

COUNTY OF ELK
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
PROJECT BID PACKET

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Updated: March 21, 2023

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CONTRACTOR'S REQUIREMENTS

1. **All below forms MUST be received with bid:**

- a. Competitive Bid Checklist: All below forms MUST be received with bid
- b. Statement of Bidders Qualifications
- c. Bid Bond
- d. Non collusion Affidavit of Prime Bidder
- e. MBE/WBE SECTION 3 CONTRACT SOLICITATION AND COMMITMENT STATEMENT (Bidders may submit documentary evidence of MBE/WBE Enterprises that have been contacted and to whom commitments have been made. Documentation of such solicitations and commitments must be available at the request of the county).
- f. Contractor's Certification of Compliance Section 3
- g. Contractor's Affirmative Action Plan For Business Utilization Section 3
- h. Certification of Non-Segregated Facilities and Non-Employment of Illegal Alien Labor
- i. Certification of Bidder Regarding Equal Employment Opportunity
- j. Public Works Employment Verification Form

2. **All remaining forms included in Part II of the Project Bid Packet MUST be completed prior to the release of the "Notice to Proceed". Included in this material is all subcontractor forms.**

SUBCONTRACTORS ARE REQUIRED TO MEET THE SAME GUIDELINES AND TO PROVIDE THE SAME PAPERWORK AS THE PRINCIPLE CONTRACTOR. The Principal Contractor will be responsible for making sure all Subcontractors paperwork is received properly and in a timely fashion.

3. There will be a pre-construction conference held prior to the commencement of work on the project. The Principal Contractor should be in attendance at the pre-construction conference. If the Contractor is not responsible for the paperwork, then that employee should attend, but not as a substitute for the Contractor. All Subcontractors should be in attendance.

4. Payrolls

- a. Payrolls will be submitted on a weekly basis and no later than seven (7) working days following the completion of that workweek.
- b. The initial payroll submission will include the Employer's ID and must be notarized.
- c. Payrolls will be numbered sequentially and the first payroll marked "First" and the last marked "Final".
- d. Complete name, address, telephone and social security numbers will be provided for all workers on the first payroll form.
- e. Any workweek with no work performed at the site must have a submitted payroll with the notation "no work performed during this work week".
- f. Labor classifications will be clearly indicated on payroll form. Whenever a worker is shown to have worked split hours at different job classifications, this must be clearly indicated on the payroll form.
- h. **When a fringe benefits package is provided by the employer, all benefits must be clearly indicated on the payroll form or a separate sheet may be included. Each employee's fridges WILL be listed separately.**

5. Wage decisions and work classifications will be posted at the work site in a prominent area.

6. Employee Rights poster (WH - 1321) and a program funding poster will be displayed at each job site.

7. Notification of project start - The Planning Department must be notified of the day construction will begin.

The Planning Department is required to do employee interviews at the job site and we must know when the work is being done. If the Planning Department is unable to conduct employee interviews because we weren't notified of start of construction, pay requests may not be paid. If there are schedule conflicts, mail interviews will be conducted.

8. Contractor and all subcontractors MUST follow the Public Works Employment Verification Act.
9. Subcontractors that are contracted after the start of construction are bound to follow program regulations as previously described.
10. All invoices MUST be submitted for the Planning Department for payment. Payment Authorization forms must be signed off on by local entity and/or engineer before any payments will be made.

NOTE: If any of these items are not completed PRIOR to the first pay request, payment will not be approved.

PART I
INSTRUCTIONS TO BIDDERS

INSTRUCTIONS TO BIDDERS

1. USE OF SEPARATE BID FORMS

These Contract Documents include a complete set of bidding and Contract forms, which are for the convenience of Bidders and are not to be detached from the Contract Documents, filled out, or executed. Separate copies of Bid Forms are furnished for that purpose.

2. INTERPRETATIONS OF ADDENDA

No oral interpretation will be made to any Bidder as to the meaning of the Contract Documents or any part thereof. Every request for such an Interpretation shall be made in writing to the Local Public Agency. Any Inquiry received seven (7) or more days prior to the date fixed for opening of Bids will be given consideration. Every interpretation made to a Bidder will be in the form of an Addendum to the Contract Documents, and when issued, will be on file in the office of the Local Public Agency and the office of the Engineer at least five (5) days before Bids are opened. In addition, all Addenda will be mailed to each person holding Contract Documents, but it shall be the Bidder's responsibility to make inquiry as to the Addenda issued. All such Addenda shall become part of the Contract and all Bidders shall be bound by such Addenda, whether or not received by the Bidders.

3. INSPECTION OF SITE

Each Bidder should visit the site of the proposed work and fully acquaint himself with the existing conditions there relating to construction and labor, and should fully inform himself as to the facilities involved, the difficulties and restrictions attending the performance of the Contract. The Bidder should thoroughly examine and familiarize himself with the Drawings, Technical Specifications, and all other Contract Documents. The Contractor by the execution of the Contract shall in no way be relieved of any obligation under it due to his failure to receive or examine any form or legal instrument or to visit the site and acquaint himself with the conditions there existing and the Local Public Agency will be justified in rejecting any claim based on facts regarding which he should have been on notice as a result thereof.

4. ALTERNATIVE BIDS

No alternative bids will be considered unless alternative bids are specifically requested.

5. BIDS

- a. All Bids must be submitted on forms supplied by the Local Public Agency and shall be subject to all requirements of the Contract Documents, including the Drawings, and these INSTRUCTIONS TO BIDDERS. All Bids must be regular in every respect and no interlineations, excisions or special conditions shall be made or included in the Bid Form by the Bidder.
- b. Bid Documents including the Bid, the Bid Guaranty, the Non-Collusion Affidavit and the Statement of Bidder's Qualifications (if requested) shall be enclosed in envelopes (outer and inner), both of which shall be sealed and clearly labeled with the words ("Site Preparation Bid Documents"), name of Bidder, and date and time of bid opening in order to guard against premature opening of the bid.
- c. The Local Public Agency may consider irregular any Bid on which there is an alteration of or departure from the Bid Form hereto attached and at its option may reject the same.
- d. If the Contract is awarded, it will be awarded by the Local Public Agency to a responsible Bidder on the basis of the lowest Bid and the selected Alternative Bid items, if any. The Contract will require the completion of the work according to the Contract Documents.
- e. Each Bidder shall include in his Bid the following information:

Principals

Names, Social Security Numbers, Home addresses, including City, State and Zip Code

Firm

Name, Treasury Number
Address, City, State and Zip Code

6. BID GUARANTY

- a. The bid must be accompanied by a Bid Guaranty, which shall not be less than ten percent (10%) of the amount of the Bid. At the option of the Bidder, the guaranty may be a certified check, bank draft, negotiable U.S. Government Bonds (at par value), or a Bid Bond in the form attached. The Bid Bond shall be secured by a guaranty or a surety company listed in the latest issue of U.S. Treasury Circular 570. The amount of such Bid Bond shall be within the maximum amount specified for such Company in said Circular 570. No Bid will be considered unless it is accompanied by the required guaranty. Certified Check or Bank Draft must be payable to the Elk County Board of Commissioners. Cash deposits will not be accepted. The Bid Guaranty shall insure the execution of the Agreement and the furnishing of the Surety Bond or Bonds by the successful Bidder, all as required by the Contract Documents.
- b. Revised Bids submitted before the opening of Bids, whether forwarded by mail or telegram, if representing an increase in excess of two percent (2%) of the original Bid, must have the Bid Guaranty adjusted accordingly; otherwise the Bid will not be considered.

- c. Certified Checks or Bank Drafts, or the amount thereof. Bid Bonds, and negotiable U.S. Government Bonds of unsuccessful Bidders will be returned as soon as practical after the opening of the Bids.

7. COLLUSIVE AGREEMENTS

- a. Each Bidder submitting a Bid to the Local Public Agency for any portion of the work contemplated by the documents on which bidding is based shall execute and attach thereto, an affidavit substantially in the form herein provided, to the effect that he has not colluded with any other person, firm, or corporation in regard to any Bid submitted.
- b. Before executing any subcontract the successful Bidder shall submit the name of any proposed subcontractor for prior approval and an affidavit substantially in the form provided in Section 103 – Subcontracts.

8. STATEMENT OF BIDDER'S QUALIFICATIONS

Each Bidder shall submit on the form furnished for that purpose (a copy of which is included in the Contract Documents), a statement of the Bidder's qualifications, his experience record in constructing the type of improvements embraced in the Site Preparation, and his organization and equipment available for the work contemplated; and, when specifically requested by the Local Public Agency, a detailed financial statement. The Local Public Agency shall have the right to take such steps as it deems necessary to determine the ability of the Bidder to perform his obligations, under the Contract and the Bidder shall furnish the Local Public Agency all such information and data for this purpose as it may request. The right is reserved to reject any Bid where an investigation of the available evidence or information does not satisfy the Local Public Agency that the Bidder is qualified to carry out properly the terms of the Contract.

9. UNIT PRICES

(If lump sum Bids are deemed advisable due to local conditions, this Section must be revised accordingly)

The unit price for each of the several items in the proposal of each Bidder shall include its proposal share of overhead so that the sum of the products obtained by multiplying the quality shown for each item by the unit price bid represents the Total Bid. Any Bid not conforming to this requirement may be rejected as informal. The special attention of all Bidders is called to this provision, for should conditions make it necessary to revise the quantities, no limit will be fixed for such increased or decreased quantities, no extra compensation allowed, provided the net monetary value of all such additive and subtractive changes in quantities of such items of work (i.e. difference in cost) shall not increase or decrease the original contract price by more than twenty-five percent (25 %), except for work not covered in the Drawings and Technical Specifications as provided for in the Section 109- Changes in the Work.

10. CORRECTIONS

Erasures or other changes in the Bids must be explained or noted over the signature of the Bidder, and initialed.

11. TIME FOR RECEIVING BIDS

- a. Bids received prior to the advertised hour of opening will be securely kept, sealed. The officer whose duty it is to open them will decide when the specified time has arrived, and no Bid received thereafter will be considered, except that when a Bid arrives by mail after the time fixed for opening, but before the reading of all other Bids is completed, and it is shown to the satisfaction of the Local Public Agency that the non-arrival on time was due solely to delay in the mails for which the Bidder was not responsible, such Bid will be received and considered.
- b. Bidders are cautioned that, while telegraphic modifications of Bids may be received as provided above, such modifications, if not explicit and if in any sense subject to misinterpretation, shall make the Bid so modified or amended, subject to rejection.

12. OPENING OF BIDS

At the time and place fixed for the opening of Bids, the Local Public Agency will cause to be opened and publicly read aloud every Bid received within the time set for receiving Bids, irrespective of any irregularities therein. Bidders and other persons properly interested may be present, in person or by representative.

13. WITHDRAWAL OF BIDS

Bids may be withdrawn on written or telegraphic request dispatched by the Bidder in time for delivery in the normal course of business to the time fixed for opening; provided, that written confirmation of any telegraphic withdrawal over the signature of the Bidder is placed in the mail and postmarked prior to the time set for Bid opening. The Bid guaranty of any Bidder withdrawing his Bid in accordance with the foregoing conditions will be returned promptly.

14. AWARD OF CONTRACT: REJECTION OF BIDS

- a. The Contract will be awarded to the responsible Bidder submitting the lowest Bid complying with the conditions of the Invitation for Bids. The Bidder to whom the award is made will be notified at the earliest possible date. The Local Public Agency, however, reserves the right to reject any and all Bids and to waive any Informality in Bids received whenever such rejection or waiver is in its interest.
- b. The Local Public Agency reserves the right to consider as unqualified to do the work of general construction any Bidder who does not habitually perform with his own forces the major portions of the work involved in construction of the Improvements embraced in this Site Preparation Contract.

15. EXECUTION OF AGREEMENT: PERFORMANCE AND PAYMENT BOND

- a. Subsequent to the award and within ten (10) days after the prescribed forms are presented for signature, the successful Bidder shall execute and deliver to the Local Public Agency an Agreement in the form included in the Contract Documents in such number of copies as the Local Public Agency may require.
 - 1) Performance Bond: At one hundred percent of the final Contract amount conditioned upon the faithful performance of the Contract, in accordance with the Plans, Specifications and conditions of this Contract. Such bond shall be solely for the protection of the OWNER.
 - 2) Payment Bond: At one hundred percent of the final Contract amount, such Bond shall be solely for the protection of individuals, firms, corporations, partnerships and associations supplying labor or materials to the CONTRACTOR or to any of his/her subcontractors in the prosecution of the Work provided for in the Contract, and shall be conditioned for the prompt payment of all such material furnished or labor supplied or performed in the prosecution of the Work.
- b. Having satisfied all conditions of award as set forth elsewhere in these documents, the successful Bidder shall, within the period specified in paragraph "a." above, furnish a surety bond in a penal sum not less than the amount of the Contract as awarded, as security for the faithful performance of the Contract, and for the payment of all persons, firms or corporations to whom the Contractor may become legally indebted for labor, materials, tools, equipment, or services of any nature including utility and transportation services, employed or used by him in performing the work. Such bond shall be in the form as that included in the Contract Documents and shall bear the same date as, or a date subsequent to that of the Agreement. The current power of attorney for the person who signs for any surety company shall be attached to such bond. This bond shall be signed by a guaranty or Surety Company 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. The failure of the successful Bidder to execute such Agreement and to supply the required bond or bonds within ten (10) days after the prescribed forms are presented for signature, or within such extended period as the Local Public Agency may grant, based upon reasons determined sufficient by the Local Public Agency may either award the Contract to the next lowest responsible Bidder or re-advertise for Bids, and may charge against the Bidder the difference between the amount of the Bid and the amount for which a Contract for the work is subsequently executed, irrespective of whether the amount thus done exceeds the amount of the Bid Bond. If a more favorable Bid is received by re-advertising the defaulting Bidder shall have no claim against the Local Public Agency for a refund.

16. WAGES AND SALARIES

- a. Attention of Bidders is particularly called to the requirement concerning the payment of not less than the prevailing wage and salary rates specified in the Contract Documents and the conditions of employment with respect to certain categories and classifications of employees. See General Conditions Part IV.
- b. The rates of pay set forth under GENERAL CONDITIONS, PART IV are the minimum to be paid during the life of the Contract. It is therefore the responsibility of Bidders to inform themselves as to local labor conditions, such as the length of work day and work week, overtime compensation, health and welfare contributions, labor supply and prospective changes or adjustments of rates.

17. EQUAL EMPLOYMENT OPPORTUNITY

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

See General Conditions Part II. Each bidder must submit a completed Certification of Bidder Regarding Equal Employment Opportunity.

18. EMPLOYMENT OF LOWER INCOME RESIDENTS AND BUSINESS UTILIZATION

Attention of Bidders is particularly called to special requirements regarding employment of lower income residents of, and utilization of businesses in the locality where the work is to be done. See General Conditions Part II.

19. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

Attention of Bidders is particularly called to the necessity of complying with all Federal, State and Local laws and regulations including but not limited to the following: Act 247-1972; Act 287-1974; Federal Occupational Safety and Health Act of 1970.

20. PUBLIC WORKS EMPLOYMENT VERIFICATION ACT

- a. A completed Public Works Employment Verification Form will be required from the Contractor with each bid. The authorized signer of the bid hereby states that he or she possesses sufficient knowledge to make the representations and certifications on the Form. Failure to provide a completed Form will result in rejection of the bid, and may subject the Contractor to the enforcement activities, sanctions, and civil penalties specified in the Act.
- b. The requirement of the Public Works Employment Verification Form is in accordance with the Public Works Employment Verification Act, effective January 1, 2013, known as the Act 127 of 2012, the use of the Federal Government's E-Verify system to ensure that all employees performing work on public works projects, including subcontractor's employees, are authorized to work in the United States. The Contractor will be required to include information about the Act in all subcontracts.

Further information regarding the Public Works Employment Verification Act, as it complies with this project, can be found in the Supplemental General Conditions (paragraph F.16) of this Project Manual.

PART II
BID FORMS AND
SIGNATURE DOCUMENTS

Competitive Bid Checklist: All below forms MUST be received with bid
(Subcontractor and all remaining forms will be required of winning bidder at a later time)

- Statement of Bidders Qualifications
- Bid Bond
- Noncollusion Affidavit of Prime Bidder
- MBE/WBE SECTION 3 CONTRACT SOLICITATION AND COMMITMENT STATEMENT (Bidders must submit documentary evidence of MBE/WBE Enterprises that have been contacted and to whom commitments have been made.)
- Contractor's Certification of Compliance Section 3
- Contractor's Affirmative Action Plan For Business Utilization Section 3
- Certification of Non-Segregated Facilities and Non-Employment of Illegal Alien Labor
- Certification of Bidder Regarding Equal Employment Opportunity
- Public Works Employment Verification Form

STATEMENT OF BIDDER'S QUALIFICATIONS

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

1. Name of Bidder. _____
2. Permanent main office address. _____
3. Pennsylvania Attorney General # _____
4. When organized _____
5. If a corporation, where incorporated. _____
6. How many years have you been engaged in the contracting business under your present firm or trade name? _____
7. Contracts on hand: (List these, showing amount of each contract and the appropriate anticipated dates of completion.) _____
8. General character of work performed by your company. _____
9. Have you ever failed to complete any work awarded to you? If so, where and why? _____
10. Have you ever defaulted on a contract? If so, where and why? _____
11. List the more important projects recently completed by your company, stating the approximate cost for each, and the month and year completed. _____
12. List your major equipment available for this contract. _____
13. Experience in construction work similar in importance to this project. _____
14. Background and experience of the principal members of your organization, including the officers. _____
15. Credit Available: _____
16. Give bank reference: _____
17. Will you upon request, fill out a detailed financial statement, and furnish any other information that may be required by the Elk County Board of Commissioners? _____
18. The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the Local Public Agency in verification of the recitals comprising this statement of Bidder's Qualifications.

Dated at _____ this _____ day of _____, 20____.

Name of Bidder

By: _____

Title: _____

State of _____

County of _____

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

Subscribed and sworn to before me this _____ day of _____, 20____.

My commission expires _____, 20____.

BID BOND

KNOWN ALL MEN BY THESE PRESENTS, that we the undersigned

(Name of Principal)

as PRINCIPAL, and _____,
(Name of Surety)

as SURETY are held and firmly bound unto _____,
(Local Public Agency)

hereinafter called the "Local Public Agency", in the penal sum of _____ Dollars (\$_____) 1awful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severly, firmly by these presents.

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

NOW, THEREFORE, if the Principal shall not withdraw said Bid within the period specified therein after the opening of the same, or, if no period be specified, within thirty (30) days after the said opening, and shall within the period specified therefore, or if no period be specified, with ten (10) days after the prescribed forms are presented to him for signature, enter into a written Contract with the Local Public Agency in accordance with the Bid as accepted, and give bond with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such Contract; or in the event of the withdrawal of said Bid within the period specified, or the failure to enter into such Contract and give such bond within the time specified, if the Principal shall pay the Local Public Agency may procure the required work or supplies or both, if the latter be in excess of the former, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

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

INDIVIDUAL OR PARTNERSHIP PRINCIPALS

(SEAL) _____

(SEAL) _____

(SEAL) _____

(SEAL) _____

In the presence of:

CORPORATE PRINCIPAL

ATTEST:

By:

(SEAL)

SURETY

ATTEST:

By:

Signature & Title
(SEAL)

[for Corporate Surety, attach Proof of Authority to sign]
(usually Power of Attorney)

PAYMENT BOND

KNOWN ALL MEN BY THESE PRESENTS, that we _____ as principal, and _____ as surety, are held and firmly bound unto (Local Public Agency) _____, its certain attorney, successors, or assigns (hereinafter called the Obligee) in the sum of _____ Dollars (\$____) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally, firmly by these presents:

WHEREAS, said principal has entered into a certain contract with said Obligee, dated _____, 20____, (hereinafter called the Contract) for _____ which Contract and the Specifications for said work shall be deemed a part hereof as fully as if set out herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if said principal and all subcontractors to whom any portion of the work provided for in said contract is sublet and all assignees of said principal and of such subcontractors shall promptly make payment for all material furnished, labor supplied or performed, rental for equipment employed, and services rendered by public utilities in or in connection with the prosecution of the work, whether or not the said material, labor, equipment or services enter into and become component parts of the work or improvement contemplated in said contract, or in any amendment or extension of or addition to said Contract, then the above obligation shall be void; otherwise to remain in full force and effect. PROVIDED, however, that this bond is subject to the following conditions and limitations.

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

(b) The surety shall not be liable hereunder for any damages or compensation recoverable under any workmen's compensation or employer's liability statute.

(c) In no event shall the surety be liable for a greater sum than the penalty of this bond, or subject to any suit, action or proceeding thereon that is instituted later than two years after the complete performance of said Contract and final settlement thereof.

(d) As used herein: The term "person" refers to any individual, firm or corporation who have furnished materials or machinery or public utility services to be used on or incorporated in the work or the prosecution thereof provided for in said Contract or in any amendment or extension of or addition to said Contract, and/or to any person engaged in the prosecution of the work provided for in said Contract or in any amendment or extension of or addition to said Contract who is an agent, servant or employee of the principal or of any subcontractor, or of any assignee of said principal or of any subcontractor and also anyone so engaged who performs the work of a laborer or of a mechanic regardless of any contractual relationship between the principal, or any subcontractor, or any assignee of said principal or of said subcontractor, and such laborer or mechanic, but shall not include office employees not regularly stationed at the site of the work.

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

SIGNED, SEALED AND DELIVERED IN _____

ORIGINAL COUNTERPARTS this _____ day of _____, 20_____.

Witness: _____ (Individual Principals sign here)

Title: _____ (SEAL)

Title: _____ (SEAL)

Title: _____ (SEAL)

(Corporate Principal sign here)

Attest:

By: _____

Title: _____ By: _____

Title: _____(SEAL)

(Surety sign here)

By: _____

Title: _____(SEAL)

The rate of the premium charged is \$_____ per thousand.

The total amount of the premium charged is \$_____.

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

It is hereby further stipulated and agreed that if the Principal is a non-Pennsylvania corporation neither Principal nor the Surety shall be discharged from liability on this bond, nor the bond surrendered, until such Principal files with the Obligee a certificate from the Pennsylvania Department of Revenue evidencing the payment in full of all taxes, penalties and Interest, and a certificate from the Bureau of Employment and Unemployment Compensation of the Pennsylvania Department of Labor and Industry, evidencing the payment of all unemployment compensation contributions, penalties and interest due the Commonwealth of Pennsylvania from the said Principal, or any non-Pennsylvania corporation subcontractor thereunder, or for which liability has accrued, but the time for payment has not arrived as required by the Act of June 10, 1947, P.L. 493, 8 P.S. Sec. 23, amended.

PERFORMANCE BOND

KNOWN ALL MEN BY THESE PRESENTS, that we _____ as principal, and _____ as surety, are held and firmly bound unto (Local Public Agency) _____, its certain attorney, successors, or assigns (hereinafter called the Obligee) in the sum of _____ Dollars (\$ _____) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally, firmly by these presents:

WHEREAS, said principal has entered into a certain contract with said Obligee, dated _____, 20_____, (hereinafter called the Contract) for _____ which Contract and the Specifications for said work shall be deemed a part hereof as fully as if set out herein.

NOW, therefore, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the principal shall faithfully perform the contract on his part as of the time and in the manner therein provided and satisfy all claims and demands incurred in or for the same, or growing out of the same, or for injury or damages to persons or property in the performance thereof, and shall fully indemnify and save harmless the said Obligee from any and all cost and damage which the said Obligee may suffer by reason of the principal's failure to do so, and shall fully reimburse and repay the said Obligee any and all outlay and expense shall be null and void, otherwise it shall remain in full force and virtue.

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

SIGNED, SEALED AND DELIVERED IN _____ ORIGINAL COUNTERPARTS THIS _____, 20____.

(Individual Principals sign here)

(SEAL)

(SEAL)

In the presence of:

(SEAL)

(SEAL)

(Corporate Principal sign here)

By: _____

Attest:

(Surety sign here)

The rate of premium charged is \$ _____ per thousand.

The total amount of premium charged is \$ _____.

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

It is hereby further stipulated and agreed that if the Principal is a non-Pennsylvania corporation neither Principal nor the Surety shall be discharged from liability on this bond, nor the bond surrendered, until such Principal files with the Obligee a certificate from the Pennsylvania Department of Revenue evidencing the payment in full of all taxes, penalties and Interest, and a certificate from the Bureau of Employment and Unemployment Compensation of the Pennsylvania Department of Labor and Industry, evidencing the payment of all unemployment compensation contributions, penalties and interest due the Commonwealth of Pennsylvania from the said Principal, or any non-Pennsylvania corporation subcontractor thereunder, or for which liability has accrued, but the time for payment has not arrived as required by the Act of June 10, 1947, P.L. 493, 8 P.S. Sec. 23, amended.

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS THAT _____ as Principal, and
Contractor

_____ as Surety, are held and firmly bound unto the _____
Bonding Company

as Obligee, hereninafter called the Owner, in the sum of _____ Dollars, for the payment of which
sum the Principal and Surety bind themselves, and each of them, their and each of their heirs, executors, administrators, successors and
assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this _____ day of _____, 20_____ .

WHEREAS, the Principal entered into a certain Contract for Construction with the Owner, dated _____
in accordance with the plans and specifications as set forth herein for the _____
for the Owner, included in Contract No. _____ .

WHEREAS, under said contract, the Principal guarantees for a term of twelve (12) months from date of acceptance of the work by the Owner,
to maintain the stability of all materials, equipment and work and to promptly make good and replace all poor or inferior materials,
equipment and work and to remedy all defects in materials, equipment or workmanship, all shrinkage, settlement, or other faults of any kind
whatsoever arising therefrom, at his or their own expense, and to the satisfaction of the Owner, when notified in writing so to do by the
Owner; and

WHEREAS, under said contract, the Principal may, to secure the said guarantee, deposit with the Owner, an acceptable Surety bond for the
faithful performance of said guarantee; and

WHEREAS, the Owner is willing to pay the aforementioned monies including the retained percentage upon being indemnified by these
presents.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT if the Principal shall maintain the stability of all material,
equipment and work and shall promptly make good and replace all poor or inferior materials, equipment and work, and shall remedy all
defects in materials, equipment or workmanship, all shrinkage, settlement or other faults of any kind whatsoever arising therefrom, at his or
their own expense and to the satisfaction of the Owner when notified in writing to do so by the Owner for a term of twelve (12) months from
the date of the final acceptance thereof by the Owner, and if the Principal shall indemnify the Owner against any loss or damage by reason of
the failure of the Principal so to do, then this obligation is to be void; otherwise, to remain in full force and effect.

PROVIDED, HOWEVER, and it is hereby expressly agreed that if at any time default shall be made in the performance of the terms and the
conditions of this bond above specified, then, and in such event, we do by these presents empower the Owner's Solicitor, or any attorney of
any court of record in the State, or elsewhere, to appear for us and each of us and confess judgment against us for the said sum above
mentioned, with costs of suit and release of errors, and we do hereby waive the right of inquisition on any real estate, and authorize the
Prothonotary to enter our voluntary condemnation of the same and authorize the same to be sold upon a writ of Fieri Facias. We also waive
the right of all laws now made or hereafter to be made exempting real or personal property from levy and sale and execution.

This bond shall become effective on the date of which Owner shall accept the work provided in said contract, and nothing herein shall impair
or lessen to any extent the obligations of the Principal and Surety under and by virtue of the Performance Bond heretofore entered into by
them.

SIGNED, SEALED AND DELIVERED IN QUADRUPLICATE,

This _____ day of _____, 20____ .

(Individual Principals sign here)

(SEAL)

(SEAL)

In the presence of:

(SEAL)

(SEAL)

(Corporate Principal sign here)

By: _____

Attest:

(Surety sign here)

NONCOLLUSION AFFIDAVIT OF PRIME BIDDER

State of _____

County of _____

_____, being first duly sworn, deposes and says that:

(1) He is _____
(Owner, partner, officer, representative or agent)

Of _____ the Bidder that had submitted the attached Bid:

(2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid.

(3) Such Bid is genuine and is not a collusive or sham Bid.

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element for the Bid prices or the Bid price of any Bidder, or to secure through any collusion, conspiracy connivance or unlawful agreement any advantage against the _____ any person interested in the proposed Contract; and

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) _____

(Title)

Subscribed and sworn to before me this _____ day of _____, 20 _____

Title

My commission expires _____

NON-COLLUSION AFFIDAVIT OF SUBCONTRACTOR

State Of _____

County Of _____

_____, being first duly sworn, deposes and says that:

1) He is _____ of _____ hereinafter referred to as the "Subcontractor"

2) He is fully informed respecting the preparation and contents of the subcontractor's Proposal submitted the subcontractor to _____, the Contractor for certain work in connection with the

_____ Contract pertaining to the Project in _____ (City or County and State):

3) Such subcontractor's proposal is genuine and is not a collusive or sham proposal:

4) Neither the subcontractor nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Proposal in connection with such Contract or to refrain from submitting a Proposal in connection with such Contract, or has in any manner, directly or indirectly sought by unlawful agreement or connivance with any other Bidder, firm or person to fix the price or prices in said subcontractor's Proposal, or to secure through collusion, conspiracy connivance, or unlawful agreement any advantage against the _____ (Local Public Agency) or any person interested in the proposed Contract; and

5) The price or prices quoted in the subcontractor's Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Signed) _____

(Title) _____

Subscribed and sworn to before me this _____ day of _____ 20__

(Signed) _____

(Title) _____

My commission expires _____

MINORITY/WOMEN/SECTION 3 BUSINESS ENTERPRISES

BIDDER INSTRUCTIONS

This Project is funded in all or in part with Community Development Block Grant (CDBG) funds. In accordance with CDBG rules and regulations, municipalities must uphold the conditions of Minority/Women Business Enterprise (MBE/WBE) and Section 3 Covered Assistance Plans. The objective of the plans is to facilitate the strengthening and expansion of MBE/WBE and Section 3 businesses. Complete copies of the Plans are available by contacting The Elk County Planning Department, 300 Center Street, Ridgway, PA 15853, or calling (814) 776-5335.

The goals for this project are MBE 5% and WBE 3%; the Section 3 goal is 10%. The successful bidder will be required to submit evidence of efforts to meet these goals either through his/her own employment practices or through the use of MBE/WBE and Section 3 subcontractors and vendors. Failure to comply may result in the bidder being determined not responsible.

In preparation of your bid, you are expected to contact MBE/WBE firms. These firms can be found listed on the both Department of General Services (DGS) AND Pennsylvania Housing Finance Agency (PHFA):

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

<https://mwbe.phfa.org/>

The counties that we are required to search are *Elk, Cameron, Clearfield, Forest, Jefferson, McKean, Warren and Erie*. You may also contact other MBE/WBE firms of which you are aware.

Any interested contractor and/or supplier is required to check the both websites and refer back for each bid submitted.

As part of your bid, you are expected to complete and submit the *Bidder Projection of Minority/Women/Section 3 Business Utilization* form. **This process is required and no exceptions will be made.** This form will be used during bid review to ascertain your level of MBE/WBE and Section 3 utilization. Your efforts and success in utilizing these firms will be one of the tests of bidder responsibility. Failure to meet this Project's MBE/WBE and Section 3 goals does not automatically disqualify your bid.

Finally, at the completion of the Project and before final payment, you will be required to furnish a completed *Minority/Women/Section 3 Business Enterprise Utilization Report* along with *Minority/Women/Section 3 Certification* form.

**PARTICIPATION REQUIREMENTS PER
ELK COUNTY'S MBE/WBE PLAN**

1. Participation Level

- a. The County of Elk has established minimum participation levels (MPLs) for Minority and Women Business Enterprise (MBE/WBE) for each project in each bid category to be used solely as a guide in determining bidder responsibility. The MPLs for MBEs is five (5%) and three (3%) percent for WBEs for this contract.
- b. These MPLs serve exclusively as a threshold in determining bidder responsibility. A bidder will not be rejected as not responsible solely because it fails to reach the MPLs. To determine the participation level which has been reached, a bidder may divide the total dollar amount of the commitments by the total dollar amount of the bidder's bid.
- c. A firm which is both an MBE and WBE will only receive credit toward MPLs as either an MBE or WBE, but not both. Bidders must indicate on Form DCED-CCD-286, MBE/WBE Contract/Solicitation and Commitment Statement whether the firm is begin listed as either an MBE or a WBE.
- d. An MBE/WBE firm who is the prime bidder on a project will receive no MPL credit for its own work effort for services provided. MBE/WBE bidding as prime proposer must solicit other certified MBEs/WBEs participation for material and/or supplies.
- e. MBE/WBE subcontractors must perform at least seventy-five percent (75%) of the cost of the subcontract, not including the cost of materials, with own employees.

2. Responsiveness

- a. Bidders must complete and submit Form MBE/WBE Contract/Solicitation and Commitment Statement with the bid. Failure to submit this form with the bid, may result in the bid being rejected as non-responsive.
- b. A bidder should only solicit MBE/WBE subcontractors, vendors, manufacturers, or suppliers whose services, material, or suppliers are within the scope of work and which the bidder reasonably believes it will choose to subcontract with or purchase from.
- c. Bidders failing to meet the minimum levels of participation must submit concurrently with the bid, an explanation of why the MPLs have not been met. This explanation must demonstrate that the bidder has not engaged in discriminatory practices in solicitation and utilization of MBEs/WBEs to perform as subcontractors or suppliers of goods and services related to the performance of the contract. The evidence submitted by the bidder must demonstrate the following:

- (1) Indicate whether MBEs/WBEs were solicited for each type of work the bidder expects to subcontract for and for all materials which the bidder expects to procure and, if not, the reason(s) why no such solicitation was made:

- (2) Indicate the reason why an MBE/WBE has not been committed to for a type of subcontract work or materials in any area where a quote was received from a MBE/WBE, and:
- (3) In any case where no quotations are received nor commitments made to MBE or WBE firms, indicate on Form MBE/WBE Contract/Solicitation and Commitment Statement that no quotes were received, and if there is another reason for no commitments being made, the reason for the lack of commitments.
- d. If the bidder fails to submit evidence, the bid submission shall be considered non-responsive and the bid rejected.
- e. Information related to the above may be submitted on Form MBE/WBE Contract/Solicitation and Commitment Statement or on additional paper.

3. Responsibility

- a. The submittals of each bidder are subject to review to determine whether the bidder has discriminated in the selection of manufacturers, subcontractors and suppliers. If a bidder has met the MPLs for MBE/WBE participation, the bidder will be presumed not to have discriminated in their selections. Where the MPLs are not met, the County of Elk will determine whether discrimination has occurred. If, after investigation including a review of Form MBE/WBE Contract/Solicitation and Commitment Statement, it is found that discrimination has occurred, the reviewed bidder shall thereby be deemed to be not responsible and the bid will be rejected.
- b. Documentation submitted by the bidder should meet the following standard for review:
 - (1) The bidder whose actions resulted in a limited or no commitment to MBEs/ WBEs was not motivated by consideration of race or gender;
 - (2) MBEs/WBEs were not treated less favorably than other businesses in the contract solicitation and commitment process.
 - (3) Solicitation and commitment decisions were not based upon policies which disparately affect MBEs/WBEs.
- c. Commitments to MBE and WBE firms made at the time of bidding must be maintained throughout the term of the contract, unless a change in commitment to these firms is pre-approved by the County of Elk or the administering agency performing the evaluation of the invitation for Bid.

4. Access to Information

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

PROCEDURES - CONTRACTOR COMPLIANCE PROCESS

A. Contract Provisions

1. The following provisions will be included in construction contracts and/or in professional service contracts:
2. Construction Contracts
 - a. The prime contractor must provide the County of Elk with a report of MBE/WBE subcontracting activity on a quarterly or per project basis, whichever is sooner. The report shall reflect the names of and the total dollar amount paid to all MBE/WBE Subcontractors (including suppliers) utilized under this contract.
 - b. MBE/WBE Subcontractors must provide the County of Elk with a report reflecting the prime contractors who have purchased their services and/or supplies on a quarterly basis. The report shall reflect the name of the prime contractor and the total dollar amount invoiced and total dollar amount received for payment.

B. Grantee Compliance procedures

1. The prime contractor will be informed by the County of Elk of their quarterly or per project reporting requirements. In addition, all MBE/WBE subcontractors are to be informed of their reporting requirements.
2. The County of Elk will review all reports received from the prime contractor and all contractors to determine if the commitments made by the prime contractor in his/her bid are being met. If reports are submitted on a per project basis, this review is to be done prior to final payment being made to the contractor and/or subcontractor.

C. Records and Reports

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

The *County of Elk* will review all forms received from the prime contractor and all subcontractors to determine if the commitments made by the prime contractor in his/her bid are being met. Forms will be reviewed prior to final payment and NO final payments will be made without all required forms being received by the *County of Elk*.

SECTION 3 CLAUSE

All contracts subject to the Section 3 requirements will include the following clause:

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted project covered by Section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for Housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with part 135 of the regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or worker's 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 qualification for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 Clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

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

MBE/WBE SECTION 3 CONTRACT SOLICITATION AND COMMITMENT STATEMENT

(1) Name of Bidder	(2) IFB Number
Address	Bid Opening Date
Telephone Number	Contact Person

(8) NOTE: List those certified minority/women owned businesses from which you solicited quotes or which contacted you and gave you quotes in regard to this invitation for bid. Bidder's contract with Subcontractors and suppliers should be at least five days prior to the bid opening date.

*(3) COMPANY NAME EIN/SSN TELEPHONE NUMBER	(4) MBE (X)	(4) WBE (X)	(4) Sec. 3 (X)	(5) TYPE OF CONSTRUCTION, EQUIPMENT, SERVICES AND/OR SUPPLIES TO BE PROVIDED TO THE PROJECT	(6) TOTAL DOLLAR AMOUNT OF QUOTE RECEIVED	* (7) TOTAL COMMITMENT DOLLAR AMOUNT

(9) NOTE Minimum Levels (MPL): MBE-5%, WBE-3%
 A presumption of responsibility may be made if the dollar commitment of MBE/WBE reflects this minimum participation level.

(10) Prepared By:	Telephone Number/E-mail Address:
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Use additional sheets if necessary.

SECTION 3 DEFINITIONS

Section 3 Business Concern - means a business concern:

1. That is 51 percent or more owned by Section 3 residents; or
2. Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment were Section 3 residents; or
3. That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in (1) or (2) above.

Section 3 Resident - means

1. A public housing resident; or
2. An individual who resides in the metropolitan area or non-metropolitan county in which the Section 3 covered assistance is expended, and who is:
 - a) A low-income person, as this term is defined in Section 3(b)(2) of the 1937 Act [42 U.S.C. 1437a(b)(2)]. Section 3 (b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or
 - b) A very low-income person, as this term is defined in Section 3(b)(2) of the 1937 Act [42 U.S.C. 1437a(b)(2)] defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high- or low-income families.

NOTE: Specific median family income levels are available from County housing authorities or.

3. A person seeking the training and employment preference provided by Section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

Service Area - means the geographical area in which the persons benefiting from the Section 3 covered Project reside. The service area shall not extend beyond the unit of County government in which the Section 3 covered assistance is expended.

COMMONWEALTH OF PENNSYLVANIA
 DEPARTMENT OF COMMUNITY & ECONOMIC DEV.
 MWBE-9-08 - (9-08)

Exhibit 2
 (PLEASE PRINT)

MINORITY & WOMEN'S BUSINESS ENTERPRISE
 PRIME CONTRACTOR'S QUARTERLY UTILIZATION REPORT

(This form should be returned within 10 working days at the end of each quarter.)

PRIME CONTRACTOR'S FIRM NAME					REPORTING PERIOD			
ADDRESS					CONTRACT NUMBER			
TELEPHONE								
CONTACT PERSON					DATE RECEIVED (Office use Only)			
List State certified minority and/or women-owned businesses whose services and/or supplies you have purchased in reference to this contract.								
COMPANY NAME	ADDRESS	TELEPHONE NUMBER	MBE (X)	WBE (X)	TRANSACTION		DATE PAID	MBE/WBE ACTUAL DOLLARS*
					SUB CONTRACT (X)	SUPPLIES (X)		
Prepared By:	Title:	Phone No:			E-Mail Address:			

* PLEASE AFFIX COPIES OF MBE & WBE INVOICES TO YOUR COMPANY ALONG WITH COPIES OF YOUR COMPANY'S CANCELED CHECKS REFLECTING PAYMENT OF THE MBE AND WBE INVOICES.

EXHIBIT 3

Commonwealth of Pennsylvania
 DEPARTMENT OF COMMUNITY & ECONOMIC DEV.
 DCED-CCD-MWBE-02 (9-08)

(PLEASE PRINT)

**MINORITY AND WOMEN'S BUSINESS ENTERPRISE
 SUBCONTRACTOR'S QUARTERLY UTILIZATION REPORT**

(This form should be returned within 10 working days at the end of each quarter.)

SUBCONTRACTOR'S FIRM NAME				REPORTING PERIOD			
ADDRESS				CONTRACT NUMBER			
TELEPHONE							
CONTACT PERSON				DATE RECEIVED (Office use Only)			

List the prime contractors who have purchased your services and/or supplies in reference to this contract.

COMPANY NAME	ADDRESS	TELEPHONE NUMBER	DATE SERVICES/SUPPLIES PROVIDED	DATE INVOICE SENT	AMOUNT INVOICED	DATE INVOICE PAID	AMOUNT PAID

PREPARED BY:	TITLE:	PHONE NO:	E-MAIL ADDRESS:
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* PLEASE AFFIX COPIES OF YOUR COMPANY'S INVOICES TO THE PRIME CONTRACTOR.

MINORITY/WOMEN/SECTION 3 BUSINESS CERTIFICATION

As principal owner of _____,
(MBE/WBE or Section 3 Firm Name)

I certify that this firm is a bona fide Minority/Women Business Enterprise and/or Section 3 owned business.

I further certify that this firm was subcontracted by _____

for Work on the _____ Project in the amount of \$ _____.

Date

Signature/Title

**CONTRACTOR'S
CERTIFICATION OF COMPLIANCE**

SECTION 3

CERTIFICATION OF COMPLIANCE WITH REGULATIONS TO SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 AS REQUIRED FOR PARTICIPATION IN THE SMALL COMMUNITIES PROGRAM, PURSUANT TO THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, P.L. 93-383, AS AMENDED.

PURPOSE, AUTHORITY AND RESPONSIBILITY

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

(hereinafter called the CONTRACTOR)

upon being awarded a contract for _____

in the area of Section 3, the OWNER to the extent feasible, will make a good faith effort to utilize the services of businesses located in or substantially owned by persons who live within the Project boundaries.

The CONTRACTOR has been informed by the OWNER, that the Department of Community and Economic Development has determined that the Project area boundaries for the Small Communities Program are the county limits.

To complete the Project, it is also estimated that the CONTRACTOR may be subcontracting for supplies and services for which certain business concerns eligible under Section 3 could provide. In order to comply with the regulations for utilization of businesses under Section 3, the CONTRACTOR shall adopt an Affirmative Action Plan.

Signature/CONTRACTOR

**SUBCONTRACTOR'S
CERTIFICATION OF COMPLIANCE**

SECTION 3

CERTIFICATION OF COMPLIANCE WITH REGULATIONS TO SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 AS REQUIRED FOR PARTICIPATION IN THE SMALL COMMUNITIES PROGRAM, PURSUANT TO THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, P.L. 93-383, AS AMENDED.

PURPOSE, AUTHORITY AND RESPONSIBILITY

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

(hereinafter called the SUBCONTRACTOR)

upon being awarded a contract for _____

in the area of Section 3, the OWNER to the extent feasible, will make a good faith effort to utilize the services of businesses located in or substantially owned by persons who live within the Project boundaries.

The SUBCONTRACTOR has been informed by the OWNER, that the Department of Community and Economic Development has determined that the Project area boundaries for the Small Communities Program are the county limits.

To complete the Project, it is also estimated that the SUBCONTRACTOR may be subcontracting for supplies and services for which certain business concerns eligible under Section 3 could provide. In order to comply with the regulations for utilization of businesses under Section 3, the SUBCONTRACTOR shall adopt an Affirmative Action Plan.

Signature/SUBCONTRACTOR

CONTRACTOR'S

AFFIRMATIVE ACTION PLAN FOR BUSINESS UTILIZATION

SECTION 3

- A. The CONTRACTOR shall utilize, to the maximum extent feasible, eligible Section 3 business concerns located in the County of Elk in connection with the completion of the Contract. Eligible Section 3 businesses are those which qualify as "small" under the Small Business Administration's size standards, and which are socially or economically disadvantaged.
- B. The County of Elk has established a goal of 10% of the total subcontract amount which he/she expects to award to eligible Section 3 business concerns. The CONTRACTOR's Business Utilization Table sets forth the classification of subcontracts, the estimate of each contract dollar amount, whether a Section 3 business is intended to be utilized, and the dollar amount of proposed subcontracts to Section 3 businesses.
- C. To achieve the goal specified in paragraph "B", the CONTRACTOR shall:
1. Make full use of minority business listings made available by the Small Business Administration and the Pennsylvania Department of General Services.
 2. Take steps to insure that subcontracts which are typically let on a bid rather than a negotiated basis are also let on a negotiated basis, whenever feasible.
 3. Where competitive bids are solicited, include as part of the bid documents the CONTRACTOR's goal for Section 3 as it relates to the Work for which the bids are being solicited, and require each bidder to submit their utilization Goals and Affirmative Action Plan for achieving Section 3 Business Utilization.
 4. Insert the Section 3 contract language required by 24 CFR 135.20(b) in all subcontracts; and require that a Section 3 Certification of Compliance, similar to the Contractor's Certification of Compliance and Affirmative Action Plan for Business Utilization be executed by the CONTRACTOR.
- D. The CONTRACTOR will report to the County of Elk on a per project basis, the results of the affirmative efforts undertaken per paragraphs A, B, and C above, including the efforts of its subcontractors.

Signature/CONTRACTOR

Date

SUBCONTRACTOR'S

AFFIRMATIVE ACTION PLAN FOR BUSINESS UTILIZATION

SECTION 3

- A. The SUBCONTRACTOR shall utilize, to the maximum extent feasible, eligible Section 3 business concerns located in the County of Elk in connection with the completion of the contract. Eligible Section 3 businesses are those which qualify as "small" under the Small Business Administration's size standards, and which are socially or economically disadvantaged.
- B. The OWNER has established a goal of 10% of the total subcontract amount which he/she expects to award to eligible Section 3 business concerns. The SUBCONTRACTOR's Business Utilization Table sets forth the classification of subcontracts, the estimate of each contract dollar amount, whether a Section 3 business is intended to be utilized, and the dollar amount of proposed subcontracts to Section 3 businesses.
- C. To achieve the goal specified in paragraph "B", the Subcontractor shall:
1. Make full use of minority business listings made available by the Small Business Administration and the Pennsylvania Department of General Services.
 2. Take steps to insure that subcontracts which are typically let on a bid rather than a negotiated basis are also let on a negotiated basis, whenever feasible.
 3. Where competitive bids are solicited, include as part of the bid documents the subcontractor's goal for Section 3 as it relates to the Work for which the bids are being solicited, and require each bidder to submit their utilization Goals and Affirmative Action Plan for achieving Section 3 Business Utilization.
 4. Insert the Section 3 contract language required by 24 CFR 135.20(b) in all subcontracts; and require that a Section 3 Certification of Compliance, similar to the Subcontractor's Certification of Compliance, and Affirmative Action Plan for Business Utilization, be executed by the subcontractor.

Signature/ SUBCONTRACTOR

Date

PA DEPARTMENT OF COMMUNITY AFFAIRS
BUREAU OF HOUSING AND DEVELOPMENT
SMALL COMMUNITIES PROGRAM DIVISION

CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

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

CERTIFICATION BY BIDDER

NAME AND ADDRESS OF BIDDER (Include ZIP Code)

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

Yes No

2. Compliance reports were required to be filed in connection with subject contract or subcontract.

Yes No

3. Bidder has filed all compliance reports due under applicable instructions including SF-100.

Yes No None Required

4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?

Yes No

NAME AND TITLE OF SIGNER (Please type)

SIGNATURE

DATE

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

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

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

In the event that the Bidder

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

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

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

Date: _____, 20_____

(Name of Company)

Official Address
(including ZIP CODE):

By: _____

(Title)

Employer Identification Number _____

Public Works Employment Verification Form



COMMONWEALTH OF PENNSYLVANIA

PUBLIC WORKS EMPLOYMENT VERIFICATION FORM

Date _____

Business or Organization Name (Employer) _____

Address _____

City _____ State _____ Zip Code _____

 Contractor Subcontractor (check one)

Contracting Public Body _____

Contract/Project No _____

Project Description _____

Project Location _____

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

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

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

Authorized Representative Signature

PART III
GENERAL CONDITIONS

GENERAL SPECIFICATIONS

GENERAL CONDITIONS

101. DEFINITIONS

Whenever used in any of the Contract Documents, the following meanings shall be given to the terms herein defined:

- a. The term "Contract" means the contract executed by the Local Public Agency and the Contractor, of which these GENERAL CONDITIONS, PARTS I, II and III form a part.
- b. The term "Local Public Agency" means the ELK COUNTY BOARD OF COMMISSIONERS which is authorized to undertake this Contract.
- c. The term "Contractor" means the person, firm, or corporation entering into the Contract with Local Public Agency to construct and install the Improvements embraced in this Site Preparation Contract.
- d. The term "Project Area" means the site of the Construction within which are the specified Contract limits of the Improvements contemplated to be constructed in whole or in part under this Contract.
- e. The term "Engineer" means the engineer in charge, serving the Local Public Agency with Architectural or Engineering Services, his successor, or any person or persons, employed by said Local Public Agency for the purpose of directing or having in charge the work of Site Preparation embraced in this Contract, the said Engineer acting directly or indirectly through any assistant having immediate charge of a portion thereof limited by the particular duties entrusted to him.
- f. The term "Local Government" means the City (town, borough, or political subdivision) of within which the Project Area is situated.
- g. The term "Contract Documents" means and shall include the following: Executed Agreement, Addenda (if any), Invitation for Bids, Instructions to Bidders, Signed Copy of Bid, General Conditions, Parts I, II and III, Special Conditions, Technical Specifications, and Drawings (as listed in the Schedule of Drawings).
- h. The term "Drawings" means the drawings listed in the Schedule of Drawings.
- i. The term "Technical Specifications" means that part of the Contract Documents which describes outlines and stipulates the quality of the materials to be furnished; the quality of workmanship required; and the methods to be used in carrying out the construction work to be performed under this Contract.
- j. The term "Addendum" or "Addenda" means any changes, revisions or clarifications of the Contract Documents, which have been duly issued by the Local Public Agency to prospective bidders prior to the time of receiving bids.

102. SUPERINTENDENCE BY CONTRACTOR

At the site of the work the Contractor shall provide a superintendent or foreman who shall have full authority to act for the Contractor, except where the Contractor is an individual and gives his personal superintendence to the work. It is understood that such representative shall be acceptable to the Engineer. The Contractor shall also provide an adequate staff for the proper coordination and expediting of his work.

103. SUBCONTRACTS

- a. The Contractor shall not award any work to any subcontractor until each has completed and submitted a Non-Collusion Affidavit and a Certification by Proposed Subcontractor Regarding Equal Employment Opportunity to the Contractor. It shall also be the responsibility of the Contractor to employ only subcontractors who have certified their eligibility in written contracts containing Federal Labor Standards Provisions.
- b. Should any subcontractor be found ineligible after award of a contract, its contract shall be terminated.
- c. The Contractor shall be as fully responsible to the Local Public Agency for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.
- d. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to require compliance by each subcontractor with the applicable provisions of the Contract for the Improvements embraced in the Site Preparation.
- e. Nothing contained in the Contract shall create any contractual relation between any subcontractor and the Local Public Agency.

104. SEPARATE CONTRACTS

The Local Public Agency may award, or may have awarded other contracts for additional work, and the Contractor shall coordinate his operations with those of other Contractors. The Contractor shall not commit or permit any act, which will interfere with the performance of work by any other Contractor as scheduled.

105. FITTING AND COORDINATION OF THE WORK

The Contractor shall be responsible for the proper fitting of all work and for the coordination of the operations of all trades, subcontractors or material-men engaged upon this Contract. He shall be prepared to guarantee to each of his subcontractors the location and measurements that they may require for the fitting of their work to all surrounding work.

106. MUTUAL RESPONSIBILITY OF CONTRACTORS

If, through acts of neglect on the part of the Contractor, any other Contractor or any subcontractor shall suffer loss or damage on the work, the Contractor shall settle with such other Contractor or Subcontractor by agreement or arbitration, if such other Contractor or Subcontractor will so settle. If such other Contractor or Subcontractor shall assert any claim against the Local Public Agency on account of any damage alleged, to have been so sustained, the Local Public Agency will notify this Contractor, who shall defend at his own expense any suit based upon such claim, and, if any judgment or claims against the Local Public Agency shall be allowed, the Contractor shall pay or satisfy such judgment or claim and pay all costs and expenses in connection therewith.

107. CONSTRUCTION SCHEDULE

- a. Immediately after execution and delivery of the Contract, the Contractor shall submit to the Local Public Agency an estimated construction progress schedule, showing the proposed dates of commencement and completion of each of the various sections of work required under the Contract, the anticipated amount of each monthly payment to become due to the Contractor and the accumulated percent of progress each month.
- b. Cost Breakdown: The Contractor shall submit to the Local Public Agency a breakdown of his estimated cost of all Site Preparation work, so arranged and itemized as to meet the approval of the Local Public Agency. This breakdown shall be submitted promptly after execution of the agreement and before any payment is made to the Contractor for the work performed under the Contract. After approval by the Local Public Agency the unit prices established in the breakdown shall be used in estimating the amount of partial payments to be made to the Contractor. (Note: This paragraph B is to be used only with a lump sum Contract.)

108. PAYMENTS TO CONTRACTOR

a. Partial Payments

The Contractor shall prepare his requisition for partial payment and submit it, with the required number of copies, to the Engineer or Local Public Agency for their approval. The amount of the payment due the Contractor shall be determined by adding to the total value of work completed to date, the value of materials properly stored on the site and deducting (1) ten percent (10%) of the total amount, to be retained until final payment and (2) the amount of all previous payments. If the Contract is for a lump sum, the total value of work completed to date shall be based upon the estimated quantities of work completed to date on each item and the unit prices established in the Cost Breakdown and adjusted in accordance with the value of work completed to date on approved change orders.

b. Final Payment

1. After final inspection and acceptance by the Local Public Agency of all work under the Contract, 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 at the applicable unit prices stipulated in the Agreement. 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 to the Contractor shall be made subject to his furnishing the Local Public Agency with a release in satisfactory form of all claims against the Local Public Agency arising under and by virtue of his contract, other than such claims, if any, as may be specifically excepted by the Contractor from the operation of the release as provided under the section Disputes under General Conditions, Part 1.
2. The Local Public Agency, before paying the final estimate, may require the Contractor to furnish releases or receipts from all subcontractors having performed any work and all persons having supplied materials, equipment (installed on the Project) and services to the Contractor, if the Local Public Agency deems the same necessary in order to protect its interest. The Local Public Agency, however, may if it deems such action advisable make payment in part or in full to the Contractor without requiring the furnishing of such releases or receipts and any payments so made shall in no way impair the obligations of any surety or sureties furnished under this Contract.
3. Withholding of any amount due the Local Public Agency under the Section entitled "Liquidated Damages" under SPECIAL CONDITIONS, shall be deducted from the final payment due the Contractor.

c. Withholding Payments

The Local Public Agency may from any payment otherwise due the Contractor so much as may be necessary to protect the Local Public Agency and if it so elects may also withhold any amounts due from the Contractor to any subcontractors or material dealers, for work performed or material furnished by them. The foregoing provisions shall be construed solely for the benefit of the Local Public Agency and will not require the Local Public Agency to determine or adjust any claims or disputes between the Contractor and his subcontractors or material dealers, or to withhold any moneys for their protection unless the Local Public Agency elects to do so. The failure or refusal of the Local Public Agency to withhold any moneys from the Contractor shall in no way impair the obligations of any surety or sureties under any bond or bonds furnished under this Contract.

d. Payments Subject to Submission of Certificates

Each payment to the Contractor by the Local Public Agency shall be made subject to submission by the Contractor of all written certifications required of him and his subcontractors by the Section entitled CONTRACTOR'S CERTIFICATES under GENERAL CONDITIONS.

109. CHANGES IN THE WORK

a. The Local Public Agency may make changes in the scope of the work required to be performed by the Contractor under the Contract or making additions thereto, or by omitting work there from, without invalidating the Contract, and without relieving or releasing the Contractor from any of his obligations under the Contract 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 such work shall be executed under the terms of the original Contract unless it is expressly provided otherwise.

b. Except for the purpose of affording protection against any emergency endangering life or property, the Contractor shall make no change in the materials used or in the specified manner of constructing and/or installing the improvements or supply additional labor, services or materials beyond that actually required for the execution of the Contract, unless in pursuance of a written order from the Local Public Agency authorizing the Contractor to proceed with the change. No claim for an adjustment of the Contract Price will be valid unless so ordered.

c. If applicable unit prices are contained in the Agreement (established as a result of either a unit price bid or a Supplemental Schedule of Unit Prices) the Local Public Agency may order the Contractor to proceed with desired changes in the work, the value of such changes to be determined by the measured quantities involved and the applicable unit prices specified in the Contract; provided that in case of a unit price contract the net value of all changes does not increase or decrease the original total amounts shown in agreement by more than twenty five percent (25%) in accordance with the section entitled UNIT PRICES under INSTRUCTIONS TO BIDDERS.

d. If applicable unit prices are not contained in the Agreement or if the total net change increases or decreases the total Contract Price more than twenty-five percent (25%) the Local Public Agency shall, before ordering the Contractor to proceed with desired changes, request an itemized proposal from him covering the work involved in the change after which the procedure shall be as follows:

- 1) If the proposal is acceptable the Local Public Agency will prepare the change order in accordance therewith for acceptance by the Contractor and
- 2) If the proposal is not acceptable and prompt agreement between the two parties cannot be reached, the Local Public Agency may order the Contractor to proceed with the work on a cost-plus-limited basis. A cost-plus-limited basis is defined as the net cost of the Contractor's labor, materials and insurance plus fifteen percent (15%) of said net cost to cover overhead and profit, the total cost not to exceed a specified limit.

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 and/or time.
- 4) The statement that all work involved in the change shall be performed in accordance with contract requirements except as modified by the change order.

110. CLAIMS FOR EXTRA COST

a. If the Contractor claims that any instructions by Drawings or otherwise involve extra cost or extension of time, he shall, within ten days after the receipt of such instructions, and in any event before proceeding to execute the work, submit his protest thereto in writing to the Local Public Agency, stating clearly and in detail the basis of his objections. No such claim will be considered unless so made.

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 resulted, or would result, in handling more material, or performing more work than would be reasonable estimated from the Drawings and Map issued.

c. Any discrepancies, which may be discovered between, actual conditions and those represented by the Drawings and gaps shall at once be reported to the Local Public Agency and work shall not proceed except at the Contractor's risk, until written instructions have been received by him from the Local Public Agency.

d. If, on the basis of the available evidence, the Local Public Agency determines that an adjustment of the Contract Price and/or Time is justifiable, the procedure shall be as provided in Section 109 - CHANGES IN THE WORK under GENERAL CONDITIONS, PART I.

111. TERMINATION: DELAYS: AND LIQUIDATED DAMAGES

a. Termination of Contract.

If the Contractor refuses or fails to prosecute the work with such diligence as will insure its completion within the time specified in these Contract Documents, or as Modified as provided in these Contract Documents, the Local Public Agency, by written notice to the Contractor, may terminate the Contractor's right to proceed with the work. Upon such termination, the Local Public Agency may take over the work and prosecute the same to completion, by contract or otherwise, and the Contractor and his sureties shall be liable to the Local Public Agency for liquidated damages for any delay in the completion of the work as provided below. If the contractor's right to proceed is so terminated, the Local Public Agency may take possession of and utilize in completing the work such materials, tools, equipment, and plant as may be on the site of the work and necessary therefore.

b. Liquidated Damages for Delays.

If the work be not completed within the time stipulated in the project CONTRACT including any extensions of time for excusable delays as herein provided, the Contractor shall pay to the Local Public Agency as fixed, agreed, and liquidated damages for each calendar day of delay until the work is completed, the amount as set forth in the project CONTRACT and the Contractor and his sureties shall be liable to the Local Public Agency for the amount thereof.

c. Excusable Delays.

The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the work due:

- 1) To any acts of the Government, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, National Defense, or any other national emergency;
- 2) To any acts of the Local Public Agency;
- 3) To causes not reasonably foreseeable by the parties to the Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or the public enemy, acts of another Contractor in the performance of some other contract with the Local Public Agency, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions; and
- 4) To delay of any subcontractor occasioned by any of the causes specified in subparagraphs (1), (2) and (3) of this paragraph "C".

Provided, however, that the Contractor promptly notify the Local Public Agency within ten (10) days in writing of the cause of the delay. Upon receipt of such notification the Local Public Agency shall ascertain the facts and the cause and extent of delay. If, upon the basis of the facts and the terms of this contract, the delay is properly excusable, the Local Public Agency shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

112. ASSIGNMENT OR NOVATION

The Contractor shall not assign or transfer, whether by an assignment or revocation, any of its rights, duties, benefits, obligations, liabilities, or responsibilities under this Contract without the written consent of the Local Public Agency; provided, however, that assignments to banks, trust companies, or other financial institutions may be made without the consent of the Local Public Agency. No assignment or novation of this Contract shall be valid unless the assignment or revocation expressly provides that the assignment of any of the Contractor's rights or benefits under the Contract is subject to a prior lien for labor performed, services rendered, and materials, tools, and equipment supplied for the performance of the work under this Contract in favor of all persons, firms, or corporations rendering such labor or services or supplying such materials, tools, or equipment.

113. DISPUTES

a. All disputes arising under this Contract or its interpretation except those disputes covered by FEDERAL LABOR STANDARDS PROVISIONS General Conditions Part II, whether involving law or fact or both, or extra work, and all claims for alleged breach of contract shall within ten (10) days of commencement of the dispute be presented by the Contractor to the Local Public Agency for decision. All papers pertaining to claims shall be filed in quadruplicate. Such notice need not detail the amount of the claim but shall state the facts surrounding in the claim in sufficient detail to identify the claim, together with its character and scope. In the meantime the Contractor shall proceed with the work as directed. Any claim not presented within the time limit specified this paragraph shall be deemed to have been waived, except that if the claim is of a continuing character and notice of the claim is not given within ten days of its commencement, the claim will be considered only for a period commencing ten (10) days prior to the receipt by the Local Public Agency of notice thereof.

b. The Contractor shall submit in detail his claim and his proof thereof. Each decision by the governing body of the Local Public Agency will be in writing and will be mailed to the Contractor by registered mail, return receipt requested.

c. If the Contractor does not agree with any decision of the Local Public Agency, he shall in no case allow the dispute to delay the work but shall notify the Local Public Agency promptly that he is proceeding with the work under protest and he may then accept the matter in question from the final release.

114. TECHNICAL SPECIFICATIONS AND DRAWINGS

Anything mentioned in the Technical Specifications and not shown on the Drawings or shown on the Drawings and not mentioned in the Technical Specifications shall be of like effect as if shown on or mentioned in both. In case of difference between Drawings and Technical Specification, the Technical Specifications shall govern. In case of any discrepancy in Drawings, or Technical Specifications, the matter shall be immediately submitted to the Local Public Agency, without whose decision, said discrepancy shall not be adjusted by the Contractor, save only at his own risk and expense.

115. SHOP DRAWINGS

a. All required shop drawings, machinery details, layout drawings, etc., shall be submitted to the Engineer in two copies for approval sufficiently in advance of requirements to afford ample time for checking, including time for correcting, resubmitting and re-checking if necessary. The Contractor may proceed, only at his own risk, with manufacture or installation of any equipment or work covered by said shop drawings until they are approved and no claim, by the Contractor, for extension of the contract time will be granted by reason of his failure in this respect.

b. Any drawings submitted without the Contractor's stamp of approval will not be considered and will be returned to him for proper resubmission. If any drawings show variations from the requirements of the Contract because of standard shop practice or other reason, the Contractor shall make specific mention of such variation in his letter of transmittal in order that, if acceptable, suitable action may be taken for proper adjustment of contract price and/or time otherwise the Contractor will not be relieved of the responsibility for executing the work in accordance with the Contract even though the drawings have been approved.

c. If a shop drawing is in accord with the contract or involves only a minor adjustment in the interest of the Local Public Agency not involving a change in contract price or time, the Engineer may approve the drawing. The approval shall be general, shall not relieve the Contractor, from his responsibility for adherence to the contract or for any error in the drawing and shall contain in substance the following:

"The modification shown on the attached drawing is approved in the interest of the Local Public Agency to effect an improvement for the Project and is ordered with the understanding that it does not involve any change in the Contract Price or time, that it is subject generally to all Contract stipulation and covenants; and that it is without prejudice to any and all rights of the Local Public Agency under the Contract and surety bond or bonds."

116. REQUESTS FOR SUPPLEMENTARY INFORMATION

It shall be the responsibility of the contractor to make timely requests of the Local Public Agency for any additional information not already in his possession which should be furnished by the Local Public Agency under the terms of this Contract, and which he will require in the planning and execution of the work. Such requests may be submitted from time to time as the need is approached, but each shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay. Each request shall be in writing, and list the various items and the latest date by which each will be required by the Contractor. The first list shall be submitted within two weeks after Contract award and shall be as complete as possible at that time. The Contractor shall, if requested, furnish promptly any assistance and information the Engineer may require in responding to these requests of the Contractor. The Contractor shall be fully responsible for any delay in his work or to others arising from his failure to comply fully with the provisions of this Section.

117. MATERIALS AND WORKMANSHIP

a. Unless otherwise specifically provided for in the Technical Specifications, all workmanship, equipment, materials and articles incorporated in the work shall be new and the best grade of the respective kinds for the purpose. Where equipment, materials, articles or workmanship are referred to in the Technical Specifications as "equal to" any particular standard, the Engineer shall decide the question of equality.

b. The Contractor shall furnish to the Local Public Agency for approval the manufacturer's detailed specifications for all machinery, mechanical and other special equipment, which he contemplates installing together with full information as to type, performance characteristics, and all other pertinent information as required, and shall likewise submit for approval as required full information concerning all other materials or articles which he proposes to incorporate in the work. (See Section SAMPLES, CERTIFICATES AND TESTS under GENERAL CONDITIONS, PART 1.)

c. Machinery, mechanical and other equipment, materials or articles installed or used without such prior approval shall be at the risk of subsequent rejection.

d. Materials specified by reference to the number or symbol of specific standard, such as an A.S.T.M. Standard, 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 for Bids, except as limited to type, class or grade, or modified in such reference. The standards referred to, except as modified in the Technical Specifications shall have full force and effect as though printed therein.

e. The Local Public Agency may require the Contractor to dismiss from the work such employee or employees as the Local Public Agency or the Engineer may deem incompetent, or careless, or insubordinate.

118. SAMPLES, CERTIFICATES AND TESTS

a. The Contractor shall submit all material or equipment samples, certificates, affidavits, etc., as called for in the contract documents or required by the Engineer, promptly after award of the contract and acceptance of the Contractor's bond. No such material or equipment shall be manufactured or delivered to the site, except at the Contractor's own risk, until the required samples or certificates 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 an extension of the contract time.

Each sample submitted by the Contractor shall carry a label giving the name of the Contractor, the project for which it is intended, and the name of the producer. The accompanying certificate or letter from the Contractor shall state that the sample complies with contract requirements, 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 which will assist the Engineer in passing upon the acceptability of the sample promptly. It shall also include the statement that all materials or equipment furnished for use in the project will comply with the samples and/or certified statements.

b. Approval of any materials shall be general only and shall not constitute a waiver of the Local Public Agency's right to demand full compliance with Contract requirements. After actual deliveries, the Engineer will have such check tests made as he deems necessary in each instance and may reject materials and equipment and accessories for cause, even though such materials and articles have been given general approval. If materials, equipment or accessories, which fail to meet check tests, have been incorporated in the work, the Engineer will have the right to cause their removal and replacement by proper materials or to demand and secure such reparation by the Contractor as is equitable.

c. Except as otherwise specifically stated in the Contract, 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, except those samples taken on the project by the Engineer;

(2. The Contractor shall assume all costs of re-testing materials that fail to meet contract requirements;

(3. The Contractor shall assume all costs of testing materials offered in substitution for those found deficient; and

(4. The Local Public Agency will pay all other expenses.

119. PERMITS AND CODES

a. The Contractor shall give all notices required by and comply with all applicable laws, ordinances, and codes of the Local Government. All construction work and/or utility installations shall comply with all applicable ordinances, and codes including all written waivers. Before installing any work, the Contractor shall examine the Drawings and Technical Specifications for compliance with applicable ordinances and codes and shall immediately report any discrepancy to the Local Public Agency. Where the requirements of the Drawings and Technical Specifications fail to comply with such applicable ordinances or codes, the Local Public Agency will adjust the Contract by Change Order to conform to such ordinances or codes (unless waivers in writing covering the difference have been granted by the governing body or department) and make appropriate adjustment in the Contract Price or stipulated unit prices.

Should the Contractor fail to observe the foregoing provisions and proceed with the construction and/or install any utility at variance with any applicable ordinance or code, including any written waivers (notwithstanding the fact that such installation is in compliance with the Drawings and Technical Specifications), the Contractor shall remove such work without cost to the Local Public Agency, but a Change Order will be issued to cover only the excess cost the Contractor would have been entitled to receive if the change had been made before the Contractor commenced work on the items involved.

b. The Contractor shall at his own expense, secure and pay to the appropriate department of the Local Government the fees or charges for all permits for street pavement, sidewalks, sheds, removal of abandoned water taps, sealing of house connection drains, pavements cuts, buildings, electrical, plumbing, water, gas and sewer permits required by the local regulatory body or any of its agencies.

c. The Contractor shall comply with applicable local laws and ordinances governing the disposal of surplus excavation, materials debris and rubbish on or off the Project Area and commit no trespass on any public or private property in any operation due to or connected with the Improvements embraced in this Contract.

120. CARE OF WORK

a. The Contractor shall be responsible for all damages to person or property that occur as a result of his default or negligence in connection with the prosecution of the work and shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance, whether or not the same has been covered in whole or in part by payments made by the Local Public Agency.

b. The Contractor shall provide sufficient competent watchmen, both day and night, including Saturdays, Sundays and holidays, from the time the work is commenced until final completion and acceptance.

c. In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorization from the Local Public Agency, 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 to do so by the Local Public Agency. Any compensation claimed by the Contractor on account of such emergency work will be determined by the Local Public Agency as provided in the Section - CHANGES IN THE WORK under GENERAL CONDITIONS, PART 1.

d. The Contractor shall avoid damage as a result of his operations to existing sidewalks, streets, curbs, pavements, utilities (except those which are to be replaced or removed), adjoining property, etc., and he shall at his own expense completely repair any damage thereto caused by his operations.

e. The Contractor shall shore up, brace, underpin, secure and protect as may be necessary, all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be in any way affected by the excavations or other operations connected with the construction of the Improvements embraced in this Contract. The Contractor shall be responsible for the giving of any and all required notices to any adjoining or adjacent property owner or other party before the commencement of any work. The Contractor shall indemnify and save harmless the Local Public Agency from any damages on account of settlements or the loss of lateral support of adjoining property and from all loss or expense and all damages for which the Local Public Agency may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.

121. ACCIDENT PREVENTION

a. The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building and construction codes shall be observed and the Contractor shall take or cause to be taken such additional safety and health measures, as the Local Public Agency may determine to be reasonably necessary. Machinery, equipment and all 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 are not in conflict with applicable local laws.

b. The Contractor shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment on work under the Contract. The Contractor shall promptly furnish the Local Public Agency with reports concerning these matters.

c. The Contractor shall indemnify and save harmless the Local Public Agency from any claims for damages resulting from personal injury and/or death suffered or alleged to have been suffered by any person as a result of any work conducted under this contract.

122. SANITARY FACILITIES

The Contractor shall furnish, install, and maintain ample sanitary facilities for the workmen. As the needs arise, a sufficient number of enclosed temporary toilets shall be conveniently placed as required by the sanitary codes of the State and Local Government. Drinking water shall be provided from an approved source, so piped or transported as to keep it safe and fresh and served from single service containers or satisfactory types of sanitary drinking stands or fountains. All such facilities and services shall be furnished in strict accordance with existing and governing health regulations.

123. USE OF PREMISES

a. The Contractor shall confine his equipment, storage of materials, and construction operations to the Contract Limits as shown on the Drawings and as prescribed by ordinances or permits, or as may be desired by the Local Public Agency, and shall not unreasonably encumber the site or public rights of way with his materials and construction equipment. The CONTRACTOR shall be responsible for any damages or maintenance costs due directly to the use of such sections.

b. The Contractor shall comply with all reasonable instructions of the Local Public Agency and the ordinances and codes of the Local Government, regarding signs, advertising, traffic, fires, explosives, danger signals, and barricades.

c. The CONTRACTOR shall locate existing buildings, plantings, pavings, utility services (both overhead and underground), etc., and shall protect same from damage during construction. Should such damage occur, repairs shall be made in a manner satisfactory to the OWNER and Landscape Architect at the CONTRACTOR'S expense.

124. REMOVAL OF DEBRIS, CLEANING, ETC.

The Contractor shall, periodically or as directed during the progress of the work, remove and legally dispose of all surplus excavated material and debris, and keep the Project Area and public rights of way reasonably clear. Upon completion of the work, he shall remove all temporary construction facilities, debris and unused materials provided for the work, and put the whole site of the work and public rights of way in a neat and clean condition. Trash burning on the site of the work will be subject to prior approval of the Local Public Agency and existing State and Local regulations.

125. INSPECTION

a. All materials and workmanship shall be subject to inspection, examination, or test by the Local Public Agency and the Engineer at any and all times during manufacture or construction and at any and all places where such manufacture or construction is carried on. The Local Public Agency shall have the right to reject defective material and workmanship or require its correction. Unacceptable workmanship shall be satisfactorily corrected. Rejected material shall be promptly segregated and removed from the Project Area and replaced with material of specified quality without charge therefore. If the Contractor fails to proceed at once with the correction of rejected workmanship or defective material, the Local Public Agency may by contract or otherwise have the defects remedied or rejected materials removed from the Project Area and charge the cost of the same against any moneys which may be due the Contractor, without prejudice to any other rights or remedies of the Local Public Agency.

b. The Contractor shall furnish promptly all materials reasonably necessary for any tests that may be required. See Section - SAMPLES, CERTIFICATES AND TESTS under the GENERAL CONDITIONS, PART -1. All tests by the Local Public Agency will be performed in such manner as not to delay the work unnecessarily and shall be made in the Technical Specifications.

c. The Contractor shall notify the Local Public Agency sufficiently in advance of backfilling or concealing any facilities to permit proper inspection. If any facilities are concealed without approval or consent of the Local Public Agency, the Contractor shall uncover for inspection and recover such facilities all at his own expense, when so requested by the Local Public Agency.

Should it be considered necessary or advisable by the Local Public Agency at any time before final acceptance of the entire work to make an examination of work already completed by uncovering the same. The Contractor shall on request promptly furnish all necessary facilities, labor, and material. If such work is found to be defective in any important or essential respect, due to fault of the Contractor or his subcontractors the Contractor shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, the actual cost of labor and material necessarily involved in the examination and replacement, plus 15 percent of such costs to cover superintendence, general expenses and profit, shall be allowed the Contractor and he shall, in addition if completion of the work of the entire Contract has been delayed thereby, be granted a suitable extension of time on account of the additional work involved.

d. Inspection of materials and appurtenances to be incorporated in the Improvements embraced in this Contract may be made at the place of production, manufacture or shipment, whenever the quantity justifies it, and such inspection and acceptance, unless otherwise stated in the Technical Specifications, shall be final except as regards (1) latent defects, (2) departures from specific requirements of the Contract, (3) damage or loss in transit, or (4) fraud or such gross mistakes as amount to fraud. Subject to the requirements contained in the preceding sentence, the inspection of materials as a whole or in part will be made at the Project Site.

e. Neither inspection, testing, approval nor acceptance of the work in whole or in part, by the Local Public Agency or its agents shall relieve the Contractor or his sureties of full responsibility for material furnished or work performed not in strict accordance with the Contract.

f. Any work performed within the right-of-way of any Pennsylvania Department of Transportation highway, roadway or travel way shall be subject to inspection by a representative of the Pennsylvania Department of Transportation. It shall be the responsibility of the Local Government to reimburse the Pennsylvania Department of Transportation for any and all such inspection services.

126. REVIEW BY LOCAL PUBLIC AGENCY

The Local Public Agency, its authorized representatives and agents and the DCED Representative for the Administrator as defined under GENERAL CONDITIONS- PART II shall, at all times have access to and be permitted to observe and review all work, materials, equipment, payrolls, personnel records, employment conditions, material invoices, and other relevant data and records pertaining to this Contract, provided, however, that all instructions and approval with respect to the work will be given to the Contractor only by the Local Public Agency through its authorized representatives or agents.

127. FINAL INSPECTION

When the Improvements embraced in this Contract are substantially completed, the Contractor shall notify the Local Public Agency that the work will be ready for final inspection and shall give at least ten (10) days notice for final inspection to take place. If the Local Public Agency determines that the status of the Improvements is as represented, it will make the arrangements necessary to have final inspection commenced on the date stated in the notice, or as soon thereafter as is practicable. The inspection party may also include the DCED Representative and representatives of each department of the Local Government having in charge improvements of like character when such Improvements are later to be accepted by the Local Government.

128. DEDUCTION FOR UNCORRECTED WORK

If the Local Public Agency deems it not expedient to require the Contractor to correct work not done in accordance with the Contract Documents, an equitable deduction from the Contract Price will be made by agreement between the Contractor and the Local Public Agency and subject to settlement, in case of dispute, as herein provided.

129. INSURANCE

a. The Contractor shall carry or require that there be carried Workmen's Compensation Insurance for all his employees and those of his subcontractors engaged in work at the site, in accordance with State or Territorial Workmen's Compensation Laws.

b. The Contractor shall carry Manufacturer's and Contractor's Public Liability Insurance with limits of not less than \$100,000 workman's Comp and \$100,000 liability to protect the Contractor and his subcontractors against claims, because of accidents which may occur or result from operations under the Contract; such insurance shall cover the use of all equipment, including but not limited to excavating machinery, trenching machines, cranes, hoists, rollers, concrete mixers, and motor vehicles, in the construction of the Improvements embraced in this contract.

c. The Contractor shall carry, during the life of the Contract, Property Damage Insurance in an amount not less than \$20,000 to protect him and his subcontractors from claims for property damage which might arise from operations under the contract.

d. Before commencing work, the Contractor shall submit evidence of the coverage required above to the Local Public Agency for review and approval. New policies from other companies shall be provided in place of those disapproved. Such insurance shall be carried with financially responsible insurance companies, licensed in the State and approved by the Local Public Agency, and shall be kept in force until the Contractor's work is accepted by the Local Public Agency. Contracts of insurance (covering all operations under this Contract), which expire before the Contractor's work is accepted by the Local Public Agency, shall be renewed and evidence submitted to the Local Public Agency for its approval.

130. PATENTS

The Contractor shall hold and save the Local Public Agency, its officers, and employees, harmless from liability of any nature or kind, including costs and expenses for or on account of, any patented or un-patented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the Local Public Agency, unless otherwise specifically stipulated in the Technical Specifications.

131. WARRANTY OF TITLE

No material, supplies, or equipment for the work shall be purchased subject to any chattel mortgage or under a conditional sale 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 Local Public Agency free from any claims, liens, or charges. 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 a lien upon improvement or appurtenance thereon. Nothing contained in this paragraph, however, shall defeat or impair the right of persons furnishing materials or labor to recover under any bond given by the Contractor for their protection or any rights under any law permitting such persons to look to funds due the Contractor in the hands of the Local Public Agency. The provisions of this paragraph 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.

132. GENERAL GUARANTY

Neither the final certificate of payment nor any provision in the Contract nor partial or entire use of the Improvements embraced in this Contract by the Local Public Agency or the public shall constitute an acceptance of work not done in accordance with the Contract or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall promptly remedy any defects in the work and pay for any damage to other work, resulting there from, which shall appear within a period of 12 months' from the date of final acceptance of the work. The Local Public Agency will give notice of defective materials and work with reasonable promptness.

133. EXPLOSIVES AND BLASTING

Blasting shall not be allowed

134. PRECONSTRUCTION CONFERENCE

A pre-construction conference is to be held by the Local Public Agency with the contractor and his subcontractors. The purpose of the conference is to assure that the contractor and his subcontractors understand and accept their contract obligations under Executive Order 11246 and understand the Local Public Agency's role in the enforcement of those contract obligations.

The Contractor shall be represented by officials who will be directly responsible for the selection of the work force and for supervision over construction workers. Executive Order 11246 requires that the Contractor provide equal employment opportunity in all aspects of his employment.

135. INTEREST OF MEMBERS OF THE COMMONWEALTH AND OTHERS

a. No officer, member, or employee of the Commonwealth and no member of its governing body who exercises any functions or responsibilities in the review or approval of services being performed under this Contract shall participate in any decision relating to this Contract, which affects his personal interest or the Interest of any corporation, partnership, or association in which he is directly or indirectly interested; nor shall any such officer, member, or employee of the Commonwealth and no member of its governing body have any interest, direct or indirect, in this Contract or the proceeds thereof.

b. No member of the governing body of the Local Public Agency who exercises any functions or responsibilities in connection with the carrying out of the Project to which this Contract pertains, and no other officer or employee of the Local Public Agency who exercises any such functions or responsibilities, shall have any private interest, direct or indirect, in this Contract which is incompatible or in conflict with the discharge of fulfillment of his functions and responsibilities in connection with the carrying out of the Project to which this Contract pertains.

136. PROHIBITION AGAINST PAYMENTS OF BONUS OR COMMISSION

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of obtaining DCED approval of the application for additional assistance, or any other approval or concurrence of DCED required under this Agreement, Title I of the Housing and Community Development Act of 1974 or DCED regulations with respect thereto. Provided, however, that reasonable fees or bona fide technical consultant managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

137. CERTIFICATION OF ELIGIBILITY

By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person of firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government Contracts.

PART IV
FEDERAL REQUIREMENTS

GENERAL CONDITIONS

FEDERAL REQUIREMENTS

All bidders must comply with the following Federal requirements:

1. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) as stated in 24 CFR 570.496.

"No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Title."

2. Executive Order 11063, as amended.

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

3. Executive Order 11246.

- A.) If the contract amount is less than \$10,000 the following conditions shall apply:

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 actions shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Local Public Agency setting forth the provisions of this nondiscrimination clause.
- 2) The Contractor will, in all solicitation or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- 3) The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

- B. If the contract amount exceeds \$10,000 the following conditions shall apply:

- 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 consideration 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 worker's 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 of September 24, 1965; and the rules, regulations and relevant orders of the Secretary of Labor.
- 5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- 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 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations, 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 (b-1) and the provisions of paragraphs (b-1) through (b-7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued, pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Contracting 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 Contracting Agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE
EQUAL EMPLOYMENT OPPORTUNITY

(EXECUTIVE ORDER 11246)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:
 - a. Goals and timetables for minority participation for each trade.
 - b. Goals and timetables for female participation in each trade.

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area. The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal 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 41CFRPart 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontractor; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is Lake City, Elk County, PA.

STANDARD FEDERAL EQUAL EMPLOYMENT
OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS

(EXECUTIVE ORDER 11246)

1. As used in these specifications:
 - a. "Covered area," means the geographical area described in the solicitation from which this contract resulted.
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.
 - c. "Employer Identification Number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

- (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, and the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North American and maintaining identifiable affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
 3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in 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.
 4. The Contractor shall implement the specific affirmative action standards provided in paragraphs "7A" through "P" of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization, the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.
 5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications. Executive Order 11246, or the regulations promulgated pursuant thereto.
 6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of labor.
 7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor's where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its union have employment opportunities available, and maintain a record of the organizations responses.
 - c. Maintain a current file of names, addresses and telephone numbers of each minority and female off-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall or referral and was not referred back to the Contractor by the union or referred, not employed by the Contractor, this shall be documented in the file with the reason thereafter, along with whatever additional actions the Contractor may have taken.
 - d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligation.
 - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations: by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
 - g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foreman, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and, place of these meetings, persons attending, subject matter discussed, and in disposition of the subject matter.
 - h. Disseminate the Contractor's EEO policy external1y by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
 - i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority 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 sources, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
 - j. Encourage present minority and female employees to recruit other minority persons and women, and where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.
 - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CPR Part 60-3.
 - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc. such opportunities.
 - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitation of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through p). 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 7a through p 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 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.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including, suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246 as amended, and its implementing regulations by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 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.
14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status, (e.g. mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form: however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application or requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Small Communities Program).
16. Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et.seq.)

The Contractor, if the contract is in excess of \$2,000, and any of his subcontractors, shall comply with Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations contained in 29 CFR Part 5.

Under Section 103 of the Act, the Contractor and any of his subcontractors shall be required to compute the wages of every mechanic and laborer on the basis of standard work day of eight hours and a standard work week of forty hours. Work in excess of the standard work week is permissible, provided the worker is compensated at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in any week. Section 5 of the federal Labor Standards Provisions, as shown below, sets forth in detail the Section 103 requirements.

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

Federal Labor Standards Provisions.

Pennsylvania Department of Community and Economic Development Program.

1. Applicability

The Project or Program to which the work covered by this Contract pertains is being assisted by the Pennsylvania Department of Community and Economic Development Program and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

2. Minimum Wage Rates for Laborers and Mechanics

A. Minimum Wages.

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

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1)(ii)) and the Davis-Bacon poster (WH-U21) 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.

(2)

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

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination;

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

(c) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and DCED or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate) DCED, or its designee shall refer the questions, including the views of all interested parties and the recommendations of DCED or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise DCED or its designee within the 30-day period that additional time is necessary.

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

(3) 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.

- (4) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs, reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

B. Withholding.

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

C. Payrolls and Basic Records

- (1) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 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.
- (2)
- (a) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to DCED or its designee if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to DCED or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.
- (b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
- (1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5(a)(3)(i) and that such information is correct and complete;
 - (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;
 - (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (c) The weekly submission of 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 A.3(ii)(b) of this section.
- (d) The falsification of any of the above certification 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.

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

D. Apprentices and Trainees.

(1) 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 on the job site in any craft classification shall not be greater than the ratio Remitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, 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.

(2) Trainees.

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

(3) 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.

E. Compliance with Copeland Act requirements.

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

F. Subcontracts.

The Contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as DCED or its designee may by appropriate instruction require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all contract clauses in 29 CFR Part 5.5. 6.

G. 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.

H. 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.

I. Disputes concerning labor standards.

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

J. Certification of Eligibility.

(1) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(2) 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).

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

K. Complaints, Proceedings, or Testimony by Employees.

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

3. Contract Work Hours and Safety Standards Act

As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards

A. 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 work week in which he or she is employed on such work to work in excess of forty hours in such work week unless such laborer or mechanic received compensation, at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

B. Violation; liability for unpaid wages; liquidated damages.

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

C. Withholding for unpaid wages and liquidated damages.

DCED or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor such sums as may be determined to be

necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (B) of this paragraph.

D. Subcontracts.

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

4. Health and Safety

- A. No laborer or mechanic shall be required to work in surroundings or under working conditions, which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.
- B. The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96).
- C. The Contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of the Department of Community Affairs or the Secretary of Labor shall direct as a means of enforcing such provisions.

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701 u).

1. This Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701 u) as amended, the regulations issued at 24 CFR Part 135, and any applicable rules and orders of DCED issued thereunder prior to the execution of this Agreement. The Section 3 clause, set forth in 24 CFR Part 135.2Q(b) provides:

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

- A. The work to be performed under this contract is on a project assisted under the State's Small Communities program which provides Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1966, as amended, 12 U.S.C. 1701 u. Section 3 requires that to the greatest extent feasible opportunities from training and employment be given lower income residents of the project area and contracts for work in connection with the project to be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- B. The parties to the contract will comply with the provisions of said Section 3. The parties to the contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.
- C. The Contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment training.
- D. The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of these regulations. The Contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of these regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3 and the regulations set forth in 24 CFR Part 135, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

2. The Contractor agrees to abide by the Section 3 clause set for above and will also cause this Section clause to be inserted in any subcontracts entered into with third parties for work covered by this agreement.

3. Prior to the signing of the Contract, the Contractor shall prepare and submit to the Local Public Agency a preliminary statement of work force needs and identify targets for employment of trainees and regular work force, and for business utilization. Each subcontractor shall be

required by the Contractor to prepare and submit to the same documents as are required of the Contractor. Forms of statement and target identification, and the Contractor's Certification of Compliance meeting the requirements of this Section are attached hereto and incorporated herein by reference.

Lead Based Paint Requirements.

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

Clean Air and Clean Water Acts.

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

The Contractor and any of its subcontractors for work funded under the Agreement, which is in excess of \$100,000.00, agree to the following requirements:

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

Energy Conservation Provisions.

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

Section 109 of the Housing and Community Development Act of 1974.

"No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Title."

Executive Order 11625 - Minority Business Enterprise

- A. It is the policy of the Local Public Agency to take positive steps to maximize the utilization of minority business enterprises in all contract activity administered by the Local government.
- B. The Contractor will utilize his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract.

As used in this contract, the term "minority business enterprise" means a business, at least 50 percent of which is owned by minority group members, or in the case of publicly owned businesses, at least 51 percent of the stock is owned by minority group members. For the purpose of this definition, minority groups are members of Blacks, Hispanics, Asians, Native Americans, Alaskans or Pacific Islanders.

Executive Order 12138 - Women's Business Enterprise

- A. It is the policy of the Local Public Agency to take positive steps to maximize the utilization of women business enterprises in all contracts administered by the Local government.

- B. The Contractor will utilize his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract.

As used in this contract, the term "women business enterprise" means a business that is at least 51 percent owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

Age Discrimination Act of 1975

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

Section 504 Handicapped (if \$2,500 or over)

Affirmative Action for Handicapped Workers

- A. The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- B. The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- C. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- D. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- E. The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 504 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- F. The Contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, 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 Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

PART V
STATE REQUIREMENTS

STATE REQUIREMENTS

All Bidders must also comply with the following State requirements:

1. Pennsylvania Steel Products Procurement Act (Mo. 178-3).

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

2. Pennsylvania Human Relations Act, as amended.

- A. CONTRACTOR shall not discriminate against any employee, applicant for employment, independent contractor or any other person because of race, color, religious creed, ancestry, national origin, age or sex.

CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees or agents are treated during employment without regard to their race, color, religious creed, ancestry, national origin, age or sex. Such affirmative action shall include but is not limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training.

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

- B. CONTRACTOR shall in advertisements or requests for employment placed by it or on its behalf state all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age or sex.
- C. CONTRACTOR shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this non-discrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by CONTRACTOR.
- D. It shall be no defense to a finding of non-compliance with the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission of this non-discrimination clause that CONTRACTOR had delegated some of its employment practices to any union, training program or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the CONTRACTOR was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
- E. Where the practices of a union or of any training program or other source of recruitment will result in the exclusion of minority group persons, so that CONTRACTOR will be unable to meet its obligations under the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission, or this non-discrimination clause, CONTRACTOR shall then employ and fill vacancies through other nondiscriminatory employment procedures.
- F. CONTRACTOR shall comply with the Contract Compliance Regulations of the Pennsylvania Human Relations Commission, 16 PA Code Chapter 49 and with all laws prohibiting discrimination in hiring or employment opportunities. In the event of CONTRACTOR's non-compliance with the non-discrimination clause of this CONTRACT or with any such laws, this CONTRACT may, after hearing and adjudication be terminated or suspended, in whole or in part, and CONTRACTOR may be declared temporarily ineligible for further COMMONWEALTH contracts, and such other sanctions may be imposed and remedies invoked as provided by the Contract Compliance Regulations.
- G. CONTRACTOR shall furnish all necessary employment documents and records to, and permit access to its books, records and accounts by the contracting agency and the Human Relations Commission, for purposes of investigation to ascertain compliance with the provisions of the Contract Compliance Regulations, pursuant to §49.35 of these Regulations. If CONTRACTOR does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting agency or the Commission.
- H. CONTRACTOR shall actively recruit minority subcontractors or subcontractors with substantial minority representation among their employees.
- L. CONTRACTOR shall include the provisions of this non-discrimination clause in every subcontract, so that provisions will be binding upon each subcontractor.
- J. The terms used in this non-discrimination clause shall have the same meaning as in the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission, 16 PA Code Ch. 49.
- K. CONTRACTOR'S obligations under this clause are limited to the CONTRACTOR'S facilities within Pennsylvania, or where the contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.