICE of CONTRACTOR'S intention to file a claim or a detailed claim not acted upon by the PUBLIC BODY, shall be specifically exempt by the CONTRACTOR from payment request, whether progress or final. Pendency of claims shall not delay payment of amounts agreed due in the final payment.
- D. The decision on contractual claims by the PUBLIC BODY shall be final and conclusive unless the CONTRACTOR appeals within six months of the date of the final decision on the claim by the PUBLIC BODY by invoking the administrative appeals procedure, if available, or by instituting legal action in the appropriate circuit court.

49. Administrative Appeals Procedure and Arbitration

Requirements: Under Section 2.2-4365 of the Virginia Public Procurement Act, a public body may establish an administrative appeals procedure for hearing protests of a decision to award or an award, appeals from refusals to allow withdrawal of bids, appeals from disqualifications and determinations of nonresponsibility, and appeals from decisions on disputes arising during the performance of a contract. And such administrative procedure shall provide for a hearing before a disinterested person or panel.

The sample administrative appeals procedure is optional.

Sample:

- A. Not later than six months from the date of the decision of the PUBLIC BODY, the CONTRACTOR may invoke the Administrative Appeals Procedure, by filing with the PUBLIC BODY a WRITTEN NOTICE of an intention to arbitrate, which NOTICE shall contain a statement setting forth the nature of the dispute, the amount involved, and the remedy sought. The CONTRACTOR shall file two copies of said NOTICE with any Regional Office of the American Arbitration Association (AAA), together with two copies of the arbitration provisions of this CONTRACT and the appropriate filing fee as provided for in the administrative fee schedule of the AAA in

effect at the time of filing. Such dispute shall be settled in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association.

- B. The award shall be final and conclusive and shall not be set aside unless the findings of fact contained therein are fraudulent or arbitrary or capricious, or so grossly erroneous as to imply bad faith.
- C. No determination on an issue of law shall be final if appropriate legal action is instituted in a timely manner. Any party to the Administrative Appeals Procedure shall be entitled to institute judicial review if such action is brought within thirty (30) days of the receipt of the written decision.
- D. Judgment upon the award may be entered in any court having jurisdiction thereof.
- E. Should the Administrative Appeals Procedure be invoked prior to completion of the WORK, the CONTRACTOR shall carry on the WORK and maintain the progress schedule unless otherwise agreed to by the CONTRACTOR and the PUBLIC BODY in writing.

50. Other Contractual Requirements

RETAINAGE: Section 2.2-4333 of the Virginia Public Procurement Act provides, "In any public contract for construction which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least ninety-five percent of the earned sum when payment is due, with not more than five percent being retained to assure faithful performance of the contract. All amounts withheld may be included in the final payment... Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations."

There are no federal requirements addressing the retainage issues.

NOTE: The maximum five percent retainage allowable is incorporated in Section 20 of General Conditions - Part I.

EQUALS: Both 24 CFR Part 85 and Section 2.2-4315 of the Virginia Public Procurement Act require that in contracts the use of a certain brand, make or manufacturer does not restrict the procurement to a specific brand, make or manufacturer. This requirement is found in Section 4 of General Conditions - Part I.

RECORDS RETENTION AND ACCESS TO: The federal requirements concerning retention of records and access to records and incorporated in Section 40 of General Conditions - Part I.

CONTRACT TERMINATION: The 24 CFR Part 85 requirements concerning contract termination are incorporated in the language found in Section 26 of General Conditions - Part I.

General Conditions - Part II

(TO BE INSERTED VERBATIM IN ALL CDBG CONSTRUCTION CONTRACTS; Except Subpart A, Federal Labor Standards Provisions; and Subpart B, Contract Work hours and Safety Standards Act, do not apply to rehabilitation of residential property, including bathroom additions, for use by less than eight families)

Subpart A: Federal Labor Standards Provisions

29 CFR 5.5 (a) - APPLICABILITY

The Project or Program to which the 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.

(Applicable to all contracts/subcontracts in excess of \$2,000)

1. Minimum Wages

- A. All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once each week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section l(b) (2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph l(d) of this subpart; also regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits of the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including

any classification and wage rates conformed under paragraph 1(b) of this subpart) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

B.

- (1) The Virginia Department of Housing and Community Development (DHCD) and the Public Body shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. DHCD and the U.S. Department of Labor shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - i. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - ii. The classification is utilized in the area by the construction industry; and
 - iii. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and DHCD agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by DHCD to the Administrator of the Wage and Hour Division, Employment Standards Administration, U. S. Department of Labor, in Washington D. C. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise DHCD, or will notify DHCD within the 30-day period that additional time is necessary.
- (3) 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), DHCD shall 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 DHCD or will notify DHCD within the 30-day period that additional time is necessary.

- (4) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs 1 (b) (B) or (C) of this subpart, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- C. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- D. If the contractor does not make payment to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

DHCD, or the Public Body, shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work all or part of the wages required by the contract, DHCD may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and Basic Records

- A. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid.

Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b) (2) (B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

A.

- (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the designated Public Body. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5 (a) (3) (i). This information may be submitted in any form desired. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.
- (2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
 - i. That the payroll for the payroll period contains the information required to be maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;
 - ii. That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;
 - iii. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3(b) (B) of this subpart.

- (4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.
- B. The contractor or subcontractor shall make the records required under paragraphs 3(a) of this subpart available for inspection, copying, or transcription by authorized representatives of the Public Body, DHCD or the U.S. Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees

- A. Apprentices: Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage rate determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage

determination for the applicable classification. If the Administrator determined that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Employment and Training Administration, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- B. Trainees: Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for his level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- C. Equal Employment Opportunity: The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements

The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts

The contractor or subcontractor shall insert in any subcontract the clauses contained in 29 CFR 5.5(a) (1) through (12) and such other clauses as the Department of Housing and Community Development may by appropriate instruction require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontract. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract Termination: Debarment

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

8. Compliance with Davis-Bacon and Related Act Requirements

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

9. Disputes Concerning Labor Standards

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

10. Certification of Eligibility

- A. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm which has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a) (1).
- B. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon act or 29 CFR 5.12(a)(1).

- C. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

11. Employment of Certain Persons Prohibited

No person under the age of sixteen years and no person who, at the time, is serving sentence in a penal or correctional institution shall be employed on the work covered by this Contract.

12. Questions Concerning Certain Federal Statutes and Regulations

All questions arising under this Contract not specifically addressed in the above paragraphs which relate to the application or interpretation of (a) the aforesaid Anti-Kickback Act, (b) the Contract Work Hours and Safety Standards Act, (c) the aforesaid Davis-Bacon Act, (d) the regulations issued by the Secretary of Labor, United States Department of Labor, pursuant to said Acts, or (e) the labor standards provisions of any other pertinent Federal statute, shall be referred, through the Public Body to the Virginia Department of Housing and Community Development, to the Secretary of Labor, United States Department of Labor, for said Secretary's appropriate ruling or interpretation which shall be authoritative and may be relied upon for the purposes of this Contract.

Subpart B: Contract Work Hours And Safety Standards Act

(Applicable to all construction contracts. As used in this "Subpart" the terms "laborers" and "mechanics" include watchman 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 plus the straight-time rate of any required fringe benefits 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 paragraph (1) of this subpart, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this subpart, in the sum of \$10 for each calendar day or 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 paragraph (1) of this subpart.

3. Withholding For Unpaid Wages and Liquidated Damages

The Public Body or DHCD shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this subpart.

4. Subcontract

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

In addition to the clauses contained in Subpart B, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statues cites in 5.1, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under Subpart B shall be made available by the contractor or subcontractor for inspection, copying, or

transcription by authorized representative of the Public Body, DHCD and/or the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

Subpart C: Equal Employment Opportunity

1. Executive Order 11246, As Amended.

(Applicable to all contracts/subcontracts in excess of \$10,000)

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his

books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 1 1246, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (vii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246, 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 administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

B. Subcontracts: Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

2. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246, as amended). (Applicable to all contracts and subcontracts exceeding \$10,000.)

- A. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
- B. 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:

Timetables	Goals for minority participation in each trade	Goals for female participation in each trade
	(Insert MBE goal)	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. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order 11246, as amended, and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

- C. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is the boundaries of the County of _____, Virginia, in which the project area is located.

3. Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246).

(Applicable to all contracts/subcontracts in excess of \$10,000)

A. 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 Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- (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:
 - Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - Asian or Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
 - Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

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

C. If the Contractor is participating (pursuant to 41 CFR 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 EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

- D. The Contractor shall implement the specific affirmative action standards provided in paragraphs g (1) through (16) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction Contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract, shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
- E. 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.
- F. 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.
- G. 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 action. 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 the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization, and of what action was taken with respect to each such individual. If such individual was sent to 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 its 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 G (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 onsite 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 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 month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- (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 work force.
- (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 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 nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

- (15) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - (16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
- H. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations [g(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 g(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.
- I. A single goal for minorities and a separate rate 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 a violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even through 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).
- J. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- K. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246, as amended.
- L. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations,

by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

- M. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph g of these specifications, 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 60-4.8.
- N. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, whether age is greater than 62 years, 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 any easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
- O. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents e.g.; those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program.

Subpart D: Title VI of the Civil Rights Act Of 1964, As Amended

No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Subpart E: Section 109 Of The Housing And Community Development Act Of 1974, As Amended

No person in the United States shall on the ground 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.

Any prohibition against discrimination on the basis of age under the *Age Discrimination Act of 1975* or with respect to an otherwise qualified handicapped individual as provided in *Section 504 of the Rehabilitation Act of 1973* shall also apply to any such program or activity.

Subpart F: Section 3 Of The Housing And Urban Development Act Of 1968

(Applicable to all contracts/subcontracts in excess of \$100,000)

- A. The Section 3 covered Project Area for this PROJECT is designated as the boundaries of the County of _____, Virginia, in which the project area is located.
- B. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by Housing and Urban Development assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- C. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- D. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- E. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- F. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is

executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed were not filled to circumvent the contractor's obligations under 24 CFR part 135.

- G. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

Subpart G: Opportunities For Minority And Female-Owned Businesses

The work covered by this CONTRACT is subject to the provisions of OMB Part 85, Attachment 0 which requires that minority and female-owned businesses be solicited whenever they are sources of supplies, equipment, construction and services on federally funded projects.

- A. In procuring supplies, equipment, construction and services, the CONTRACTOR and all SUBCONTRACTORS will contact those appropriate minority and female-owned firms provided by the PUBLIC BODY on its solicitation list and provide such firms reasonable opportunities to compete for procurement contracts.
- B. The CONTRACTOR shall keep a complete and accurate record of all procurement of greater than ten thousand dollars (\$10,000) made in the execution of the PROJECT. Such record shall be on a form provided by the PUBLIC BODY and shall be submitted to the PUBLIC BODY no less than every thirty (30) days.

Subpart H: Compliance With Air And Water Acts

(Applicable to all contracts/subcontracts in excess of \$100,000)

In compliance with Section 306 of the Clean Air Act, as amended, (42 USC 1857(h)), Section 508 of the Clean Water Act, as amended, (33 USC 1368), Executive Order 11738, and the regulations (40 CFR, Part 15) of the Environmental Protection Agency with respect thereto the Contractor agrees that:

- A. Any facility to be utilized in the performance of this contract or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to 40 CFR 15.20.
- B. He will comply with all requirements of Section 306 of the Clean Air Act, as amended, and Section 508 of the Clean Water Act, as amended, and all regulations and guidelines issued thereunder.
- C. He will promptly notify the PUBLIC BODY 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.

- D. He will include or cause to be included the provisions of paragraph 1 through 4 of this subpart in every nonexempt subcontract and that he will take such action as the Government may direct as a means of enforcing such provisions.

Subpart I: Lead-Based Paint Hazards

The construction or rehabilitation of residential structures is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35, issued pursuant to the Lead-Based Paint Poisoning Prevention Act, Public Law 91-695, 84 Stat. 2078, as amended by Public Law 93-151 and Public Law 94-317 (42 U.S.C. 4801).

- A. The CONTRACTOR and SUBCONTRACTORS shall not use lead-based paint in residential structures and shall eliminate any lead-based paint hazards in residential structures rehabilitated.
- B. The PUBLIC BODY shall be responsible for inspections and certifications required under Section 35.24.

Subpart J: Immigration Reform And Control Act Of 1986

The Contractor agrees by signing this contract that he/she does not and will not during the performance of this contract violate the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.

Subpart K: Disclosure

All contractors and subcontractors shall complete a disclosure statement at the time of contract execution that discloses those persons who have an interest in the contract proceeds. Attach form follows this page.

Subpart L: Access To Records And Construction Site

The PUBLIC BODY, the Inspector General of the United States, United States Department of Housing and Urban Development, United States Department of Labor, the General Accounting Office, and the Virginia Department of Housing and Community Development shall be permitted by the CONTRACTOR to have full access to, and right to examine any pertinent books, documents, papers and records and construction site of the CONTRACTOR involving

transactions related to this CONTRACT, during the period of this PROJECT and for three (3) years from the date of final payment or until all findings have been resolved to the satisfaction of the Commonwealth of Virginia.

VIRGINIA COMMUNITY IMPROVEMENT GRANT

CONTRACTOR'S DISCLOSURE REPORT

All Requested Information must be provided

(Completed by all Developers, Contractors, Subcontractors or Consultants)

1. Local Government Name _____
2. CDBG Contract Number CDBG # _____
3. Project Name _____
3. Name of Firm _____
President _____
Address _____
Telephone _____
DUNS# _____

Type of Contract (check applicable description)

- | | | | |
|--------------------|--------------------------|-------------------|--------------------------|
| Construction Prime | <input type="checkbox"/> | *Construction Sub | <input type="checkbox"/> |
| Design | <input type="checkbox"/> | Other Specify | <input type="checkbox"/> |

Description of work or service provided:

5. Date this Report _____ and ___ # of pages.
6. Revision to Report Date _____ and ___ # pages.

**Note:* Housing Rehabilitation subcontractors are not required to be listed or to complete this Report.

Interested Parties	If Firm is an entity, identify each officer, director, principal stockholder and other persons who will have a \$50,000 or 10% interest, whichever is lower.		
Name (Last, First, Initial).	Last 4 # of SS	Type Participation	\$ and %

If there are no persons with a reportable financial interest, you must also certify that this is true.

I hereby certify this information is true.

(Signature) _____ Date _____

Title _____

Certification

Warning: If you knowingly make a false statement on this form you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information including intentional non-disclosure is subject to a civil money penalty not to exceed \$10,000 for each violation.

Note: Please copy this page and attach additional pages as needed. Please indicate # of pages and date on cover.

"General Decision Number: VA20220023 02/25/2022 Superseded General

Decision Number: VA20210023

State: Virginia

Construction Types: Heavy (Heavy and Sewer and Water Line)

Counties: Accomack, Essex, King George, Lancaster, Middlesex, Northampton, Northumberland, Richmond and Westmoreland Counties in Virginia.

HEAVY CONSTRUCTION PROJECTS (Including Sewer and Water Lines)

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)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:

Executive Order 14026 generally applies to the contract. The contractor must pay all covered workers at least \$15.00 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 2022.

If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:

Executive Order 13658 generally applies to the contract. The contractor must pay all covered workers at least \$11.25 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.

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 <https://www.dol.gov/agencies/whd/government-contracts>.

Modification Number	Publication Date
0	01/07/2022
1	02/25/2022

* SUVA2010-024 09/01/2010

	Rates	Fringes
CARPENTER	\$ 11.82 **	0.58
CEMENT MASON/CONCRETE FINISHER...\$	11.00 **	1.02
ELECTRICIAN	\$ 18.21	3.11
LABORERS		
Common or General	\$ 9.65 **	1.20
Flagger	\$ 7.25 **	
Pipelayer.....	\$ 13.11 **	2.50
POWER EQUIPMENT OPERATOR:		
Backhoe.....	\$ 12.85 **	1.22
Bulldozer.....	\$ 18.00	7.28
Crane.....	\$ 20.63	
Excavator.....	\$ 12.28 **	1.97
Loader	\$ 12.67 **	1.13
TRUCK DRIVER		
Dump Truck.....	\$ 10.54 **	0.53
Off the Road Truck.....	\$ 16.50	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

**Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$15.00) or 13658 (\$11.25). Please see the Note at the top of the wage determination for more information.

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) (ii)).

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 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 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.

AUAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CSA rate of the union locals from which the rate is based.

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 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.

EXPLANATION OF PAYROLL RECORD (FORM WH-347)

What It Is Used For: The contractor and subcontractors submit their weekly Payroll Report to the Grantee each week or part of a week in which there are employees assigned to the project. All workers assigned that week MUST be included.

When It Is Used: During the construction phase of the project.

Where It Goes: In the Grantee's Labor Standards project file.

General Instructions: The Grantee must review each Payroll Report to assure that the Contractor and all subcontractors are complying with *Davis-Bacon Act*, *Contract Work Hours and Standards Act*, and *Copeland "Anti-Kickback" Act* requirements. Payroll records must be verified by field inspections (See Appendix 51 for *Record of Employee Interview* form) and checked against the *Register of Assigned Employees* (See Appendix 54 for form).

Form Instructions:

PAYROLL REPORT

Contractor or Subcontractor: Fill in your firm's name and check appropriate box.

Address: Fill in your firm's address.

Payroll No.: Beginning with the number "1", list the payroll number for the submission.

For Week Ending: List the workweek ending date.

Project and Location: List the project's name as found on the CDBG Agreement.

Project or Contract No.: List the project's CIG number.

Column 1 - Name and Individual Identifying Number of Worker: Enter each worker's full name and an individual identifying number on each weekly payroll submitted e. g.; the last four digits of the employee's Social Security number (SSN). Full SNN shall not be included on the payroll. Employers must maintain the current address and full SSN for each employee and must provide this information upon request to the Grantee and DHCD.

Column 2 - No. of Withholding Exemptions: This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Part 3 and 5.

Column 3 - Work Classifications: List the classification as shown on the wage decision issued for this project. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, consult with your Grantee's Contract Compliance Officer. An individual may be shown as having worked in more than one classification provided an accurate breakdown or hours worked in each classification is maintained and shown on the submitted payroll by use of separate entries. When listing a sole proprietor/subcontractor on a payroll, a prime contractor should record the sole proprietor/subcontractor's information in the same manner as an employee.

Column 4 - Hours worked: List the day and date and straight time and overtime hours worked in the applicable boxes. On all contracts subject to the Contract Work Hours Standard Act, enter hours worked in excess of 40 hours a week as "overtime".

Column 5 - Total: Self-explanatory

Column 6 - Rate of Pay (Including Fringe Benefits): In the "straight time" box for each worker, list the actual hourly rate paid for straight time worked, plus cash paid in lieu of fringe benefits paid. When recording the straight time hourly rate, any cash paid in lieu of fringe benefits may be shown separately from the basic rate. For example, "\$12.25/.40" would reflect a \$12.25 base hourly rate plus \$0.40 for fringe benefits. This is of assistance in correctly computing overtime. See "Fringe Benefits" below. When overtime is worked, show the overtime hourly rate paid plus any cash in lieu of fringe benefits paid in the "overtime" box for each worker; otherwise, you may skip this box. See "Fringe Benefits" below. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1962 if the prime contract exceeds \$100,000. In addition to paying no less than the predetermined rate for the classification which an individual works, the contractor must pay amounts predetermined as fringe benefits in the wage decision made part of the contract to approved fringe benefit plans, funds or programs or shall pay as cash in lieu of fringe benefits. See "FRINGE BENEFITS" below.

Column 7 - Gross Amount Earned: Enter gross amount earned on this project. If part of a worker's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally assisted project and then the gross amount earned during the week on all projects, thus "\$163.00/\$420.00" would reflect the earnings of a worker who earned \$163.00 on a Federally assisted construction project during a week in which \$420.00 was earned on all work.

Column 8 - Deductions: Five columns are provided for showing deductions made. An Employee Payroll Deduction Authorization must be provided for any deduction listed in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 C.F.R., Part 3. If an individual worked on other jobs in addition to this project,

show actual deductions from his/her weekly gross wage, and indicate that deductions are based on his gross wages.

Column 9 - Net Wages Paid for Week: Self-explanatory.

Totals - Space has been left at the bottom of the columns so that totals may be shown if the contractor so desires.

✱ **Submission of Payrolls** – Certified payroll reports may be submitted electronically, i.e., via the internet. However, the electronic signature/submission does not mean pdf files of signed payrolls attached to an email, or faxed copies of signed payrolls. These methods are comparable to photocopies and are not acceptable submissions.

STATEMENT OF COMPLAINT

Statement Required by Regulations, Parts 3 and 5: While the "statement of compliance" need not be notarized, the statement (on page 2 of the payroll form) is subject to the penalties provided by 18 U.S.C. § 1001, namely, a fine, possible imprisonment of not more than 5 years, or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

Items 1 and 2: Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "*See* Deductions column in this payroll." *See* "FRINGE BENEFITS" below for instructions concerning filling out paragraph 4 of the statement.

Item 4 FRINGE BENEFITS - Contractors who pay all required fringe benefits: If paying all fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, show the basic cash hourly rate and overtime rate paid to each worker on the face of the payroll and check paragraph 4(a) of the statement on page 2 of the WH-347 payroll form to indicate the payment. Note any exceptions in section 4(c).

Contractors who pay no fringe benefits: If not paying all fringe benefits to approved plans, funds, or programs in amounts of at least those that were determined in the applicable wage decision of the Secretary of Labor, pay any fringe benefit amount to each laborer and mechanic and insert in the "straight time" of the "Rate of Pay" column of the payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the application wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringe benefits, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringe benefits at the straight time rate. In addition, check paragraph 4(b) of the statement to indicate the payment of fringe benefits in cash directly to the workers. Note any exceptions in section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the covered worker as cash in lieu of fringe benefits. Enter any exceptions to section 4(a) or 4(b) in section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid each worker as cash in lieu of fringe benefits and the hourly amount paid to plans, funds, or programs as fringe benefits. The contractor must pay an amount not less than the predetermined rate plus cash in lieu of fringe benefits as shown in section 4(c) to each such individual for all hours worked (unless otherwise provided by applicable wage determination) on the Federal or Federally assisted project. Enter the rate paid and amount of cash paid in lieu of fringe benefits per hour in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

✱ If the wage decision(s) issued required no fringes to be paid, do not check off any of the boxes in Section 4. Make a note in the "Remarks" box that no fringes are required to be paid by the wage decision(s) issued.

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.



U.S. Wage and Hour Division

Rev. Dec. 2008

OMB No.: 1235-0008
Expires: 04/30/2021

NAME OF CONTRACTOR OR SUBCONTRACTOR ADDRESS

PAYROLL NO. FOR WEEK ENDING PROJECT AND LOCATION PROJECT OR CONTRACT NO.

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT. EXT.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
				HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS		
			O																
			S																
			O																
			S																
			O																
			S																
			O																
			S																
			O																
			S																
			O																
			S																
			O																
			S																

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(i) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

(over)

Date _____

I, _____ (Name of Signatory Party) _____ (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

_____ on the _____ (Contractor or Subcontractor)

_____ ; that during the payroll period commencing on the _____ (Building or Work)

_____ day of _____, _____, and ending the _____ day of _____, _____

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

_____ from the full _____ (Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

- in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE

SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

CERTIFICATION OF SUBCONTRACTORS ON SITE

(To Be Submitted As Part of Weekly Payroll Report)

I, _____, the general contractor, hereby certify that the employees denoted on attached payroll reports for the week ending _____ / _____ / _____ represent all employees that worked on CIG# _____ - _____ project for _____ *(insert Grantee's Name)*, including employees of all subcontractors.

_____/_____/_____
Name and Title Date

Names of Subcontractors That Worked On Project for This Pay Period.

1. _____
2. _____
3. _____
4. _____
5. _____

THIS PAGE INTENTIONALLY LEFT BLANK

EXPLANATION OF EMPLOYEE INTERVIEW FORM

What it is used for: To be used to interview project workers in order to determine that the Contractor and all subcontractors are complying with *Davis-Bacon Act*, *Contract Work Hours and Standards Act*, and *Copeland "Anti-Kickback" Act* requirements. It is used as a test against payroll information. It is also used to verify compliance with Section 3 requirements.

When It Is Used: During the construction phase of the project.

Where It Goes: Grantee's Labor Standards project file.

General Instructions: Employees should be selected for interviews either at random or on the basis of suspected irregularities as determined through the site visit or Payroll Reports. The number of interviews necessary is determined by the size of the Project. **A minimum of at least one worker per trade and 25% of the total number of workers must be interviewed. Interviews must be conducted during construction a minimum of once a month** to determine the Contractor's compliance with the aforementioned federal requirements. Interviews **must** take place during the times in which **each** subcontract is being performed to assure that all trades are covered. This may mean that interviews will have to be conducted during evening or weekend hours.

Form Instructions:

Items 1a - 1c: Self-explanatory

Items 2a – 2d: Enter the employee's full name, a telephone number where the employee can be reached, and the employee's home address. Many construction workers use a temporary address in the locality of the project and have a more permanent address elsewhere from which mail may be forwarded to them. Obtain a more permanent address, if available.

Items 3a – 4c: Enter the employee's responses. Ask the employee whether they have a pay stub with them; if so, determine whether the pay stub is consistent with the information provided by the employee.

Items 5 – 7: Try to get specific responses from the employee so it is easier to verify that the work observed is consistent with the job classification listed on the payroll report. For example, the job

classification (#5) must identify the trade involved e.g.; Carpenter, Electrician, Plumber, etc.

Items 8 – 12b: Self-explanatory. If the employee will not sign the form, just note it in the appropriate box

Items 13 – 15c: These items represent some of the most important information that can be gathered while conducting on-site interviews. Please be specific about the duties you observed the employee performing. It may be easiest to make these observations before initiating the interview. Please record any comments or remarks that may be helpful. For example, if the employee interviewed was working with a crew, how many workers were in the crew? What activities was the employee doing e.g.; dumping gravel, laying down pipe, connecting pipe in a ditch, etc. What tools and pieces of equipment was the employee using e.g.; shovel, level, pipe, pry bar, etc.

The level of specificity that is warranted is directly related to the extent to which interview(s) or other observations indicate that there may be violations present. If interviews indicate that there may be underpayments involving a particular trade(s), the interviewer is encouraged to interview as many workers in that trade(s) that are available.

Items 16 – 17b: The information on the form may be reviewed for general compliance, initially. For example, are the job classification and wage rate stated by the employee compatible with the classifications and wage rates on the applicable wage decision? Are the duties observed by the interviewer consistent with the job classification?

After completion of the interview the Contract Compliance Officer **must** note on the form whether the employee's statements were consistent and whether they verified what was observed.

The Contract Compliance Officer must cross reference the information on the Record of Employee Interview form with information from the Contractor's weekly Payroll Report, the Register of Assigned Employees, and the Wage Decision, indicating so by filling out the bottom part of the form. Appropriate action must be initiated to clear any discrepancies and questionable items.



Call your Community Representative for a copy of the *Record of Employee Interview* instructions in Spanish.

Record of Employee Interview

U.S. Department of Housing and Urban Development Office of Labor Relations

OMB Approval No. 2501-0009
(exp. 10/31/2010)

The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained.

1a. Project Name			2a. Employee Name		
1b. Project Number			2b. Employee Phone Number (including area code)		
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code		
			2d. Verification of identification? Yes <input type="checkbox"/> No <input type="checkbox"/>		
3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits?	4c. Pay stub?
				Vacation Yes <input type="checkbox"/> No <input type="checkbox"/> Medical Yes <input type="checkbox"/> No <input type="checkbox"/> Pension Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>

5. Your job classification(s) (list all) --- continue on a separate sheet if necessary

6. Your duties

7. Tools or equipment used

	Y	N		Y	N
8. Are you an apprentice or trainee?	<input type="checkbox"/>	<input type="checkbox"/>	10. Are you paid at least time and ½ for all hours worked in excess of 40 in a week?	<input type="checkbox"/>	<input type="checkbox"/>
9. Are you paid for all hours worked?	<input type="checkbox"/>	<input type="checkbox"/>	11. Have you ever been threatened or coerced into giving up any part of your pay?	<input type="checkbox"/>	<input type="checkbox"/>

12a. Employee Signature	12b. Date
-------------------------	-----------

13. Duties observed by the Interviewer (Please be specific.)

14. Remarks

15a. Interviewer name (please print)	15b. Signature of Interviewer	15c. Date of interview
--------------------------------------	-------------------------------	------------------------

Payroll Examination

16. Remarks

17a. Signature of Payroll Examiner	17b. Date
------------------------------------	-----------

Previous editions are obsolete

Form HUD-11 (08/2004)

Historial de Entrevista del Empleado

Departamento de Vivienda y
Desarrollo Urbano de EE.UU.
Oficina de Relaciones Laborales

Aprobación de OMB No. 2501-0009
(exp. 10/31/2010)

La información que se recopila tiene la finalidad de garantizar la conformidad a las normas laborales Federales mediante entrevistas con obreros de construcción. La información recopilada asistirá a HUD a conducir el monitoreo de conformidad; la información se usará para examinar la veracidad de los informes de nómina certificados presentados por el patrón. La Ley de Privacidad requiere que estos archivos se mantengan con salvaguardas administrativas, técnicas, y físicas apropiadas para garantizar su seguridad y confidencialidad. Además, estos archivos deberán ser protegidos contra cualquier amenaza anticipada o riesgos a su seguridad o integridad, que podría causar daño sustancial, vergüenza, inconveniencias, o injusticias a cualquier individuo de quien se mantiene la información. **La información recopilada aquí es voluntaria y cualquier información proporcionada será mantenida como confidencial.**

1a. Nombre del proyecto			2a. Nombre del empleado		
1b. Número del proyecto			2b. Número de teléfono del empleado (incluso prefijo local)		
1c. Contratista o subcontratista (Patrón)			2c. Dirección residencial del empleado y código postal		
			2d. ¿Verificación de identificación? Sí <input type="checkbox"/> No <input type="checkbox"/>		
3a. ¿Cuánto tiempo en este trabajo?	3b. ¿Último día en este trabajo antes de hoy?	3c. ¿No. de horas en su último día en este trabajo?	4a. ¿Salario por hora?	4b. ¿Beneficios complementarios?	4c. ¿Talonario de paga?
				Vacaciones Sí <input type="checkbox"/> No <input type="checkbox"/> Médicos Sí <input type="checkbox"/> No <input type="checkbox"/> Pensión Sí <input type="checkbox"/> No <input type="checkbox"/>	Sí <input type="checkbox"/> No <input type="checkbox"/>
5. Clasificación(es) de su trabajo(s) (enumere todas) --- continúe en una página separada si es necesario					
6. Sus deberes					
7. Herramientas o equipo usado					
8. ¿Es aprendiz?		S <input type="checkbox"/>	N <input type="checkbox"/>	10. ¿Le pagan al menos tiempo y medio por todas las horas trabajadas superior a 40 horas semanales?	
9. ¿Le pagan todas las horas trabajadas?		<input type="checkbox"/>	<input type="checkbox"/>	11. ¿Alguna vez ha sido amenazado o coaccionado a entregar parte de su paga?	
12a. Firma del empleado				12b. Fecha	
13. Deberes observados por el entrevistador (Por favor sea específico.)					
14. Comentarios					
15a. Nombre del entrevistador (use letra de imprenta)		15b. Firma del entrevistador		15c. Fecha de la entrevista	

Examinación de Nómina

16. Comentarios

17a. Firma del examinador de nómina	17b. Fecha
-------------------------------------	------------

SIGN SPECIFICATIONS

DHCD requires that a project sign be installed within ninety (90) days of the execution of the CDBG Agreement, regardless if the first activity is a housing rehabilitation or an infrastructure activity.

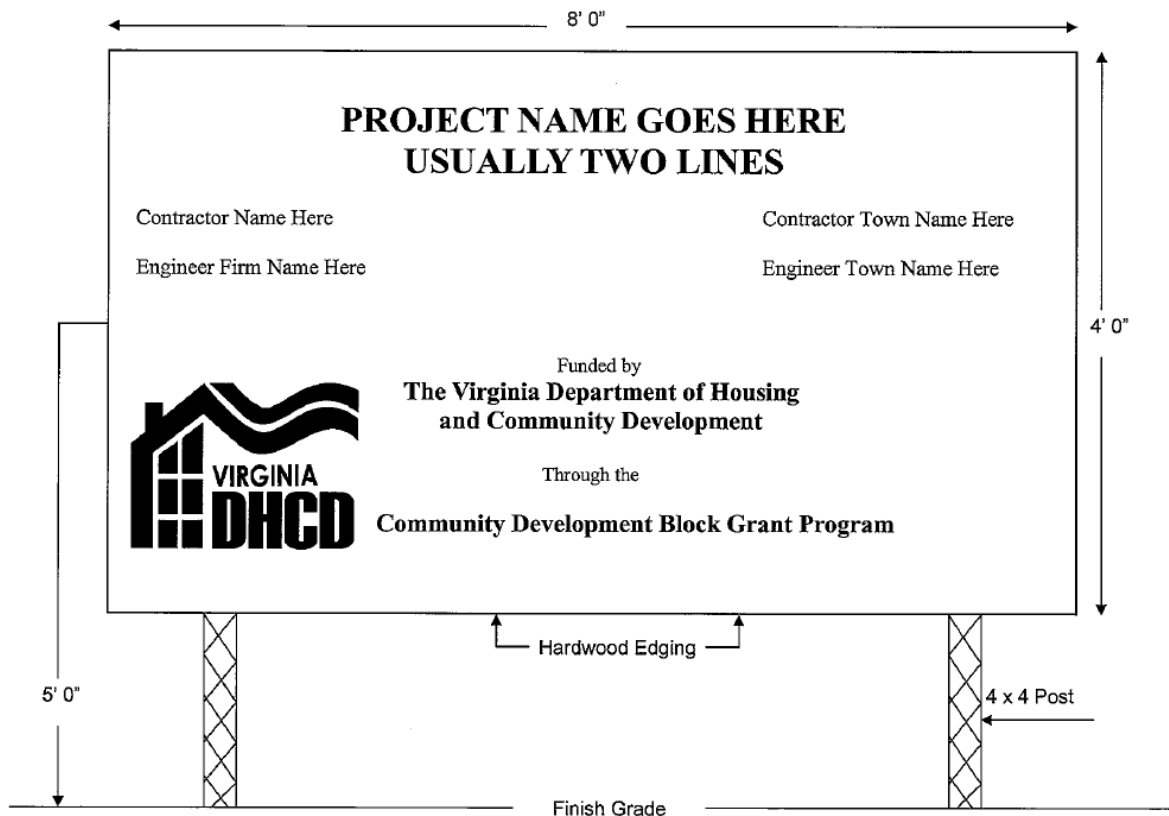
At a minimum, the sign must identify the locality and project name. If known, the sign should also identify the architect/engineer and contractor. The Virginia Department of Housing and Community Development must be identified by name, logo and amount of funding.

Dimensions are as per attached schematic. Material can be plywood or other firm material that will withstand wind and moisture without warping

The sign should be erected perpendicular to the adjacent road

Sign may be painted front and back if community desires. The background should be white. The lettering should be a medium shade of blue (such as royal); PMS = Pantone 285 U.

An EPS version of DHCD's logo is available upon request.





**VIRGINIA DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT**
Partners for Better Communities

Register of Assigned Employees

Month Covered: _____, 20__ Date Completed: _____

Submit initial list of workforce prior to start of construction; update monthly throughout construction to show changes.

SECTION I: Identification of Level of Submittal, see instructions on back of form

(1) Grantee: Accomack County Grant #: 20-20-36 Project Name: Makemie Park Septic Reconstruction Project

HIRING GOALS: 30% (Section 3 23.6% MINORITY 6.9% FEMALE

Prime Contractor _____ Contracted Amount \$ _____

(2) Subcontractor _____ Contracted Amount \$ _____

SECTION II: List all workers paid by this contract. For NEW HIRES: complete items 'a' thru 'h.' For MODIFICATIONS: complete only item 'a' and item(s) being modified. Update the Register to add new hires, rehires and changes to job classifications, rate of pay or authorized payroll deductions.

a. NAME OF EMPLOYEE b. COUNTY OF RESIDENCE	c. TRADE & JOB CLASSIFICATION d. RATE OF PAY & BENEFITS	e. (1). DATE HIRED or e (2). DATE RECALLED f. AUTHORIZED PAYROLL DEDUCTIONS	g. MINORITY	h. GENDER
a. b.	c. d.	e (1) _____ or e(2) _____ f. _____	___yes ___no	___female ___male
a. b.	c. d.	e (1) _____ or e(2) _____ f. _____	___yes ___no	___female ___male
a. b.	c. d.	e (1) _____ or e(2) _____ f. _____	___yes ___no	___female ___male
a. b.	c. d.	e (1) _____ or e(2) _____ f. _____	___yes ___no	___female ___male

***SECTION 3 RESIDENT – A resident of the area in which Section 3 covered assistance is expended, and who qualifies as a low- or very low-income person.**

SECTION 3 BUSINESS: - A business of the area in which 51% or more is owned by Section 3 Residents or 30% of employed staff are Section 3 Residents; or 25% of contracts committed to Section 3 Businesses

THIS PAGE INTENTIONALLY LEFT BLANK

EXPLANATION OF REGISTER OF ASSIGNED EMPLOYEES

What it is used for: To document all procurements of more than \$10,000 (or more than \$1,000 if a housing rehabilitation project) made in a CDBG project. To track progress toward hiring goals. To assist in assuring compliance with Section 3 and Davis-Bacon and Related Acts.

When it is used: To document the initial workforce and new hires, rehires and any changes in job classifications, rate of pay and authorized deductions throughout the construction process. It is updated on an ongoing basis.

Where it goes: The Grantee files all reviewed and accepted Registers in their labor standards and equal opportunity project files.

- Instructions:**
- COMPLETE THE “Month Covered” AND “Date Completed” IN THE TOP RIGHT CORNER.
 - The Local LMI (Section 3) Hiring Goal is always 30%. Insert the Minority and Female goals as found in the Transmittal of Wage Decision letter sent to the Chief Executive Official by the PMO Program Manager.
 - ROUND CONTRACT AMOUNTS TO THE NEAREST DOLLAR.
 - NEW HIRES are registered as such one time and only on the original submittal or for the month in which it occurred; DO NOT DUPLICATE ‘NEW HIRES’ ON SUBSEQUENT SUBMITTALS.
 - RECALLED means a person who was off of the Company’s payroll and is now back on the payroll. The person is treated as NEW HIRES except that the date recalled is entered in e (2). Subsequent recalls of any employees, whether originally listed as a ‘new hire’ or a ‘recall’ are treated as ‘modifications,’ see below.
 - MODIFICATIONS affect ONLY the following items: (ONLY ITEM ‘a’ AND ITEM(S) BEING MODIFIED ARE COMPLETED FOR MODIFICATIONS.)
 - changes to employee’s name, e.g. due to marriage (item a) (if change is to name, show both old and new name)
 - changes in trade and job classification (item c)
 - changes in rate of pay and benefits (item d)
 - changes in authorized payroll deductions (item f)
 - a recall of an employee previously registered (item e (2)).

GRANTEE’S RESPONSIBILITIES: For every procurement with a prime contractor, the Grantee must complete item (1) of SECTION I and supply the prime contractor with enough copies for the duration of the contract. After submission of the Register by its Prime, the Grantee must review the Register for completeness, accuracy and consistency with the *Monthly CDBG Register of Contractors, Subcontractors, and Suppliers* and the *Payroll Report*.

PRIME CONTRACTOR’S RESPONSIBILITIES: The Prime Contractor must submit this prior to start of construction and update it as necessary throughout the construction process. The Prime Contractor must use the forms supplied by the Grantee in which item (1) of Section I is already completed; item (2) remains blank. In SECTION II, the Prime Contractor completes items ‘a’ thru ‘h’ on ‘new hires’ and first time ‘recalls’, and only item ‘a’ and the item(s) being modified for modifications.

For every procurement with a subcontractor, the Prime Contractor should complete item (2) of SECTION I (item (1) is already completed on the form) and supply the subcontractor with enough copies for the duration of the

subcontract. The Prime Contractor must obtain this form from all of its subcontractors for submission to the Grantee.

SUBCONTRACTOR'S RESPONSIBILITIES: The Subcontractor must submit this prior to start of construction, update it as necessary throughout the construction process and submit it to the Prime Contractor.

The Subcontractor must use the forms supplied by the Prime Contractor in which Section I is already completed. In SECTION II, the Subcontractor completes items 'a' thru 'h' on 'new hires' and first time 'recalls'; and only item 'a' and the item(s) being modified for modifications.

Monthly CDBG Register of Contractors, Subcontractors and Suppliers

Month Covered: _____, 20_____

Register all procurements of more than \$10,000 one time only, in month of occurrence

SECTION I: Identification of Level of Submittal, see instructions on back of form

- (1) Grantee: Accomack County Grant #: 20-20-36 Project Name: Makemie Park Septic Reconstruction Project Section 3 County*: Accomack
 (2) General Contractor _____ IRS# (or owner's SSN) _____
 (3) Subcontractor _____ IRS# (or owner's SSN) _____

SECTION II: Details of Procurements

Choose one:	Name and Physical Address of Business, and IRS# (or owners' SSN)	Contract Description or Items Supplied	Amount of Contract or Purchase	Ownership of Business (check All that apply)
<input checked="" type="checkbox"/> General Contractor <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier	IRS# (or SSN):		\$	<input type="checkbox"/> Minority-Owned Business <input type="checkbox"/> Section 3 Business <input type="checkbox"/> Female-Owned Business <input type="checkbox"/> White American <input type="checkbox"/> African American <input type="checkbox"/> Native** American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian American <input type="checkbox"/> Not American Owned
<input type="checkbox"/> General Contractor <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier	IRS# (or SSN):		\$	<input type="checkbox"/> Minority-Owned Business <input type="checkbox"/> Section 3 Business <input type="checkbox"/> Female-Owned Business <input type="checkbox"/> White American <input type="checkbox"/> African American <input type="checkbox"/> Native** American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian American <input type="checkbox"/> Not American Owned
<input type="checkbox"/> General Contractor <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier	IRS# (or SSN):		\$	<input type="checkbox"/> Minority-Owned Business <input type="checkbox"/> Section 3 Business <input type="checkbox"/> Female-Owned Business <input type="checkbox"/> White American <input type="checkbox"/> African American <input type="checkbox"/> Native** American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian American <input type="checkbox"/> Not American Owned
<input type="checkbox"/> General Contractor <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier	IRS# (or SSN):		\$	<input type="checkbox"/> Minority-Owned Business <input type="checkbox"/> Section 3 Business <input type="checkbox"/> Female-Owned Business <input type="checkbox"/> White American <input type="checkbox"/> African American <input type="checkbox"/> Native** American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian American <input type="checkbox"/> Not American Owned

*SECTION 3 RESIDENT: - A resident of the area in which Section 3 covered assistance is expended, and who qualifies as a low- or very low-income person.

SECTION 3 BUSINESS: - A business of the area in which 51% or more is owned by Section 3 residents or 30% of employed staff are Section 3 residents or 25% of subcontracts are committed to Section 3 businesses.

**NATIVE AMERICAN: - American Indian/Alaskan Natives

THIS PAGE INTENTIONALLY LEFT BLANK

EXPLANATION OF MONTHLY REGISTER OF CONTRACTORS, SUBCONTRACTORS AND SUPPLIERS

What it is used for: To document all procurements of more than \$10,000 made in a CDBG project. To assist in assuring compliance with Section 3 and Davis-Bacon and the Related Acts.

When it is used: Procurements are registered as they occur or on a monthly basis prior to submittal. This form is compiled by the Grantee, the General Contractor, and each subcontractor per the instructions below for each month and part of month during the course of a contract.

Where it goes: The Grantee files all reviewed and accepted submittals in their procurement and equal opportunity project files.

- Instructions:*
- Complete the “Month Covered” and “Date Completed” in the top right corner.
 - ROUND CONTRACT AMOUNTS TO THE NEAREST DOLLAR.
 - RECORD THE PHYSICAL ADDRESS OF BUSINESS ONLY. P. O. Boxes and other mailing addresses are not acceptable.
 - A procurement is registered one time and only for the month in which it occurred; DO NOT DUPLICATE PROCUREMENTS ON SUBSEQUENT SUBMITTALS.

GRANTEE’S RESPONSIBILITIES: The Grantee should complete this form each month to register all applicable procurements with General Contractors, subcontractors and suppliers. For submittal to itself the Grantee completes line (1) of SECTION I; line (2) and (3) will be left blank. For every procurement with a General Contractor, the Grantee should complete lines (1) and (2) of SECTION I and supply the General Contractor with enough copies for the duration of the contract. After submission of the Register by its Prime, the Grantee must review the Register for completeness, accuracy and consistency with the *Register of Assigned Employees* and the *Payroll Report*. The Grantee should not pay the prime its final invoice until it has received all of the required Registers and has determined their accuracy.

GENERAL CONTRACTOR’S RESPONSIBILITIES: The General Contractor must prepare and submit this form every month and part of month to the Grantee along with any submittals received from subcontractors. The General Contractor must use the forms supplied by the Grantee in which lines (1) and (2) of SECTION I are already completed and line (3) remains blank.

In SECTION II, the Prime will identify each procurement as either ‘subcontractor’ or ‘supplier’ and will give complete information in the remaining columns. For every procurement with a subcontractor, the General Contractor should complete item (3) of SECTION I (lines (1) and (2) being already completed by the Grantee) and supply the subcontractor with enough copies for the duration of the subcontract. The General Contractor must obtain this form monthly from all of its subcontractors for submission to the Grantee.

SUBCONTRACTOR’S RESPONSIBILITIES: The Subcontractor must complete this form every month and part of month during the course of the contract for submittal to the General Contractor. The Subcontractor should use the forms supplied by the General Contractor in which SECTION I is already completed. In SECTION II, the Subcontractor will identify each procurement as either ‘subcontractor’ or ‘supplier’ and will give complete information in the remaining columns. The subcontractor must submit its final Register to the General Contractor with its final invoice. The General Contractor must review its subcontractor’s final register and verify that it is complete and accurate before payment of the final invoice to the subcontractor.

CONTRACTOR'S QUALIFICATION STATEMENT

Please attach a photocopy of contractor's license and EPA Certification. All questions must be answered in full. Additional sheets for clarification of answers or additional information must be attached. **This statement must be notarized.**

1. Name, address, phone number, DPOR contractor license number, and DUNS number of company.

2. List the company's owner and principal officer and date and place organized.

3. Describe general character of work performed.

4. List any work awarded failed to be completed or contracts defaulted on. Note where and why.

5. List the three most important recent contracts over \$10,000. State the owner, work, approximate cost, place, date started and date completed.

1. _____ \$ _____
_____ From _____ To _____

2. _____ \$ _____
_____ From _____ To _____

3. _____ \$ _____
_____ From _____ To _____

6. List the contracts upon which you are currently working. State the owner, location, approximate cost, and estimated date of completion.

7. List three material suppliers and amount of credit available.

1. _____ \$ _____
2. _____ \$ _____
3. _____ \$ _____

8. List bank references and amount of credit available.

1. _____ \$ _____
2. _____ \$ _____

9. List insurance coverage and amount.

Liability-Property : _____ \$ _____
Liability-Personal Injury: _____ \$ _____
Vehicle and Equipment: _____ \$ _____
Other- _____ : _____ \$ _____
(identify)

10. List subcontractors utilized. State name, address, specialty, subcontractor license #, and years of experience.

1. Name: _____
Address: _____
Specialty: _____
License # _____ Years of Experience _____

2. Name: _____
Address: _____
Specialty: _____
License # _____ Years of Experience _____

3. Name: _____
Address: _____
Specialty: _____
License # _____ Years of Experience _____

11. Provide a general description of the experience of the company and its key personnel.

12. Number of current full-time employees _____
Number employed at highest level in past twelve months _____

13. Are you on any list of debarred contractors maintained by the U.S. Department of Labor, U.S. Department of Housing & Urban Development, or Virginia Department of Highways?
 YES NO

14. All contractors, subcontractors and their workers, including electricians, must have appropriate lead-based paint training in order to be considered for work under this program.

a. Have any of your workers attended this training?
 YES NO If yes, complete the Employee Training Record.

If not, they will be required to attend the training before they can work on a project site. Do you need information about lead training and certification classes?

YES NO

b. Are you an EPA certified "Renovation, Repair and Painting" firm?

YES NO

The undersigned hereby authorizes and requests any person, firm or Corporation to furnish any information requested by _____ in verification of the recitals comprising this statement of contractor's qualifications:

Contractor's Name: _____

Authorized Signature: _____

Type Name and Title: _____

Date: _____

City/County/Town of _____,
Commonwealth of Virginia

_____ being duly sworn deposes and says that he/she is _____ of _____ and that the answers to the foregoing questions and all statements therein contained are true and correct.

My commission expires: _____.

Given under my hand this _____ day of _____, 20_____.

Notary Public

Registration Number

**LEAD BASED PAINT RELATED TRAINING AND CERTIFICATIONS
EMPLOYEE RECORD**

Contractor's Name: _____ Date: _____

Employee's Name	Training Type and Level
	Certified Renovator

Note: All contractors, subcontractors and workers must have, at a minimum, the Lead Safe Work Practices training to work on DHCD housing rehabilitation projects consisting of interim controls. Each contractor must also have EPA Certification in "Renovation, Repair and Painting" as a firm and at least one individual Certified Renovator assigned to the project.

EXPLANATION OF EQUAL OPPORTUNITY CHECKLIST

What it is Used For: This is required to assure that all required Equal Opportunity requirements are explained and all appropriate forms are conveyed to the Contractor and subcontractors.

When it is Used: During the Pre-construction Conference.

Where it Goes: To Grantee's Equal Opportunity project file.

Instructions: Part of the 'wage decision packet' sent by DHCD with the Wage Decision applicable to the activity(s) being contracted. Use the checklist to check off equal opportunity items as they are addressed at the Pre-construction Conference. Have the Contractor and any known subcontractors sign this checklist after completing review of items. **Any subcontractors hired subsequent of the Pre-construction Conference must also sign the checklist.**

See also "Equal Opportunity Requirements," as found in Chapter 8: Federal Labor Standards and Equal Opportunity Requirements.

EQUAL OPPORTUNITY CHECKLIST

(to be completed initially at pre-construction conference)

- Contractors have reviewed and understand Equal Opportunity/Section 3 contract provisions.
- Contractors must inform unions or other source of workers of Equal Opportunity requirements such as:
 - a) taking applications at jobsite; and
 - b) advertising in local or appropriate media.
- * Contractors have received DHCD forms "Register of Assigned Employees" and "Register of Contractors, Subcontractors and Suppliers"; and have been instructed to submit initial forms at Start of Construction and every month or part of month during the course of the contract.
- Contractors are aware of goals for utilization of minority and female workers.
- Contractors are aware that they are obligated to the greatest extent feasible to hire lower income project area residents as workers and trainees and to utilize project area businesses and businesses owned by project area residents.
- Prime contractor has been given Equal Opportunity poster and will display it in prominent place at jobsite(s).
- * If contractors employ more than 50 persons and contract is over \$50,000 they have submitted form EEO-1 to the Joint Reporting Committee, P. O. Box 779, Norfolk, Virginia 23501; 804/461-1213.

* Denotes those items which must be submitted by the Contractor.

(Public Body):

Signature

Title

(Prime Contractor):

Signature

Title

Company

(Subcontractor):

Signature

Title

Company

(Subcontractor):

Signature

Title

Company

(Subcontractor):

Signature

Title

Company

(Subcontractor):

Signature

Title

Company

(Subcontractor):

Signature

Title

Company

(Subcontractor):

Signature

Title

Company

EXPLANATION OF LABOR STANDARDS CHECKLIST

What it is Used For: This is required to assure that all required Labor Standards requirements are explained and all appropriate forms are conveyed to the Contractor and subcontractors.

When it is Used: During the Pre-construction Conference.

Where it Goes: To Grantee's Labor Standards project file.

Instructions: Part of the 'wage decision packet' sent by DHCD with the Wage Decision applicable to the activity(s) being contracted. Use the checklist to check off labor standards items as they are addressed at the Pre-construction Conference. Have the Contractor and any known subcontractors sign this checklist after completing review of items. **Any subcontractors hired subsequent of the Pre-construction Conference must also sign the checklist.**

See also "Labor Standards Checklist," as found in Chapter 8: Federal Labor Standards and Equal Opportunity Requirements.

LABOR STANDARDS CHECKLIST

(to be completed initially at pre-construction conference)

- Contractors have reviewed and understand all Labor Standards contract provisions.
- Contractors have reviewed and understand wage decision and job classifications.
- Contractors have been informed that all workers:
 - a) must be paid at least the appropriate minimum wage for the job classification;
 - b) must be paid time-and-a-half for all work beyond 40 hours per week;
 - c) must be paid at least weekly;
 - d) must perform only the work which is covered by the job classification they are listed and paid in. If a worker performs in more than one job classification, he must be paid either the wage of the highest paid job he works or time cards signed by the worker must document the amount of time worked in each job during the week.
- Contractors will inform all workers:
 - a) of their job classifications and duties;
 - b) of their wage rates and fringe benefits;
 - c) that they may be interviewed on the jobsite and are required to cooperate;
 - d) of deductions from pay.
- Contractors will obtain each worker's name, permanent address, and social security number prior to assigning them to a jobsite.
- * Contractors will obtain certification of any apprentices and trainees, including registration number and year of program, and will submit the same to the Public Body.
- Contractors are aware that they are responsible for the compliance of their subcontractors with Labor Standards provisions.
- Contractors must verify that the subcontractors(s) is/are not debarred from Federal or State contracts.

- Contractors will construct and erect a project identification sign at the construction site identifying DHCD as a funding source per specifications as stated in contract documents.
- Prime contractor has received and will post in a prominent place on the site:
 - a) Wage Decision;
 - b) Labor Standards poster: "Notice to All Employees... " (Davis-Bacon Act) WH-1321
 - c) "Safety and Health Protection on the Job" poster (VA DOL).
- * Contractors have received Payroll report form (WH-347) and understand:
 - a) how it is to be filled out;
 - b) that it must be filled out completely;
 - c) that it must include every worker assigned to the project (excluding non-working, supervisory, or clerical personnel);
 - d) that Payroll reports must be submitted for every week or part of a week during the course of the contract, and must be submitted by all subcontractors. Payroll reports will be submitted to the Grantee within seven (7) days of the end of the work week.
- Contractors will maintain employment and payroll records which will be accessible to the Public Body, DHCD, and appropriate federal agencies for 3 years.

*Denotes those items which must be submitted by the Contractor.

(Public Body):

Signature

Title

(Prime Contractor):

Signature

Title

Company

(Subcontractor):

Signature

Title

Company

(Subcontractor):

Signature

Title

Company

(Subcontractor):

Signature

Title

Company

(Subcontractor):

Signature

Title

Company

(Subcontractor):

Signature

Title

Company

(Subcontractor):

Signature

Title

Company

SECTION 3
PLAN OF ACTION
CONTRACTOR OR SUBCONTRACTOR

For contracts exceeding \$100,000

(to be completed initially at Pre-construction Conference)

_____ (*Name of contractor*) _____ agrees to implement the following specific Plan of Action steps directed at increasing the utilization of lower income residents and businesses within the County of _____.

- A. To ascertain from the locality's Grantee the exact boundaries of the Section 3 covered project area and where advantageous, seek the assistance of local officials in preparing and implementing the Section 3 Plan of Action for _____ (*Name of Business*) _____.
- B. Attempt to recruit from within the Section 3 area the necessary number of lower income residents through: a display advertisement in a local newspaper, signs placed at the project site, directly contacting the local Virginia Employment Commission (VEC) office, the local County (or City) Department of Social Services, or any Community Action Agencies that serve the Section 3 area.
- C. Maintain a list of all lower income residents who have applied either on their own or on referral from any source, and to employ such persons that are qualified, if otherwise eligible and if a vacancy exists.
- D. For all solicitations in excess of \$100,000 for subcontractors, determine if each responding subcontractor is a Section 3 business for the project and insert this Section 3 Plan of Action requirement in any resulting agreement. Contracts and subcontracts for less than \$100,000 are exempt from the preparation of a Section 3 Plan of Action.
- E. To formally contact subcontractors and other appropriate groups to secure their cooperation for the program.
- F. To ensure that all appropriate project area business concerns are notified of the pending sub-contractual opportunities.
- G. To maintain records, including copies of correspondence, memoranda etc., which document that all of the above affirmative action steps have been taken.
- H. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of this Section 3 Plan.
- I. To list on Table A information related to subcontracts to be awarded.

- J. To list on Table B all projected workforce needs for all phases of this project by occupation, trade, skill level, and number of positions.

As officers and representative of _____ (*Name of Contractor/Subcontractor*) _____, we the undersigned have read and fully agree to this Section 3 Plan of Action, and become a party to the full implementation of this program.

Signature

Title

Date

Signature

Title

Date

SECTION 3 PROPOSED SUBCONTRACTS BREAKDOWN

(to be completed initially at Pre-construction Conference)

TABLE A

For the period covering _____ 20__ through _____ 20__

(Duration of the CDBG-Assisted Contract)

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
TYPE OF CONTRACT (BUSINESS OR PROFESSION)	TOTAL NUMBER OF CONTRACTS	TOTAL APPROXIMATE DOLLAR AMOUNT	ESTIMATED NUMBER OF CONTRACTS TO PROJECT AREA BUSINESSES*	ESTIMATED DOLLAR AMOUNT TO PROJECT AREA BUSINESSES*

*The Project Area is coextensive with the Town/City/County of _____'s boundaries.

Company

Project Name

Project Number

EEO Officer (Signature)

Date

SECTION 3 ESTIMATED PROJECT WORKFORCE BREAKDOWN

(to be completed initially at Pre-construction Conference)

TABLE B

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
JOB CATEGORY	TOTAL ESTIMATED POSITIONS	NO. POSITIONS CURRENTLY OCCUPIED BY PERMANENT EMPLOYEES	NO. POSITIONS NOT CURRENTLY OCCUPIED	NO. POSITIONS TO BE FILLED WITH LIPAR*
OFFICERS/SUPERVISORS				
PROFESSIONALS				
TECHNICIANS				
HOUSING SALES/RENTAL/MGMT.				
OFFICE CLERICAL				
SERVICE WORKERS				
OTHERS				

TRADE:

JOURNEYMEN				
APPRENTICES				
MAXIMUM NO. TRAINEES				
OTHERS				

TRADE:

JOURNEYMEN				
APPRENTICES				
MAXIMUM NO. TRAINEES				
OTHERS				

*Lower Income Project Area Residents, Individuals residing within the City/County of _____ whose family income does not exceed 80% of the median income.

Company

**SECTION 3
BUSINESS CERTIFICATION**

COUNTY OF _____

(ADDRESS)

(PHONE NUMBER)

**CERTIFICATION FOR BUSINESS CONCERNS SEEKING NOTIFICATION OF
SECTION 3 CONTRACTING (SERVICES AND CONSTRUCTION) OPPORTUNITIES**

Name of Business _____

Address of Business _____

Phone # _____ Email Address _____

DUNS Number _____ EIN # _____ or SS # (s) _____

Type of Business: Corporation Partnership
 Sole Proprietorship Joint Venture

County Business License Registration # _____

A Section 3 Resident is defined as any individual who resides within the County in which the federal assistance is expended and whose household income does not exceed 80% of the median income of the County adjusted for household size.

A Section 3 Business means a business that meets one or more of the following criteria:

- (1) The business is 51% or more owned by Section 3 residents;**
- (2) The business has 30% or more permanent full-time employees that are certified Section 3 residents; or**
- (3) The business provides written evidence of a commitment to subcontract in excess of 25% of the dollar award of all subcontracts with a Section 3 Business.**

To become CERTIFIED as a Section 3 Business please check all boxes that apply and provide written evidence of the same:

- Business owner(s) live in _____ County.**
- Business is 51% or more owned by Section 3 residents.**
- Business has 30% or more permanent full-time employees that are certified Section 3 residents.**
- Business will subcontract in excess of 25% of the dollar award of all subcontracts with a Section 3 Business(es).**

Printed Name of Authorized
Official of Company

(Corporate Seal)

Signature of Authorized
Official of Company

Date

SECTION 3 NEW EMPLOYEE TRACKING FORM

CONTRACTOR'S/SUBCONTRACTOR'S NEW EMPLOYEE INFORMATION FORM

One *New Employee Information Form* is completed by the employer for each new employee hired for work on this project during the construction phase of the project.

This is a required form and should accompany the first payroll on which the name of the newly hired employee appears. _____

1. Name of Grant Recipient _____
2. CDBG Contract Number _____
3. Name of Employer _____
4. Name of New Employee _____
5. Street Address or P.O. Box # _____
6. City and Zip Code _____
7. Date of Hire of New Employee _____

8. Methods of attempting to recruit local persons of low and moderate income include: display advertisement in a local newspaper, public bulletin board, consideration of all applications received, U.S. employment service (i.e. local VEC office), a sign at the project site, and the posting of a notice at the project site. On the line below, list the method(s) used:
- _____

9. Does the employee live within the corporate limits (boundaries) of the Section 3 area listed on line 1? Yes No

**The Resident Employment Data sheet must accompany this form.

Signature of Employer or Employer Representative

Date

If the answer to 9 is "Yes" and if the household income is below the income category based on the number of persons residing in the household, and based on current Section 8 income limits, the employee is a Section 3 employee.

10. Is the above listed employee a Section 3 employee? Yes No

Signature of CDBG Grant Manager

Date

SECTION 3 INCOME SURVEY

Your signature below will serve as self-certification of your Gross Household Income based on your household size. Circle the household size that reflects the total number of persons that currently reside in your household. Then review the corresponding income level and indicate whether your Gross Household Income is above or below the corresponding HH income referenced for your household size. Feel free to ask for assistance if you do not understand these instructions.

Name of Head of Household

Street Address / Town / State / Zip Code

Number of Persons Living in Household	Gross HH Income Level for the Section 3 County	Income ABOVE	Income BELOW
1	\$		
2	\$		
3	\$		
4	\$		
5	\$		
6	\$		
7	\$		
8	\$		

WARNING: Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department of the United States Government.

Householder Signature

Date

Print Name

Witness Signature

Date

Print Name

Minutes of Preconstruction Conference **

Grantee: _____

CDBG Contract # _____

Project Name: _____

Project Location: _____

Description of Project: _____

Prime Contractor: _____

Known Subcontractors: _____

Amount of Contract: \$ _____

Date and Place of Conference: _____

Attendees/Name and Title:

**** ATTACH AGENDA AND HANDOUTS**

Summary of Items Covered: (Include all major construction related issues and attach Labor Standards and Equal Opportunity (Section 3) checklists)

Comments of Unresolved Issues:

Prime Contractor & Title

Project Engineer

Project Manager - Public Body

EXPLANATION OF NOTICE TO PROCEED WITH CONSTRUCTION FORM

Explanation of Form

After all Pre-construction Conference issues are resolved and the General Contractor submits all required bonds and insurance certifications, the construction contract may be executed. Following that, the *Notice to Proceed with Construction* should be given to the Contractor.

*** A copy of the *Notice to Proceed with Construction* must be sent to your DHCD Community Development Specialist.**

NOTICE TO PROCEED WITH CONSTRUCTION

(Date)

TO: _____
(Successful Low Bidder)

ADDRESS: _____

CDBG CONTRACT#: _____

PROJECT NAME: _____

CONTRACT FOR: _____

You are hereby notified to commence work in accordance with the Contract Documents dated *(insert date)* on or before *(insert date)* and you are to complete the work within _____ consecutive calendar days thereafter. The date of substantial completion of all work is therefore *(insert date)* and the date of final completion of construction is *(insert date)*.

A notice of Start of Construction and all required pre-construction documents must be submitted to the Public Body no later than one (1) day prior to commencement of work.

(Owner)

(Signature of Authorized Official)

(Type Title)

ACCEPTANCE OF AWARD

(Contractor)

(Signature of Authorized Official)

(Type Title)

cc: Engineer
DHCD Community Development Specialist

EXPLANATION OF APPLICABILITY OF EQUAL OPPORTUNITY CLAUSE

1. What contracts or subcontracts are subject to the Equal Opportunity Clause?
 - "Federal government contracts or subcontracts" exceeding \$10,000 or contracts or subcontracts with the Federal government which, in any 12 month period, total or can reasonably be expected to have an aggregate total value exceeding \$10,000.
 - "Federal assisted construction contracts/subcontracts and non-construction contracts/subcontracts" exceeding \$10,000.
2. When is a bidder required to have on file at each establishment, affirmative action programs?
 - For NON-CONSTRUCTION CONTRACTS (service and supply), DOL regulations (41 CFR 60-2) call for a Written Affirmative Action Plan from each prime contractor or subcontractor with 50 or more employees and (1) a contract of \$50,000 or more; or (2) Government bills of lading which, in any 12 month period, total or can be reasonably be expected to total \$50,000 or more.
 - For CONSTRUCTION CONTRACTS, DOL Regulations do not require a Written Affirmative Action Plan. However, Contractors must take specified Affirmative Action Steps and to demonstrate with evidence that the Specifications (41 CFR 60-4. 3) in the Equal Opportunity Clause have been implemented.
3. What reports are due under the applicable filing requirements?
 - Standard Form 100 (EEO-1)

Each person (contractor and subcontractor) shall file annually with the Joint Reporting Committee, on or before March 31, reports on Standard Form 100 (EEO-1), if such person (1) is not exempt as provided for by 41 CFR 60-1.5, (2) has 50 or more employees, and (a) a contract of \$50,000 or more; or (b) government bills of lading which, in any 12 month period, total or can reasonably be expected to total \$50,000 or more.

Each person required to submit reports shall file such report with the PUBLIC BODY within 30 days after the award to him of a contract or subcontract, UNLESS such person has submitted such a report within 12 months preceding the date of the award. Subsequent reports shall be submitted annually, on or before March 31, to the Joint Reporting Committee, P. O. Box 779, Norfolk, Virginia 23501. Forms can be requested in writing or by calling 804/461-1213.

BIDDER COMPLIANCE STATEMENT

CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

Applicability: Bid exceeding ten thousand dollars (\$10,000) for contract/subcontract of unlimited amount and non-construction contract/subcontract for less than one million dollars (\$1,000,000).

This statement relates to a proposed contract between (pick one): Contractor and Public Body OR Contractor and Subcontractor to be funded under a federally assisted project. Pursuant to Executive Order 11246 and its implementing regulations at 41 CFR 60-1.7(b) (1), as the undersigned bidder, I certify that:

- 1) Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.
 YES NO
- 2) Bidder has developed and has on file at each establishment, affirmative action programs pursuant to 41 CFR 60-2 (applies only to non-construction contractors).
 YES NO (contract less than \$50,000 AND fewer than 50 employees)
- 3) Bidder has filed with the Joint Reporting Committee; the Director of the Office of Federal Contract Compliance Programs, U.S. Department of Labor; and agency; and/or the Equal Employment Opportunity Commission; all reports due under the applicable filing requirements.
 YES NO None Required

I understand that if I have failed to file any compliance reports which have been required of me, or have failed to develop and have on file at each establishment affirmative action programs pursuant to 41 CFR 60-2, when required, I am not eligible to have my bid or proposal considered, or to enter into the proposed contract.

I further understand that if awarded the proposed contract, and the contract for the FIRST time brings me under the filing requirements or the written affirmative action programs that I will, as applicable: (a) within 30 days file with the Public Body, Standard Form 100 (EEO- 1); and (b) within 120 days from the commencement of the contract, develop and submit to the Director of the Office of Federal Contract Compliance Programs, U.S. Department of Labor, for approval a Written Affirmative Action Plan.

Signature: _____
Type Name: _____ Title: _____
Address, including zip code: _____
IRS # (or owner's social security #): _____

Attachment: Any other reports that have been required pursuant to Executive Order 11246 by a contracting agency, the Equal Opportunity Commission, or the Director of the Office of Federal Contract Compliance Programs, U. S. DOL.

Attachment to Certain Construction Contracts

Applicable to contracts/subcontracts in excess of \$2,000 that are funded under legislation subject to Reorganization Plan Number 14 of 1950 (64 Stat. 1267), and which is for construction, alteration, and/or repair, including painting and decoration. Some of the legislation most likely to provide funding (that is, combined with CDBG funds) is: Appalachian Regional Development Act of 1965, Federal Water Pollution Control Act, as amended by the Water Quality Act of 1965, Public Works and Economic Development Act of 1965, Federal-Aid Highway acts, Vocational Education Act of 1963 and Vocational Education Amendments of 1968.

Subpart A: Contract Work Hours and Safety Standards Act- Safety and Health

1. The contractor shall not require any laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards promulgated by regulations of the Secretary of Labor.
2. The contractor shall comply with the Department of Labor Safety and Health Regulations for Construction promulgated under section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.).
3. The contractor shall include or cause to be included in each nonexempt subcontract the clauses in (1) and (2) above.

A person who undertakes to perform a portion of a contract involving the furnishing of supplies of materials will be considered a "subcontractor" under section 107 if the work in question involves the performance of construction work and is to be performed: (a) Directly on or near the construction site, or (b) by the employer for the specific project on a customized basis. Thus, a supplier of materials which will become an integral part of the construction is a "subcontractor" if the supplier fabricates or assembles the goods or materials in question specifically for the construction project.

Subpart B: Immigration Reform and Control Act Of 1986

The Contractor agrees by signing this contract that he/she does not and will not during the performance of this contract violate the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.

