

**SPECIFICATIONS AND CONTRACT DOCUMENTS**

**For**

**MEETING PLACE GREENWAY PROJECT**

**FOR**

**THE BOROUGH OF CHAMBERSBURG**

Issued

**AUGUST 6, 2024**

**Bids for items covered by these Specifications must be received by the Borough Secretary, 100 South Second Street, Chambersburg, Pennsylvania 17201, before 10:00 a.m., September 9, 2024.**

**Borough Contact Name: Robert Nolan, Storm Sewer System Inspector  
Telephone 717-251-2031  
[rnolan@chambersburgpa.gov](mailto:rnolan@chambersburgpa.gov)**

Proposal Submitted By:

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\_\_\_\_\_  
\_\_\_\_\_

## NOTICE - SEEKING BIDS

### MEETING PLACE GREENWAY PROJECT

The Borough of Chambersburg is accepting sealed bids for the Meeting Place Greenway Project. A complete proposal packet may be obtained from Jamia L. Wright, Borough Secretary, Borough of Chambersburg, 100 South Second Street, Chambersburg, PA 17201 for a \$15.00 non-refundable fee made to the Borough of Chambersburg or by downloading it free from the Borough of Chambersburg Website; [www.borough.chambersburg.pa.us](http://www.borough.chambersburg.pa.us).

The Meeting Place Greenway Project work entails the removal of approximately 25,000 sq. ft. of an asphalt, concrete and gravel parking lot. Amended topsoil and sod will be installed after removal. The remaining adjacent asphalt will be delineated with a concrete curb to create a boundary between the parking lot and the greenway. Two inoperable light poles and concrete bases will be removed. To provide pedestrian connectivity and handicapped access to the greenway, a 12ft. asphalt path will be installed adjacent to the Conococheague Creek. This pathway will connect to the sidewalk along West Washington St. to the greenway. Wooden bollards will be installed at the end of the walkway as it connects to West Washington St. Wooden bollards, low level lighting, benches and a trash receptacle will be installed along the east side of the walkway. A storm sewer inlet will be installed under the walkway at the lowest point of elevation. Please be advised that this project is funded through a federal Community Development Block Grant. The successful Bidder is required to adhere to all compliance requirements associated with the funding. Such requirements may be found in the grant agreement included in the bid packet.

A Proposal Bond in the amount of ten percent (10%) of the bidder's maximum bid price is required to be accompanied with a Bid. A Performance Bond and Payment Bond each in the amount of one hundred percent (100%) of the contract price shall be required from the Successful Bidder. An anti-collusion affidavit is required for this Bid. The Contract will be subject to the Davis-Bacon Wage Determination established by the United States Department of Labor. Other federal labor standard provisions also apply to this Project including, but not limited to Section 3 and MBE/WBE requirements.

A **MANDATORY pre-bid meeting** will be held on **MONDAY, AUGUST 26, 2024 at 10:00 a.m.** at Borough Hall, 100 South Second Street, Chambersburg, Pennsylvania.

Bids shall be submitted only on the MS-944 Form included in the Bidding Documents. Bids will be based on a unit price. While Bidders may make comments to clarify their bid, Bidders cannot change, modify, delete, alter, amend, or make additions to the wording to any of the Bidding Documents, including but not limited to the Agreement. Unauthorized conditions, exceptions, limitations, or provisions attached to a Bid may be cause for rejection of the Bid. Any questions regarding the Bidding Documents shall be submitted as Requests for Interpretation and the Bidding Documents may only be modified by Addenda issued by the Borough prior to the Bid opening date.

The Town Council of the Borough of Chambersburg intends to award the Contract to the overall lowest responsible, responsive Bidder, as determined by Town Council to be in the best interest of the Borough of Chambersburg. The Borough reserves the right to award none, all, one, or some combination of all the above items to the lowest bidder.

The Town Council reserves the rights to reject any or all Bids; to waive any defects, errors, omissions, irregularities or informalities in a Bid or the Bid procedure; and to accept any Bid which it may deem to be for or in the best interest of the Borough of Chambersburg.

Bids will be received at the above address until **10:00 a.m., on Monday, September 9, 2024**. Any Bid received after said date and time will be returned unopened. All Bids must be in a sealed envelope clearly marked "Bid for Borough of Chambersburg," bearing the name of the Bidder and "MEETING PLACE GREENWAY PROJECT." If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it. Please mail Bids to Attention: Jamia L. Wright, Borough Secretary.

Any Bidder and any member of the public may be present at the Bid opening.

Bids may be taken under advisement and the award of contract, if awarded, will be made within sixty (60) days after the date of the opening of the Bids, or otherwise provided by law. The Town Council reserves the rights to formally accept a Bid and award a Contract by public announcement at a regular meeting of the Town Council.

The Borough of Chambersburg is an Equal Opportunity Employer. Minority and women owned business and those defined as SERB's under State regulations are encouraged to submit proposals. Bidders certified under a federal DBE/MBE/WBE program are similarly encouraged to submit proposals.

## INSTRUCTIONS TO BIDDERS

### MEETING PLACE GREENWAY PROJECT

#### 1. Project Overview

The Borough of Chambersburg (the “Borough”) is seeking bids from qualified bidders for the general procurement of: “Meeting Place Greenway Project” (the “Work”), as further described in the Specifications herein.

In general, the Contract involves the competitive solicitation of the Meeting Place Greenway Project. The Meeting Place Greenway project entails the removal of approximately 25,000 sq. ft. of an asphalt, concrete and gravel parking lot. Amended topsoil and sod will be installed after this has been removed. The remaining adjacent asphalt will be delineated with a concrete curb to create a boundary between the parking lot and the greenway. Two inoperable light poles and concrete bases will be removed. To provide pedestrian connectivity and handicapped access to the greenway, a 12ft. asphalt path will be installed adjacent to the Conococheague Creek. This pathway will connect to the sidewalk along West Washington St. to the greenway. Wooden bollards will be installed at the end of the walkway as it connects to West Washington St. Wooden bollards, low level lighting, benches and a trash receptacle will be installed along the east side of the walkway. A storm sewer inlet will be installed under the walkway at the lowest point of elevation.

Bids will be based on unit prices, materials included. Please be advised that this project is funded through a federal Community Development Block Grant. The Contract will be subject to the Davis-Bacon Wage Determination established by the United States Department of Labor.

#### 2. Bidding Documents and Contract Documents

The Bidding Documents include the following documents:

- Notice/Advertisement
- Instructions to Bidders
- General Terms and Conditions
- Bidder Affidavit
- Non-Collusion Affidavit
- SAM.Gov Notice
- MS-944 Form
- Construction Plan Sheets
- Proposal Bond
- Agreement
- Performance Bond
- Payment Bond
- Public Works Employment Verification Form
- Affidavit RE Accepting Provisions of the Workman’s Compensation Act
- Affidavit of Compliance with the Pennsylvania Steel Products Procurement Act

- Specifications
- Notification of Inspection Form
- W-9 Form
- Receipt of Confirmation of Bidding and Contract Documents
- Nondiscrimination / Sexual Harassment Clause
- Addenda (if released by Borough)
- Receipt of Addenda (if Addenda is released by the Borough)
- Borough of Chambersburg Procurement Policy (Part 1, Part 2, Part 3 and Part 4)
- Borough of Chambersburg Drug-Free Workplace Certification
- Davis-Bacon Wage Determination
- CDBG compliance requirements including, but not limited to:
  - Supplemental Conditions of the Contract for Construction (HUD92554M)
  - Copeland Anti-kickback Act, 18 U.S.C. §874
  - Periodic On-Site Interview Form
  - MBE/WBE Section 3 Contract Solicitation and Commitment Statement
  - Section 3 Overview
  - US Department of Labor Weekly Payroll Form/Statement of Compliance

**3. Copies of Bidding Documents**

A complete set of Bidding Documents may be obtained by the Bidder at:

Borough of Chambersburg, 100 S. Second Street, Chambersburg, PA 17201.

The Bidding Documents may also be obtained electronically at [www.chambersburgpa.gov](http://www.chambersburgpa.gov). All prospective Bidders who obtained the Bidding Documents electronically must fax a “Receipt of Confirmation” form no later than 9:00 a.m. on September 9, 2024 to Jamia Wright at (717) 264-0224.

Complete sets of the Bidding Documents shall be used in preparing the Bid. The Borough does not assume responsibility for any errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

**4. Contractor**

The Successful Bidder will be known as the Contractor. The Successful Bidder to whom a contract is awarded as evidenced by the Agreement will be required to comply with all applicable federal and state laws, rules, regulations, orders and approvals, and all applicable Borough ordinances, rules and regulations.

**5. Qualifications of Bidders**

Upon the Borough’s request, a Bidder may be required to provide the Borough with at least three (3) references for similar work or product with applicable contact information within five (5) calendar days after the Bid opening date. These references shall verify that the Bidder has successfully delivered or performed similar projects or commodities. Submission of financial information is not required with the Bid, however, the Borough reserves the right to request such information within five (5) calendar days after the Bid opening date.

The bidding contractor and all proposed subcontractors are required to register with the System for Award Management (SAM.gov) and provide to the Borough verification of registration and Unique Entity Identifier (UEI). During review of the bid documents the Borough will verify that all contractors/subcontractors are registered and are not barred from performing work funded with federal, state, and/or local funds. Bid documents submitted to the Borough must include this form

completed by the contractor and all proposed subcontractors.

Each Bid must contain evidence of Bidder's qualification to do business in the Commonwealth of Pennsylvania, or covenant to obtain such qualification prior to and as a condition of the award of the Contract.

No contract will be awarded to, any person who is in arrears with the Borough upon debt or contract, or who is in default as surety or otherwise, upon any obligation to said Borough or whose work has heretofore proved unsatisfactory or dilatory.

## **6. Examination of Contract Documents and Site**

6.1 It is the responsibility of each Bidder before submitting a Bid to:

- 6.1.1 Examine and carefully study these Bidding Documents, including but not limited to any addenda;
- 6.1.2 Visit the site and become familiar with and be satisfied as to the general, local, and site conditions that may affect cost, progress, performance, and furnishing of the Work;
- 6.1.3 Consider all federal, state, and local laws and regulations that may affect cost, progress, performance, and furnishing of the Work;
- 6.1.4 Correlate the information known to Contractor, information and observations obtained from visits to the site, reports, and drawings identified in the Bidding Documents and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents; and
- 6.1.5 Promptly notify the Borough of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Bidding Documents.

The Borough shall, at its convenience, make facilities accessible to each Bidder for this purpose. Failure to arrange for inspection may disqualify Bidder.

6.2 Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the site is based upon information and data furnished to the Borough by the owners of such Underground Facilities or others, and the Borough does not assume responsibility for the accuracy or completeness thereof.

6.3 Before submitting a Bid, each Bidder shall be responsible to obtain such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Bidder and safety precautions and programs incident thereto or which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Bidding Documents.

## **7. Interpretations and Addenda**

Any questions or requests for interpretation of any provision of the Bidding Documents or the Project shall be made to Robert Nolan, Storm Sewer System Inspector, at 717-251-2031 or [rnolan@chambersburgpa.gov](mailto:rnolan@chambersburgpa.gov) at least seven (7) days prior to the submission deadline.

The Borough may issue an Addendum if deemed necessary by the Borough to address or clarify the Bidding Documents prior to the submission deadline. Questions received after pre-bid meeting may not be answered. Only questions answered by formal written Addenda will be binding. Oral statements, interpretations or clarifications will not be binding or legally effective. A Bidder who fails to acknowledge receipt of any such Addendum with its Bid, as documented in a "Receipt of Addenda" form will be construed as though the Addendum had been received and acknowledged.

## **8. Security**

8.1 All bonds shall be in the form prescribed by the Bidding Documents except as provided otherwise by laws or regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of this Paragraph 8.1, Contractor shall promptly notify the Borough and, within twenty (20) days after the event giving rise to such notification, provide another bond and surety.

8.2 Proposal Bonds. Each Bid must be accompanied by a Bid security made payable to the Borough in an amount of ten percent (10%) of Bidder's maximum Bid price and in the form of a certified or bank check or a Bid Bond (on form attached) issued by a surety meeting the requirements of this Paragraph 8. All instruments of Bid security shall be valid and remain in effect for at least one hundred twenty (120) days from the date of the bid opening. Substitute Bid Bond forms are not acceptable.

The Bid security of the Successful Bidder will be retained until such Bidder has executed the Agreement and furnished acceptable Contract bonds and insurance certificate, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish acceptable Contract bonds and insurance certificate within fifteen (15) days after the Notice of Intent to Award, the Borough may annul the Notice of Intent to Award and the full amount of the Bid security of that Bidder will be forfeited.

The Borough will return the Bid security and financial information, if any, of all Bidders, except the three apparent lowest responsible, responsive Bidders as determined by the Borough upon evaluation, within thirty (30) days after the date of Bid opening; and upon execution of the Agreement and furnishing of acceptable Contract bonds and insurance certificate by the Successful Bidder, the remaining Bid securities and financial information, if any, of each of the three lowest Bidders will also be returned.

8.3 Performance and Payment Bonds. When the apparent Successful Bidder delivers the signed Agreement to the Borough, it must be accompanied by the required Performance and Payment bonds on the forms provided in the Bidding Documents. Substitute Bond forms are not acceptable.

Contractor shall furnish performance and payment bonds, each in an amount equal to One

Hundred Percent (100%) of the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. These bonds shall remain in effect until two (2) years after the date when final payment becomes due or until completion of the correction period, whichever is later, except as provided otherwise by laws or regulations or by the Contract Documents.

**9. Liquidated or Other Damages**

Provisions for liquidated and other damages, if any, are set forth in the Agreement.

**10. Substitutions and "Or Equal" Items**

Bids shall be based on products, materials, equipment and methods covered in the Specifications and shown on any drawings included. When a specification includes the name or names of manufacturer(s), Bids shall be based on a product which: (1) meets all Specification requirements; and (2) is produced by one of the manufacturers specifically named in the Specifications for that particular Product.

Requests for substitutions, or for "or Equal" other those specified in the Specifications, will be considered by the Borough if submitted in writing at least five (5) days prior to the Bid opening date. The burden of proof of the merit of the proposed item is upon Bidder. The Borough's decision of approval or disapproval of a proposed item will be final. If the Borough approves any proposed item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

**11. Public Works Employment Verification Act**

The Contractor shall comply with the Pennsylvania Public Works Employment Verification Act, 71 P.S. § 656.1, *et seq.*, as it relates to public works contractors requiring to verify that newly hired employees are authorized to work in the United States, for certain public works contracts estimated to be in excess of Twenty-Five Thousand Dollars (\$25,000.00). In the event the amount of the bid is in excess of Twenty-Five Thousand Dollars (\$25,000.00) the Bidder is required to submit a completed Public Works Employment Verification Form to the Borough as a condition of award of the Contract.

**12. Pre-bid Meeting Information**

A MANDATORY pre-bid meeting will be held on **MONDAY, AUGUST 26, 2024 at 10:00 a.m.** at Borough Hall, 100 South Second Street, Chambersburg, Pennsylvania. Bidders are encouraged to attend and participate in the conference. Oral statements made at the pre-bid meeting by the Borough, its officers, employees, agents, and consultants may not be relied upon and will not be binding or legally effective. The Borough may release an Addendum in response to questions arising at the conference if deemed necessary or desirable by the Borough.

**13. MS 944 Form**

The PennDOT MS-944 Form contains seven (7) pages, including the Proposal and Contract, Attachment 1's for each street included under this Bid, Special Provisions to Contract (Attachment 1-A), and Proposal and Contract Instructions. The Bidder is hereby advised to review all ten (10) pages of the MS-944 form prior to submitting a proposal. The Bidder is required to complete Section B: Proposal, Attachment 1, and Special Provisions to Contract and return all ten (10) MS-944 pages with the submission of their Bid. The Bidder's MS-944 proposal information must be typewritten or printed. Additional information on the MS 944 Forms are located in this section under "Proposal and Contract Instructions – Form 944".

The following should be considered by Bidder with Bid submission:



**Tax:** Pennsylvania sales tax is **not** to be included in the Bid. Tax exemption certificate will be furnished to the Successful Bidder. The Borough is sales tax exempt. However, the Contractor is not exempt from the obligation to follow appropriate tax laws in the procurement of materials and services used in the performance of this contract. Bidder shall obtain legal advice to determine how and to what extent the Borough's tax exemption may be utilized by the Contractor. The Borough will provide, at the Contractor's request, documentation required to obtain applicable tax exemptions.

Freight: Freight to be prepaid and allowed. For all deliveries, FOB is site location:

**PROJECT SITE** \_\_\_\_\_, Chambersburg, PA 17201

**Prevailing Wage:** The Agreement will be subject to the Davis-Bacon Wage Determination established by the United States Department of Labor. The Contractor shall therefore pay at least the wage rates as determined in the decision of the United States Department of Labor and shall comply with the conditions of the Davis-Bacon Act, and the regulations issued thereto, to assure the full and proper payment of the rates. Included in the Specifications are duties of the Contractor under Davis-Bacon Act as well as the Davis-Bacon Wage Determinations that therefore may be applicable to this Project.

#### **14. Submission of Bids**

Bids shall be submitted no later than the time and place indicated in the Notice. All bids must be in a sealed envelope clearly marked "Bid for Borough of Chambersburg", bearing the name of the Bidder and "MEETING PLACE GREENWAY PROJECT". If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it. Please mail bids to Attention: Jamia L. Wright, Borough Secretary. The Bidder is solely responsible for delivering Bid to the Borough at the location of, and by the time of, the Bid opening designated in the Notice.

The following completed documents are to be submitted with the Bid and will become a condition of the Bid:

- SAM.gov Notice
- MS-944 Form
- Bidder Affidavit
- Non-Collusion Affidavit
- Proposal Bond
- Nondiscrimination / Sexual Harassment Clause
- Receipt of Addenda (if applicable)

Bidders may provide comments to clarify or describe their technical offer, **but Bidders cannot change, modify, delete, alter, amend or make additions to the wording to any of the Bidding Documents. Unauthorized conditions, exceptions, limitations, or provisions attached to the bid may be cause for rejection of the bid.** Any questions regarding the Bidding Documents shall be submitted as a request for interpretation and the Bidding Documents may only be modified by Addendum issued by the Borough prior to the Bid opening date.

In addition, the Bidder acknowledges and understands that any information received by the Borough may be subject to disclosure pursuant to the Pennsylvania Right to Know Law, 65 P.S. § 67.101, *et seq.*, and the Borough will process any and all requests made pursuant to the Pennsylvania Right to

Know Law in accordance with the Right to Know Law.

**15. Modification and Withdrawal of Bids**

Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.

After the Bid opening, Bidder may withdraw its Bid only by complying with applicable federal, state, or local laws and regulations. Unless prohibited by such applicable laws and regulations, or if there are no applicable laws and regulations, Bidder shall forfeit the entire amount of Bid security upon withdrawal of its Bid.

After the Bid opening, Bidder may withdraw its Bid, without forfeiture of Bid security, if Bidder submits credible evidence that there is an error in its Bid and such error was a clerical mistake as opposed to a judgment mistake and was due to an unintentional arithmetical error or an unintentional omission of a substantial quantity of the Work; provided: (1) notice of claim of the right to withdraw Bid is made in writing to the Borough within two business days after opening of Bids; and (2) the withdrawal of the Bid will not result in the awarding of the Contract on another Bid of the same Bidder, Bidder's partner, or a corporation or business venture owned by Bidder or in which Bidder has a substantial interest. A Bidder which is permitted to withdraw a Bid shall supply any products or labor to, or perform any subcontract or other work for, any entity awarded a Contract or subcontract for performance of the Work for which the withdrawn Bid was submitted.

**16. Bids to Remain Subject to Acceptance**

Bids shall remain open for a period of no more than sixty (60) days from the date of Bid opening unless award is delayed by a required approval from a governmental agency, the sale of bonds or notes, or the award of a grant or grants, in which event the Bids shall remain open for a period of no more than one hundred twenty (120) days from the date of Bid opening. The Borough will either award the Contract within the applicable time period or reject all Bids, returning the Bid security to the Bidders. Thirty (30)-day extensions of the date for the award may be made by the mutual written consent of the Borough and the apparent Successful Bidder.

**17. Award of Contract**

The Borough reserves the right, without limitation, to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, nonresponsive, unbalanced or conditional Bids and to reject the Bid of any Bidder, if the Borough believes that it would not be in the best interest of the project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by the Borough. The Borough also reserves the right to waive all irregularities or informalities not involving price, time or changes in the Work and to negotiate contract terms with the Successful Bidder.

The Borough will correct discrepancies in Bidder's mathematical totals. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

In evaluating Bids, the Borough may conduct such investigations as the Borough deems necessary or desirable to assist in the evaluation of any Bid and to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, and other persons and

organizations to perform and furnish the Work in accordance with the Contract Documents to the Borough's satisfaction within the prescribed time. The Borough reserves the right to interview Bidders.

If the Contract is to be awarded, the Borough will give the apparent Successful Bidder a Notice of Intent to Award within the time limits prescribed herein.

The Successful Bidder is required to complete an Internal Revenue Service Form (W-9) providing the Bidder's taxpayer identification number (TIN), address, and, if applicable, certification regarding backup withholding. The Successful Bidder must submit a completed W-9 Form along with the executed Agreement. The Borough may waive this provision in the event the Borough is in possession of an accurate and up to date W-9 form.

#### **18. Signing of Agreement**

When the Borough gives a Notice of Intent to Award to the apparent Successful Bidder, it will be accompanied by three (3) unsigned counterparts each of the Agreement (each with a copy of the Bid submission and, if applicable, a List of Proposed Subcontractors attached), the Payment and Performance Bonds, or other forms of financial security, Affidavit RE Accepting Provisions of the Workmen's Compensation Act, W-9 Form, Public Works Employment Verification Form and any other document the Borough requests be completed. Within fifteen (15) days thereafter, apparent Successful Bidder shall sign and deliver to the Borough the three (3) signed counterparts of the Agreement accompanied by the executed Performance and Payment Bonds (with a power-of-attorney certificate attached to each) or other forms of financial security, completed W-9 Form, Affidavit RE Accepting Provisions of the Workmen's Compensation Act, Affidavit of Compliance with Pennsylvania Steel Products Procurement Act, completed Public Works Employment Verification Form, required insurance certificate(s) and any other document requested to be completed by the Borough. The Notice of Intent to Award may be withdrawn, at the sole and absolute discretion of the Borough, if the apparent Successful Bidder does not execute, and deliver to the Borough the Agreement, together with the required Performance and Payment Bonds, W-9 Form, Public Works Employment Verification Form, Affidavit RE Accepting Provisions of the Workmen's Compensation Act, Affidavit of Compliance with Pennsylvania Steel Products Procurement Act, and insurance certificate(s), within fifteen (15) days from the date of the Notice of Intent to Award; Bidder shall be considered in Default, and the full amount of its Bid Bond shall be forfeited.

## **GENERAL TERMS AND CONDITIONS**

### **1. Labor and Equipment**

Contractor agrees to furnish all labor, tools and equipment and to pay all any and all costs and expenses necessary for or in connection with the Work to be completed hereunder in consideration of the payments hereinafter provided to be paid to Contractor by the Borough. The Borough may supply its own operators or may ask Contractor to supply its own operators, as indicated in the Specifications.

### **2. Inspection of Work or Equipment, Goods, Acceptance**

The Borough reserves the right to inspect the Contractor's Work, and direct changes to the Contractor's methods and procedures within the scope of the Contract. Periodic inspections may be performed by the Borough or its agents. The Contractor shall allow the Borough reasonable time to perform such inspections or tests. The Borough shall give prompt notice to the Contractor as to whether the Work appears to be conforming or non-conforming on the basis of any inspections or testing of conformity.

### **3. Warranty**

Contractor warrants and guarantees to the Borough that all Work will be performed and completed in accordance with the Contract Documents and will not be defective. Contractor shall guarantee workmanship against defects or failures for a period of two (2) years after the completion of the work as evidenced by final payment for projects that include construction or delivery of equipment. Neither final payment nor acceptance of the work shall relieve Contractor of responsibility for failure to comply with the Specifications. Contractor shall remedy any defects in his work that shall appear within a period of two (2) years from completion and acceptance, and shall bear the expense of repairing everything that has been destroyed or damaged by such defects.

With respect to breach of warranty claims by the Borough, the Borough shall provide Contractor with reasonably prompt written notice setting forth in sufficient detail the reasons for declaring that it believes a breach of warranty has occurred. The Borough shall give Contractor prompt notice of defects that become apparent. Contractor shall have ten (10) days from receipt of the written notice declaring the breach (or such longer period of time as the Borough may grant in writing) within which to cure the alleged breach. These provisions shall be in addition to all other rights and remedies available to the Borough under the Agreement and any applicable laws. In case of an emergency where delay would cause serious loss or damage, the Borough may undertake to have any defects repaired without previous notice to Contractor, and the expense of such repairs shall be borne by Contractor.

Contractor's warranty and guarantee excludes defects or damage caused by normal wear and tear under normal usage. The Borough and its officers, employees, agents, consultants and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.

### **4. Permits, Licenses, etc.**

All permits, licenses, inspections, ratings, certificates and/or approvals related to the installation of the Work, or delivery of such commodities is the sole responsibility of Contractor and all costs and/or expenses for such should be included in the bid proposal. Failure to obtain and maintain such permits shall constitute a breach of the Contract.

**5. Assignment**

No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such written consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

**6. Invoices and Payment**

All payments will be processed through the Borough's standard accounts payable system. Upon the completion and inspection of the Borough of all work set forth in the Notice to Proceed, Contractor shall submit invoices marked NET 30 DAYS. The invoice must include, at a minimum, the quantity and type of item plus unit price. Payments shall be subject to the retainage provisions of Paragraph 5.2 of the Agreement.

If the Borough objects to any portion of an Invoice, the Borough shall so notify the Contractor in writing within twenty (20) days of receipt of the invoice. The Borough shall identify the specific cause of the disagreement and shall pay when due that portion of the invoice not in dispute. Interest as stated above shall be paid by the Borough on all disputed invoiced amounts resolved in the Contractor's favor and unpaid for more than forty-five (45) days after date of the notice of the dispute.

**7. Insurance**

When the apparent Successful Bidder delivers the signed Agreement to the Borough it must be accompanied by the required insurance certificate on the latest version of the ACORD 25 Certificate of Insurance Form. Chambersburg, its elected officials and employees, are to be named as an additional insured on the Contractor's Certificate of Insurance. All policies of insurance shown on the Certificate of Insurance shall not be cancelled or materially changed until thirty (30) days prior notice has been given to the Borough. Contractor agrees to furnish an original copy prior to signing and maintain during the term of this Agreement, or until delivery of the goods, commodities, equipment, and/or deliverables is complete and until the Work is completed and approved by the Borough, at Successor Bidder's sole cost and expense, the following minimum types of insurance as specified herein.

Contractor shall maintain Workmen's Compensation insurance for all of his employees employed at the site of the project, and in case any work is sublet, Contractor shall require the subcontractor similarly to provide Workmen's Compensation insurance for all the latter's employees unless such employees are covered by the protection afforded by Contractor.

Contractor shall, at its sole cost and expense, maintain the following minimum types of insurance as specified herein during the lifetime of the Agreement:

**WORKMEN'S COMPENSATION**

Statutory limit as required by the Commonwealth of Pennsylvania.

**BUSINESS AUTOMOBILE**

Covering Any Automobile (Symbol I)

Bodily Injury Liability and  
Property Damage Liability

\$1,000,000 (CSL)

COMMERCIAL GENERAL LIABILITY (CGL)

General Aggregate Limit	\$1,000,000
Products-Completed Operations Aggregate Limit	\$1,000,000
Personal & Advertising injury Limit	\$1,000,000
Each Occurrence Limit	\$1,000,000
Fire Damage Limit	\$ 50,000
Medical Expense Limit	\$ 5,000
Umbrella/Excess Liability	\$1,000,000

The Borough, its elected officers and employees, shall be named an additional insured on the Contractor's CGL policy. Also, the Engineer, Engineer's Consultants and any other persons or entities identified in the Contract Documents shall be listed as an additional insured on the Contractor's CGL policy.

Any XCU exclusions shall be deleted from the policy and full coverage shall include, for property damage, liability for explosion hazards, collapse hazards, and underground property damage hazards.

Before starting work the Contractor shall furnish to the Borough for its examination and approval such policies of insurance with all endorsements, or a conformed specimen thereof certified by the agent of the insurance company, together with certificates of the insurance company of such insurance, such certificate to provide that insurance company will give the Borough ten (10) days written notice of any cancellation or change in the terms of such policy during the periods of coverage.

**8. Indemnification**

Contractor, and its subcontractors, if any, successors and assigns, its employees, agents, servants, and/or anyone acting under Contractor's control and/or Contractor's direction shall release, hold harmless, defend, and indemnify the Borough, its officers, elected officials, agents, representatives, and employees acting within the scope of their official duties from and against any and all damages, costs, claims, suits, demands and expenses (including but not limited to reasonable attorneys' fees) to the extent caused by the negligent acts, willful misconduct, errors, or omissions of Contractor, its employees, sub-contractors, agents, servants, and/or anyone acting under Contractor's control and/or Contractor's direction, in the performance of the requirements of the Contract. Contractor shall defend any lawsuit commenced against the Borough and shall pay any judgments and costs connected with such proceeding which are based upon the negligent acts or omissions of Contractor or its employees, agents, servants, and/or anyone acting under Contractor's control and/or Contractor's direction. If Contractor is successful in defending such a lawsuit, then the Borough will reimburse Contractor for its costs and expenses associated with such defense only to the extent that such liabilities arise from an action which can be properly brought against the Borough as an exception to governmental immunity in accordance with the Political Subdivision Tort Claims Act, 42 Pa.C.S.A. § 8541, *et seq.*, and in accordance with such limits of liability set forth in the Act. This Section 8 shall survive the termination of the Contract.

**9. Taxes**

All taxes of whatsoever kind, nature and description payable in respect to the performance of this agreement are to be paid by the Contractor unless otherwise provided by law.

## **10. Disputes**

Before any litigation is brought pursuant to the Contract, the parties hereto agree to submit any dispute between them to mediation. Such mediation shall be a condition precedent to either party instituting litigation unless a stay of an applicable statute of limitations or repose is necessary. Such mediation may be initiated by written request and will occur within thirty (30) days of such request. A mutually agreeable impartial mediator may be retained, if requested by either party, to assist in the mediation process. In the event the parties cannot agree to a mediator, the parties will continue to put forth names for a mutually agreeable time, after which litigation may be commenced in Franklin County Court of Common Pleas if a mediator is not agreed upon. In the event mediation does not result in the successful resolution of the dispute, either party may institute any and all actions necessary to protect their rights at law and/or equity in accordance with the Contract Documents. Any action shall exclusively be brought in the Court of Common Pleas in and for Franklin County, Pennsylvania.

## **11. Additional Contractor Compliance**

All Work performed under the Contract shall conform with all applicable Federal, State and local laws, including but not limited to the following, if applicable:

- a. Contactor shall comply with United States of America Davis-Bacon Act, 40 U.S.C. § 3141, *et seq.*, as amended, as applicable.
- b. Contractor is subject to the provisions of the Pennsylvania Steel Products Procurement Act of 1978, P.L. 6, as amended. The Act and amendments require that the Contractor use or furnish only steel products (as defined in the Act and amendments) which have been produced in the United States.
- c. Contractor is subject to the provisions of Pennsylvania Act 247 of 1972, as amended, relating to the prevention of environmental pollution and the preservation of public natural resources.
- d. Contractor is subject to the provisions of the Pennsylvania Human Relations Act No. 222 of 1955, as amended.
- e. Contractor is subject to the provisions of Pennsylvania Underground Utility Line Protection Act, Act 287 of 1974, as amended by Act 121 of 2008, which requires contractors to notify public utilities prior to starting excavation or demolition work.
- f. Contractor shall comply with the Pennsylvania Public Works Contract Regulation Law, as amended by Act 142 of 1994 as it relates to timely payment by Contractor and Subcontractor to its Subcontractors.
- g. Contractor shall comply with the Antbid-Rigging Act, 62 Pa.C.S.A § 4501, *et seq.*
- h. Contractor acknowledges and understands that any information received by the Borough may be subject to the Pennsylvania Right to Know Law, 65 P.S. § 67.101, *et seq.*, and the Borough will process any and all requests made pursuant to the Pennsylvania Right to Know Law in accordance with the Right to Know Law.
- i. Contractor shall comply with the Copeland Anti-kickback Act, 18 U.S.C. § 874, *see* 40 U.S.C. § 3145, as amended.

- j. Contractor is subject to the provisions of the False Claims Act, 31 U.S.C. § 3721, *et seq.*, as amended.
- k. Contractor shall accept, as applicable, the provisions of the act of June 2, 1915 (P.L. 736, No. 338), known as the Workers' Compensation Act, as amended.
- l. The Contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The Contractor shall carry out applicable requirements of [40 CFR part 33](#) in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.



## NONDISCRIMINATION / SEXUAL HARASSMENT CLAUSE

During the term of the Contract, the Contractor (known herein as “Covered Entity”), sub-grantee, contractors, sub-contractors, suppliers, vendors, and professional service providers, agree(s) as follows:

- A. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the Contract or any grant agreement, subgrant agreement, contract, or subcontract, the Covered Entity, a sub-grantee, a contractor, a subcontractor, or any person acting on behalf of the Covered Entity shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- B. The Covered Entity, any sub-grantee, contractor or any subcontractor or any person on their behalf shall not in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any of its employees.
- C. The Covered Entity, any sub-grantee, contractor or any subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the grant services are performed shall satisfy this requirement for employees with an established work site.
- D. The Covered Entity, any sub-grantee, contractor or any subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against any subgrantee, contractor, subcontractor or supplier who is qualified to perform the work to which the grant relates.
- E. The Covered Entity and each sub-grantee, contractor and subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws and regulations relating to nondiscrimination and sexual harassment. The Covered Entity and each sub-grantee, contractor and subcontractor further represents that it has filed a Standard Form 100 Employer Information Report (“EEO-1”) with the U.S. Equal Employment Opportunity Commission (“EEOC”) and shall file an annual EEO-1 report with the EEOC as required for employers’ subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Covered Entity, any sub-grantee, any contractor or any subcontractor shall, upon request and within the time periods requested by the Commonwealth or Borough, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the granting agency, Borough, and the Bureau of Diversity, Inclusion and Small Business Opportunities for the purpose of ascertaining compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause.
- F. The Covered Entity, any sub-grantee, contractor or any subcontractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subgrant agreement, contract or

subcontract so that those provisions applicable to sub-grantees, contractors or subcontractors will be binding upon each sub-grantee, contractor or subcontractor.

- G. The Covered Entity's and each sub-grantee's, contractor's and subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the grant agreement through the termination date thereof. Accordingly, the Covered Entity and each sub-grantee, contractor and subcontractor shall have an obligation to inform the Borough if, at any time during the term of the Contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
- H. The Borough may cancel or terminate the Contract and all money due or to become due under the Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the Borough or granting agency may proceed with debarment or suspension and may place the Covered Entity, sub-grantee, contractor, or subcontractor in the Contractor Responsibility File.

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Name of Bidder, Corporation, Firm or Individual

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

Authorized Representative

---

Please Print Signature

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Title

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Business Address of Bidder

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Phone #

**BIDDER AFFIDAVIT**

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The Specifications and all papers required by it and submitted herewith, the Contract, and all papers made a part hereof by its terms, are hereby made a part of this Proposal.

The undersigned Bidder hereby represents as follows:

- A. That he has carefully examined the Proposal, the Contract, and the Specifications.
  - B. That no officer, agent, or employee of the Borough of Chambersburg is personally interested directly or indirectly in this Proposal and the accompanying Contract or the compensation to be paid herein under.
  - C. That the Proposal is made without connection with any person, firm or corporation making a Proposal for the same work, and is in all respects fair and without collusion or fraud; and
  - D. That should this Proposal be accepted by the Borough of Chambersburg within sixty (60) days of the opening of bids (unless award is delayed by a required approval from a governmental agency, the sale of bonds or notes, or the award of a grant or grants, in which event this Proposal be accepted within one hundred twenty (120) days from the date of Bid opening), he will execute the Contract and furnish any other documents within the time and in the forms and amount required by the Contract and Specifications, and that upon his failure, neglect or refusal to do so, he shall forfeit to the Borough of Chambersburg the Proposal Security, not as a penalty, but as a liquidated damage.
- 

\_\_\_\_\_  
Name of Bidder, Corporation, Firm or Individual

By: \_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Please Print Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Business Address of Bidder

\_\_\_\_\_  
Phone #

**AFFIDAVIT OF COMPLIANCE WITH PENNSYLVANIA STEEL PRODUCTS  
PROCUREMENT ACT**

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

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

I state that I am \_\_\_\_\_ of \_\_\_\_\_  
(title) (Name of Firm)

\_\_\_\_\_ and that I am authorized to make this affidavit on behalf of my firm and its owners, directors and officers. I am the person responsible in my firm for the conditions of this Bid.

I state that:

(1) My firm shall comply with the provisions of the Act of March 3, 1978 (P.L. 6, No. 3) as amended, known as the "*Steel Procurement Act*" in response to the conditions set forth in the Contract Documents, for which this Bid is submitted.

(2) \_\_\_\_\_ understands and acknowledges  
(Name of my Firm)  
that the above representations are material and important, and will be relied upon by Chambersburg Town Council in awarding the Contract(s) for which this Bid is submitted. I understand and my firm understands that any misstatement in this affidavit shall be treated as fraudulent concealment from Chambersburg Town Council of the true facts relating to the submission of Bids for this Contract.

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

\_\_\_\_\_  
(Name of Firm)

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

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

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

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

\_\_\_\_\_ being duly sworn, disposes and says that he/she is the

\_\_\_\_\_ of \_\_\_\_\_

and that the answers to the foregoing questions and all statements therein contained are true and correct.

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

\_\_\_\_\_  
(Notary Public)

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



# Borough of Chambersburg

*A full service municipality in Franklin County  
celebrating over 65 years of consumer owned natural gas service  
over 120 years of community electric and a  
regional wastewater, water, and municipal solid waste utility*

## SAM.GOV NOTICE

On **April 4, 2022**, the unique entity identifier used across the federal government changed from the DUNS Number to the Unique Entity ID (generated by SAM.gov).

- The Unique Entity ID is a 12-character alphanumeric ID assigned to an entity by SAM.gov.
- As part of this transition, the DUNS Number has been removed from SAM.gov.
- Entity registration, searching, and data entry in SAM.gov now require use of the new Unique Entity ID.
- Existing registered entities can find their Unique Entity ID by following the steps [here](#).
- New entities can get their Unique Entity ID at SAM.gov and, if required, complete an entity registration.

For more information about this transition, visit [SAM.gov](http://SAM.gov) or the Federal Service Desk, [FSD.gov](http://FSD.gov). You can search for help at [FSD](http://FSD) any time or request help from an FSD agent Monday–Friday 8 a.m. to 8 p.m. ET

Please note that the bidding contractor and any proposed subcontractors are required to register with the System for Award Management (SAM.gov) and provide to the Borough verification of registration and Unique Entity Identifier (UEI). **During review of the bid documents the Borough will verify that all contractors/subcontractors have registered and none have been disbarred from performing work funded with federal, state, and/or local funds.** Bid documents submitted to the Borough must include this form completed by the contractor and any proposed subcontractors.

I, \_\_\_\_\_, to the best of my knowledge confirm that the company I am representing has registered with the System for Award Management and am not disbarred from performing work funded with federal, state, and/or local funds.

UEI# \_\_\_\_\_

Printed Name \_\_\_\_\_

Company \_\_\_\_\_

Name \_\_\_\_\_

**ANTI-COLLUSION AFFIDAVIT**



County Franklin County

Municipality Borough of Chambersburg

Project Number 4061.0439-02

Fed. Project No. \_\_\_\_\_  
( If Applicable )

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

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

The undersigned deponent deposes and says that he is the \_\_\_\_\_  
of the \_\_\_\_\_ Company; that he is authorized to make this  
affidavit on behalf of said company in compliance with section 102.06 (e) of Department Specifications,  
Publication 408, as amended and that the said company has not, either directly or indirectly, entered  
into any agreement, participated in any collusion, or otherwise taken any action in restraint of free  
competitive bidding in connection with such contract.

\_\_\_\_\_  
(Contractor)

**BY**

\_\_\_\_\_

**Sworn to and subscribed before me the undersigned notary public this**

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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

My Commission expires \_\_\_\_\_





- 5 The contractor will comply with all requirements of the laws and implementing regulations of the Commonwealth of Pennsylvania and the United States relating to human relations, equal opportunity and non-discrimination in employment, and will pay to workmen employed in the performance of the contract the wages to which they may be entitled.
  
- 6 The contractor will provide the municipality with a performance bond, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions thereof, and a payment bond, conditioned on the prompt payment of all material furnished and labor supplied or performed in the prosecution of the work, in accordance with the Public Works Contractors' Bond Law of 1967; and an affidavit accepting the provisions of the Workmen's Compensation Act of 1915, as amended.

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**CONTRACTOR**

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
 TITLE: \_\_\_\_\_

WITNESSED OR ATTESTED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
 TITLE: \_\_\_\_\_

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TO BE EXECUTED ONLY IN THE EVENT THE ABOVE PROPOSAL IS ACCEPTED

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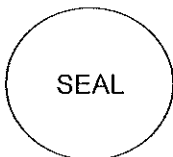
ACCEPTED ON : \_\_\_\_\_  
 DATE

Borough of Chambersburg  
 MUNICIPALITY

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

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

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



ATTESTED BY: \_\_\_\_\_  
 TITLE: \_\_\_\_\_

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**ATTACHMENT 1**

**TO MS - 944 ( PROPOSAL AND CONTRACT MS - 944 )**

County: Franklin County

Municipality: \_\_\_\_\_

Borough of Chambersburg

Project Number: \_\_\_\_\_

**LOCATION OF WORK:**

Meeting Place Greenway, Chambersburg, Pennsylvania

**DESCRIPTION OF WORK:**

The Meeting Place Greenway project entails the removal of approximately 25,000sqft of an asphalt, concrete and gravel parking lot. Amended top soil and sod will be installed after this has been removed. The remaining adjacent asphalt will be delineated with a concrete curb to create a boundary between the parking lot and the greenway. Two inoperable light poles and concrete bases will be removed. To provide pedestrian connectivity and handicapped access to the greenway, a 12ft. asphalt path will be installed adjacent to the Conococheague Creek. This pathway will connect to the sidewalk along West Washington St to the greenway. Wooden bollards will be installed at the end of the walkway as it connects to West Washington St. Wooden bollards, Low level lighting, benches and a trash receptacle will be installed along the east side of the walkway. Storm sewer inlet will be installed under the walkway at the lowest point of elevation.

ESCALATOR CLAUSE:( if adopted by Municipality.)

N/A

THIS PORTION TO BE COMPLETED BY THE MUNICIPALITY

**SCHEDULE OF PRICES**

Item No.	Approx Quantities	Unit	*Description	Unit Price	Total
1	1	LS	MOBILIZATION		
2	1	LS	MAINTENANCE AND PROTECTION OF TRAFFIC		
3	1	LS	GENERAL EROSION AND SEDIMENT POLLUTION		
4		SY	RIP-RAP APRON, R-4 ROCK FOR CONSTRUCTION DRIVEWAY AT SE CORNER OF PROJECT AREA		
5	1	EA	TYPE M CONCRETE INLET TOP UNIT AND GRATE		
6	1	EA	STANDARD INLET BOX		
7	1	EA	INSTALL 10' DRIVEWAY ENTRANCE AT SE CORNER OF PROJECT AREA WITH DEPRESSED CURB AND SIDEWALK. THIS IS THE SAME AREA AS THE CONSTRUCTION ENTRANCE. THIS WORK SHOULD BE COMPLETED AFTER CONSTRUCTION IS COMPLETE		
8	75+/-	TONS	SUPERPAVE 12.5MM PG64-22; WEARING COURSE 0.0-.03 MILLION ESAL SRL-M; 2" DEPTH HOT MIX ASPHALT OVERLAY; PRIME COAT INCIDENTAL. TACK COAT ENTIRE ROADWAY BEFORE WEARING COURSE IS APPLIED		
9	106+/-	TONS	SUPPLY AND PLACE SUPERPAVE 19MM PG64-22; LEVELING COURSE 0.0-0.3 MILLION ESAL SRL-M @3" DEPTH		
10	301+/-	TONS	SUB BASE 2A AGGREGATE @ 6" DEPTH		
11	2726+/-	SQ/YD	EXCAVATE EXISTING ASPHALT & STONE AREA UP TO 12" DEPTH & HAUL		
12	345+/-	LF	INSTALL PERMANENT ASPHALT PATCH ALONG SIDEWALK TO A WIDTH OF 12"; 5" DEPTH 25MM BASE COURSE		
13	1074+/-	CU/YD	INSTALL 12" OF AMENDED TOP SOIL UNDER SOD AREAS (LARGE FIELD & ALONG BOLLARDS		
14	34,000+/-	SQ/FT	SOD; TALL FESCUE, DELIVERED AND INSTALLED (LARGE FIELD & ALONG BOLLARDS & ON THE 10' WIDE BERM ALONG THE CREEK)		
15	1	EA	WATER SOD 1X PER WEEK FOR 8 WEEKS & GURANTEE THE SOD FOR 1 YR		
16	1,000	LF	TEMPORARY CONSTRUCTION FENCE; 6'H; CHAIN LINK. KEEP UP UNTIL SOD IS HEALTHY.		
17	6	CU/YD	INSTALL APPROX 6 CU/YD OF 1-3" RIVER ROCK FROM NW CORNER OF PROPERTY LINE BETWEEN THE TRAIL AND CURB FOR 100'. AREA IS APPROX 100'LX5'WX4"D		
18	500	SQFT	INSTALL APPROX 500 SQFT OF GEOTEXTILE CLOTH UNDER THE RIVERROCK 100'X5'		
19	1	EA	CONCRETE PAD FOR TRASH CAN; 12'L x 5'W; 6" D W/ STONE BASE		
20	2	EA	TRASH CAN; DUMOR #84-32; 32 GALLON LITTER RECEPTACLE		

21	2	EA	CONCRETE PAD FOR BENCHES; 10'L x 5'W; 6"D W/ STONE BASE		
22	1	EA	6' BENCH; DUMOR #58-30; 3 ARMS; GREEN		
23	4	EA	INSTALL 4 LANTERN LIGHT POLE; CMT (VALMONT BRAND); TB18-B-50-HS-T3; ROUND TAPERED; DIRECT BURIAL 3 FT; COMPOSITE POLE; BLACK FINISH; STANDARD HANDHOLD; SLIP FITLER; 32"		
24	4	EA	INSTALL 4 LANTERN LIGHTS; KENDALL ELECTRIC; AVPCL2-P201-MVOLT-30K-R2-BK-PR7-NL1-X1SCC ABL-AMERICAN ELECTRIC; POST TOP-LED VALIANT; FULL CUTOFF; P201 PERFORMANCE PACKAGE; 120-277V; 300K; ROADWAY TYPE II; BLACK; 7 PIN NEMA TWISTLOCK; 1"x1" NEMA; STANDARD CUPOLA COVER		
25	4	EA	INSTALL INGROUND JUNCTION BOXES; JUNCTION BOX - FORMED PLASTICS INC. 4121		
26	1		RUN CONDUIT AND WIRE TO EACH BOX AND TO THE LIGHT; CONTRACTOR SHALL INSTALL A MAINLINE 1.5" SCHEDULE 40 PVC CONDUIT AT MINIMUM OF 24" BELOW FINISHED GRADE FROM THE BOROUGHSUPPLIED POLE MOUNTED BREAKER LOCATION TO A SUITABLE UNDERGROUNJD JUNCTION BOX FOR EACH OF THE 4 LIGHT STANDARDS. FROM EACH JUNCTION BOX INSTALL A 3/4" FLEXIBLE UNDERGROUND CONDUIT INTO THE CABLE ENTRANCE HOLE IN THE POLE EXTENDING AT LEAST 18" INTO THE POLE. 18' FIBERGLASSS POLES SHALL BE INSTALLED TO A DEPTH OF 3' PER MANUFACTURER SPECIFICATION. QUANTITY OF 4 (BLACK, RED, WHITE AND GREEN) #10 THHN COPPER WIRES SHALL BE INSTALLED ALONG THE MAINLINE WITH 3 #12 THHN WIRES (BLACK, RED AND GREEN) TAPPING INTO EACH LIGHT STANDARD. SUITABLE INSULATED CONNECTORS SHALL BE USED TO MAKE THE CONNECTIONS WITHIN THE JUNCTION BOXES. IUMANARIES SHALL BE PROCURED, MOUNTED TO THE POLES, AND CONNECTED TO #12 WIRE ENTERING THE POLE FROM THE JUNCTION BOX		
27	1	EA	EXCAVATE AND REMOVE ALL ABANDONED UNDERGROUND WATER LINES WITHIN THE PROJECT AREA AND DISCONNECT IN THE STREET AT THE MAIN. INSTALL VALVE, CAP AND CURB BOX. PER BOROUGH WATER DEPT INSTRUCTIONS.		
28	1	EA	EXCAVATE AND REMOVE ALL ABANDONED UNDERGROUND GAS LINES WITHIN THE PROJECT AREA AND DISCONNECT IN THE STREET AT THE MAIN. PER BOROUGH GAS DEPT INSTRUCTIONS.		
29	1	EA	EXCAVATE AND REMOVE ALL ABANDONED UNDERGROUND SANITARY SEWER LINES WITHIN THE PROJECT AREA AND DISCONNECT IN THE STREET AT THE MAIN. PER BOROUGH WATER DEPT INSTRUCTIONS.		
30	1		INSTALL PERMANENT ASPHALT PATCH IN STREET AFTER UTILITY WORK IN COMPLETED. 5" 25MM BASE COURSE; 2" 12MM WEARING COURSE		
31	100	LF	SAW CUT EXISITING CONCRETE PAD TO MAKE A STRAIGHT LINE PRIOR TO CURB INSTALL		
32	390	LF	INSTALL 6" CURB WITH 4 WEEP HOLES LOCATED IN THE SW CORNER NEAR TRAIL		
33	3	EA	INSTALL 3 VENUS DOGWOOD CORNUS TREES (3 WHITE) ALONG THE NORTH EDGE OF THE PROPERTY; 2"-2.5" GAUGE; PRUNE LIMBS UP TO 4'; GUARANTEE THESE TREES FOR 1 YEAR		
34	3	EA	INSTALL 3 AUTUMN FLOWERING CHERRY TREES (PINK, IF POSSIBLE) ALONG THE SOUTH EDGE OF THE PROPERTY; 2"-2.5" GAUGE; PRUNE LIMBS UP 4'; GUARANTEE TREES FOR 1 YEAR		
35	7	EA	INSTALL 4 SILVER LINDENS & 4 ZELKOVA TREES ALTERNATING THEM AS THEY ARE PLANTED; 2"-2.5" GAUGE TREES; PRUNE LIMBS UP TO 4'; GUARANTEE THESE TREES FOR 1 YEAR		
36	13	EA	TREE PITS SHOULD BE 4'X4' IN SIZE AND BE 6'-10' AWAY FROM CURB AND SIDEWALK. AMENDED SOIL INSTALLED IN EACH PIT. MULCH INSTALLED ON TOP AFTER TREE IS PLANTED. TREE SHOULD BE INSTALLED AT THE PROPER HEIGHT SO THAT THE TREE ROOT COLLAR IS VISIBLE JUST ABOVE THE GROUND AND MULCH		
37	13	EA	INSTALL 13 GATOR BAGS ON THESE TREES AND WATER WEEKLY FOR 8 WEEKS		
38	51	EA	INSTALL 8"X8" WOODEN BOLLARDS; 5' APART, ALONG TRAIL FROM WASHINGTON ST TOWARDS LOUDON ST.		
39	3	EA	INSTALL 8"X8" WOODEN BOLLARDS ACROSS THE ENTRANCE OF THE TRAIL ALONG WASHINGTON ST.		
40	2	EA	INSTALL 8"X8" BOLLARDS AT EACH SIDE OF DEPRESSED DRIVEWAY IN SE CORNER OF PROJECT; EACH BOLLARD SHOULD HAVE AN EYEBOLT ANCHOR		

41	1	EA	12' CHAIN TO BE INSTALLED ON THE TWO BOLLARDS SO THAT A BOROUGH LOCK CAN SECURE IT		
42	1	EA	INSTALL 2 ADA CURB RAMPS WITH TACTILE PADS AT CORNER OF WASHINGTON ST. & CEDAR AVE		
<b>* DESCRIPTION:</b> Must include ADT on wearing surfaces USE OF CUTBACK ASPHALT IS PROHIBITED BETWEEN MAY 1st AND OCTOBER 31st, EXCEPT AS NOTED IN BULLETIN NO. 26. FOR OPTION OR PHASE BIDS THE TOTALS FOR EACH MUST BE INCLUDED.					
				<b>TOTAL</b>	

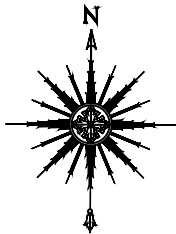


**PROPOSAL AND CONTRACT INSTRUCTIONS- FORM 944 (Rev. 1/2014)**

- 1 The proposal must be typewritten or printed.
- 2 If more than one proposal on any project is submitted by an individual, firm or partnership, corporation or association under the same or different names, only one lowest proposal will be considered.
- 3 Description of Work- - -
  - A. If additional space is needed, insert appropriately numbered attachment and note "Continued on attached work sheets."
- 4 Part A of Page 1 to be completed by municipality. Part B of Page 1 to be completed by contractor. Schedule of Prices - Column #1 (Item), #2 (Approximate quantities), #3 (Unit, i.e., ton, square yard, linear feet, etc.) And #4 (Description, i.e., bituminous materials - 9.5 mm S & L, 12.5 mm Wearing, 25.0 mm Base Course, etc.) Must be filled in by the municipality to insure equitable bidding. Columns #5 (Unit Price), #6 (Total) and total amount of bid, must be filled in by the contractor. If more space is needed, add note at the bottom of the page; "Continued on Attachment No. 1-A", and add additional sheet designated as Attachment No. 1-A, 1-B, etc.. Repeat for each additional sheet required. As required by Publication 408, Section 102.06(e), each bidder must submit a completed Form 7126 - Anti-Collusion Affidavit with its bid proposal.
- 5 If liquidated damages are to be assessed, add the following sentence to Part A #2. If all work is not completed on time, liquidated damages will be assessed at the rate of \$870.00 per additional working day. (OR "... as set forth in the attached schedule.")
- 6 Payment and Performance bonds are provided only by the successful bidder. Contracts from \$4,000.00 up to \$5,000.00 in Second Class Townships - performance bond must be not less than 10% or greater than 100% of amount of contract. Contracts greater than \$1,500.00 up to \$10,000.00 in First Class Townships, Boroughs and Third Class Cities - bonds must be between 50 % to 100% of the contract amount. Contracts in excess of \$5,000.00 in Second Class Townships and in excess of \$10,000.00 in First Class Townships, Boroughs and Third Class Cities - bonds must be in 100% of the amount of the contract. Bond Forms MS-944 Attachments 2 and 3 and Workmen's Compensation Affidavit - Attachment 4 must be submitted by the successful bidder within 20 days of the contract award. Failure to submit the bonds shall constitute grounds to cancel the contract.
- 7 \*Construction projects, where the estimated cost of the total project exceeds \$100,000, are subject to the provisions of the Pennsylvania Prevailing Wage Act 442 and amended by Act 89 of 2013. It is the responsibility of the municipality to request the Prevailing Wage Scale for the area and include it in the proposal. If the Prevailing Wage Act applies, this fact shall be noted in the advertisement.

On projects utilizing Federal Revenue Sharing Funds, if the project cost exceeds \$2,000 and is financed with 25% or more Federal Revenue Sharing Funds, the Davis Bacon Act applies. Again, it is the responsibility of the municipality to obtain the Davis Bacon Wage Rates, include them in the proposal and note the fact in the advertisement. If both acts are applicable, The Davis Bacon Act has preference over the Pennsylvania Prevailing Wage Act.
- 8 An ESCALATOR CLAUSE is optional; if used, it must be included in the proposal prepared by the municipality. An escalator clause may not be inserted by the contractor.

\*(1961, Aug. 15, P.L. 987; 43 P.S. 165)



BRIDGE

LOUDON STREET

W. QUEEN STREET

LOUDON STREET

LEGEND

—○—	CURBLINE
⊕	MANHOLE
⊗	CATCH BASIN
⊙	UTILITY POLE
→	FLOW ARROW
—+—+—	FENCELINE
⊕	STOP SIGN
—	EDGE PAVEMENT
▭	CONCRETE
—	RIGHT OF WAY
⊔	PROPERTY LINE
⊕	EXIST. ELEVATION
⊕	EXIST. CURB
⊕	EXIST. WALK
⊕	GAS VALVE
⊕	WATER VALVE
⊕	WATER METER
—	PROPOSED CURB
▨	PROPOSED APRON
▨	PROPOSED SIDEWALK
♿	PROPOSED HANDICAP RAMP
▭	PROPOSED SIDEWALK

FEMA MAP

- 0.2% Annual Chance Flood Zone
- 1% Annual Chance Flood Zone
- Regulatory Floodplain

- NOTE:
- 1) BEFORE ANY CONSTRUCTION CALL "THE ONE CALL" FOR UTILITY LOCATIONS. PLS 1-800-242-1776
  - 2) UTILITIES ARE APPROXIMATE IN LOCATIONS AND DEPTHS. CARE MUST BE TAKEN WHEN WORKING IN THESE AREAS. IF UTILITIES ARE ENCOUNTERED OR DAMAGED, CONTACT PROPER BOROUGHS UTILITY AGENCIES FOR REPAIR OR RELOCATION.
  - 3) ADJUST ALL CATCH BASINS, MANHOLES AND VALVES TO GRADE AND SEAL WITH AC-20.
  - 4) ALL JOINTS TO BE SAW CUT OR EQUIVALENT AND SEALED WITH AC-20.
  - 5) ANY DAMAGE TO PRIVATE PROPERTY, CURBS, SIDEWALKS AND PUBLIC UTILITIES IS THE CONTRACTOR'S RESPONSIBILITY.
  - 6) CONTRACTOR WILL MATCH EXISTING GRADE OF ALL STREETS, ALLEYS AND DRIVEWAYS.
  - 7) ALL TRAFFIC LINES AND CROSSWALK LINES TO BE RESTORED BY THE BOROUGHS.
  - 8) ALL CURBS TO BE SEALED WITH AC-20.
  - 9) ALL EXCAVATED MATERIAL CAN BE ADDED TO THE CLOSED THROUGH LANE/FL ON HULLYMEYER AVENUE (BOROUGH PROJECTS ONLY)

**PENNSYLVANIA ONE CALL SYSTEM, INC.**  
1-800-242-1776

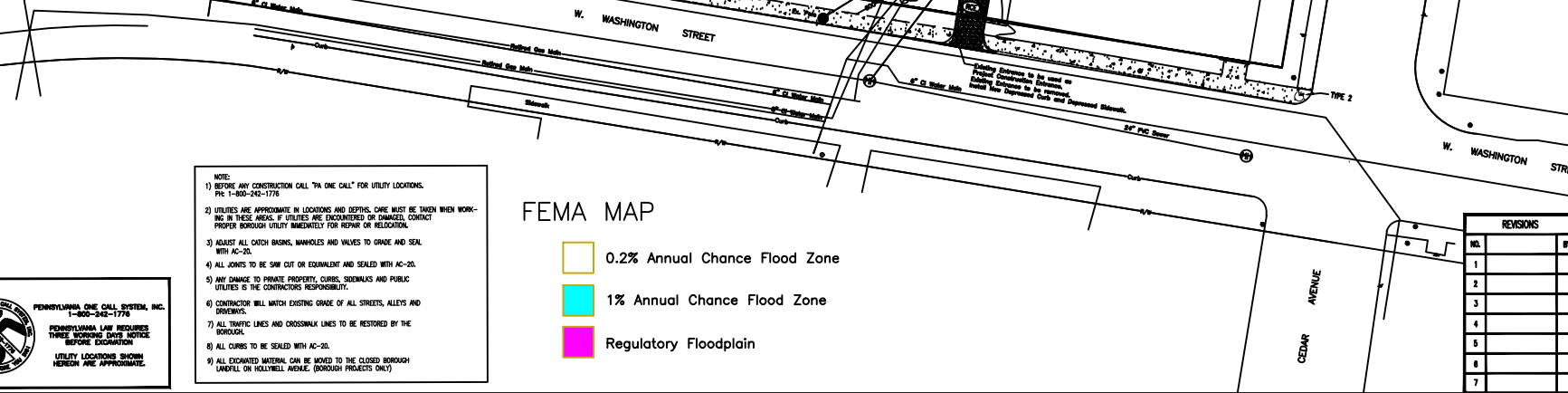
**PENNSYLVANIA LAW REQUIRES THREE WORKING DAYS NOTICE BEFORE EXCAVATION**

UTILITY LOCATIONS SHOWN HEREON ARE APPROXIMATE.

1 OF 3

REVISIONS		BOROUGH OF CHAMBERSBURG 100 S. Second Street Chambersburg, Penna.		
NO.	BY	CONSTRUCTION PLAN FOR MEETING PLACE GREENWAY		
1				
2				
3				
4				
5	Drawn	TFZ	Scale	1"=20'
6	Checked	BKF	DATE	JULY 2023
7	Approved			

PLAN NO.  
E-430









**Notes:**

- Applicant: The Borough of Chambersburg  
c/o Jeffrey Stevens, Borough Manager  
100 South Second Street  
Chambersburg, PA 17201  
(717) 264-5151
- Land Owner: The Borough of Chambersburg  
100 South Second Street  
Chambersburg, PA 17201
- The purpose of this Post Construction Stormwater Management Plan & Erosion & Sediment Control Plan is to obtain NPDES General Permit for Discharges of Stormwater Associated with Construction Activities for the Southgate Redevelopment Project. Phase 1 of the project is to revegetate 24,235 sq. ft. of existing impervious with grass and soil amendments.
- Parcel Areas:  
184 Southgate Mall - 05-1008-0028-000000 - 5.60 Acres  
0 W Liberty Street - 05-1008-0028-EX0000 - 3.78 Acres  
145 Cedar Street - 05-1008-002-000000 - 2.02 Acres  
265 Water Street - 04-1008-047-EX0000 - 0.39 Acres  
0 W Washington Street - 05-1008-003-000000 - 0.92 Acres  
0 W Queen Street - 05-1057-073-EX0000 - 0.30 Acres  
Part of 0 S Franklin Street - 05-1864-100-EX0000 - 3.14 Acres  
Part of 0 W Loudon Street - 05-1008-001-EX0000 - 1.13 Acres  
195 W Queen Street - 05-1864-138-000000 - 1.00 Acre  
Part of 0 Hood Street - 05-1049-089-EX0000 - 10.47 Acres
- Existing Zoning: The property lies within the DCH - Distributed Commercial Highway Zoning District and the Southgate Neighborhood Overlay District.
- Existing Uses: Commercial.
- No building shall exceed six stories or 72 feet in height as set forth by the underlying DCH Zoning District.
- Where buildings are used exclusively for non-dwelling purposes, there are no minimum Lot Area or minimum Lot Width requirements as set forth by the underlying DCH Zoning District.
- Minimum Building Front of Setbacks Required:  
Side: 0'  
Rear: 25', except that a rear yard is not required if the lot abuts two public streets.
- As set forth in the CC Zoning District requirements; there is no coverage limitation, except to reserve the required yards and that portion of the lot area required for loading facilities.
- This property is served by the Borough of Chambersburg Public Water and Sanitary Sewer Systems.
- All easements, right-of-ways, restrictions and/or covenants of record are intended to be shown on this plan however, Dennis E. Black Engineering, Inc. does not certify to the completeness and legitimacy of land title issues.
- The Floodway and Special Flood Hazard Boundaries have been shown on this plan in accordance with the Flood Insurance Rate Map published by the U.S. Department of Homeland Security and the Federal Emergency Management Agency (Community Map Number 420502001E).
- The underground position of the utilities and drainage structures shown on this survey are approximate and are based on the surface location of the appurtenances (i.e.: Holes, hydrants, valves, manholes, etc.), construction plans, and as-built record drawings.
- The bearings and coordinates shown on this plan are referenced to the Pennsylvania State Plane Coordinate System (South Zone) of the 2011 Adjustment of the North American Datum of 1983 [NAD83(NA2011)-PAS]. The topography is referenced to the North American Vertical Datum of 1988 (NAVD88). All linear dimension units are in U.S. Survey Feet. The perimeter boundary description and topography shown hereon was obtained from a field survey performed by Dennis E. Black Engineering, Inc. in November 2021.
- The Chambersburg, PA Quadrangle of the National Wetland Inventory Maps does not indicate the presence of jurisdictional wetland habitats within the project site. No field investigation has been performed to identify any wetland habitats. Phase 1 of the Southgate Redevelopment Project is proposed on what is existing pavement / existing gravel and therefore there are no wetland habitats present in the project area of Phase 1.

# POST CONSTRUCTION STORMWATER MANAGEMENT PLAN

&

# EROSION & SEDIMENT CONTROL PLAN

FOR THE

# MEETING PLACE GREENWAY PROJECT AT SOUTHGATE


LOCATED IN

CHAMBERSBURG BOROUGH, FRANKLIN COUNTY, PA

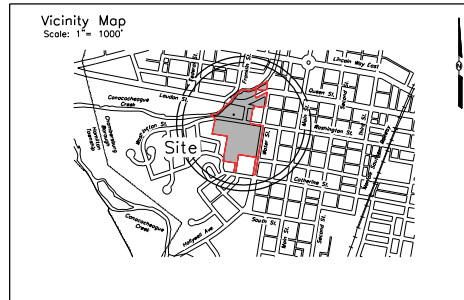
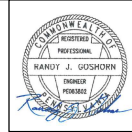
PREPARED FOR:

THE BOROUGH OF CHAMBERSBURG  
100 SOUTH SECOND STREET  
CHAMBERSBURG, PA 17201

PREPARED BY:



**DENNIS E. BLACK ENGINEERING, INCORPORATED**  
ENGINEERING—SURVEYING—PLANNING  
2400 PHILADELPHIA AVENUE  
CHAMBERSBURG, PA. 17201



**LEGEND**

-----	PROPERTY LINE	⊙	SANITARY SEWER MANHOLE
-----	ADJOINING PROPERTY LINE	⊙	SANITARY SEWER CLEANOUT
-----	EASEMENT LINE	⊙	WATER VALVE
-----	CENTERLINE	⊙	WATER METER
-----	FLOODPLAIN BOUNDARY	⊙	WATER CURB STOP
-----	ZONING BOUNDARY	⊙	FIRE HYDRANT
-----	FENCE LINE	⊙	GAS VALVE
-----	GUIDE RAIL	⊙	ELECTRIC MANHOLE
-----	STREAM EDGE	⊙	TELEPHONE MANHOLE
-----	EX. OVERHEAD UTILITY LINE	⊙	EXISTING LIGHT POLE
-----	EX. UNDERGROUND UTILITY LINE	⊙	EXISTING UTILITY POLE
-----	EXISTING SEWER LINE	⊙	UTILITY POLE AND GUY WIRE
-----	EXISTING WATER LINE	⊙	DECIDUOUS TREE
-----	EXISTING GAS LINE	⊙	EVERGREEN TREE
-----	EXISTING STORM SEWER	⊙	STORM SEWER INLET
-----	EXISTING CONTOUR LINE	⊙	YARD INLET
-----	EXISTING SPOT ELEVATION	⊙	STORM SEWER MANHOLE
-----	DETECTABLE WARNING SURFACE	⊙	PARKING METER
-----	ADA ACCESSIBLE PARKING	⊙	SIGN
-----	EXISTING BUILDING	⊙	BOLLARD
-----	ELEV. BENCHMARK	⊙	FLAGPOLE

**Southgate Redevelopment Project**

**Sheet Index**

CS-1 Cover Sheet

**PCSM Plan Set**


PC-1 PCSM Plan (Existing Conditions)  
PC-2 PCSM Plan (Proposed Conditions)  
PC-3 PCSM Plan Details & Notes

**E&S Control Plan Set**

ES-1 Erosion and Sediment Control Plan (Existing Conditions)  
ES-2 Erosion and Sediment Control Plan (Proposed Conditions)  
ES-3 Erosion and Sediment Control Plan Details & Notes

**REVISIONS**

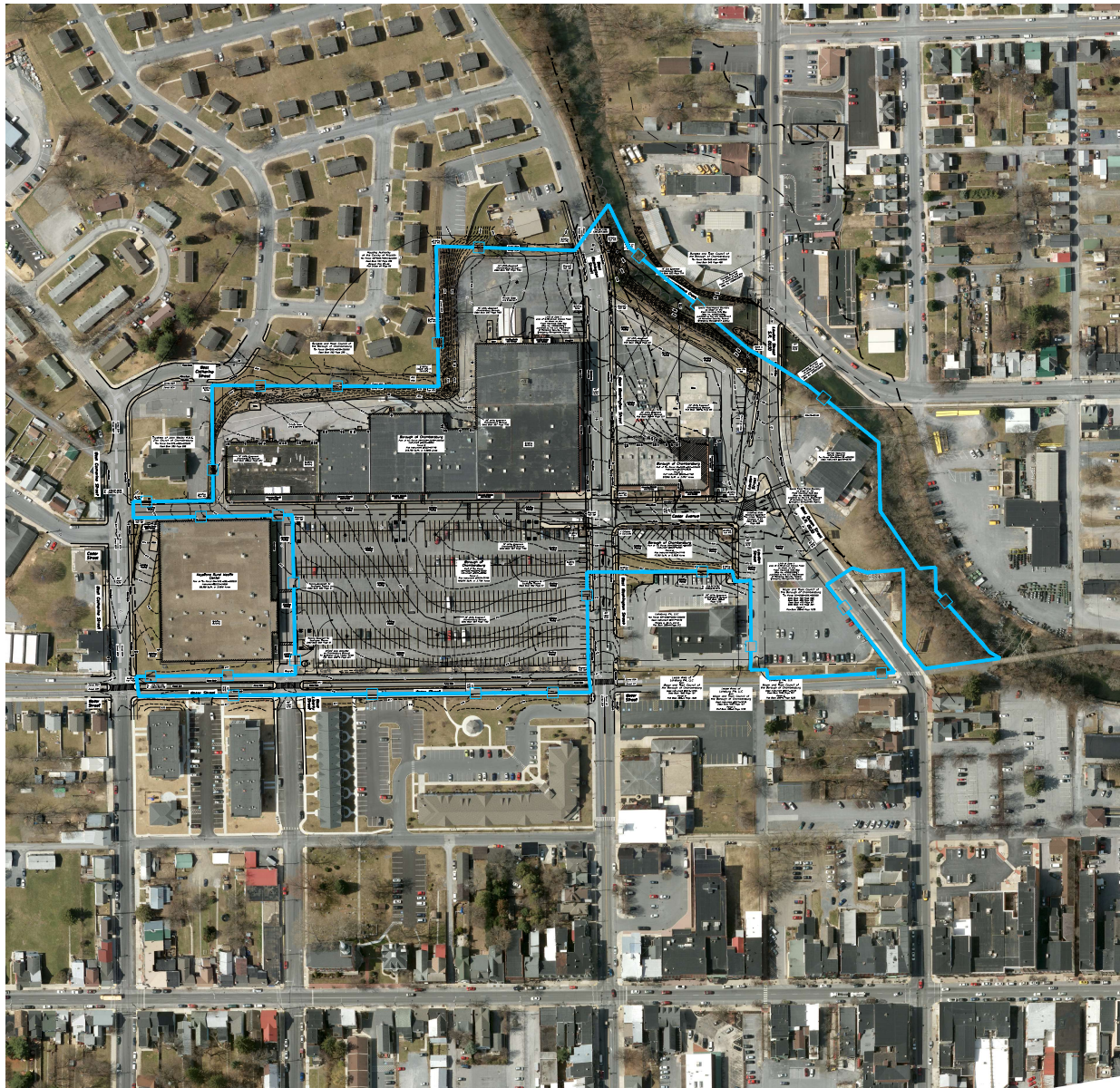
NO.	DATE	DESCRIPTION	BY



**DENNIS E. BLACK ENGINEERING, INCORPORATED**  
ENGINEERING—SURVEYING—PLANNING  
2400 PHILADELPHIA AVENUE  
CHAMBERSBURG, PA 17201  
(717) 263-8794 (888) 238-0661

DWN.	CLIENT No. 1075	PROJECT No. 210092.00	SHEET CS-1 of CS-1
CHK.	DATE 8/24/2023	ASACD DRAWING REF. NUMBER	DRAWING No. 23-37
APP.	SCALE As Shown	AUTOCAD	

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**Equitable Owner/Developer/  
Applicant:**  
BOROUGH OF CHAMBERSBURG  
100 SOUTH SECOND STREET  
CHAMBERSBURG, PA 17201



**STORMWATER MANAGEMENT FACILITIES**

It is the responsibility of the owner/developer and any subsequent lot owners to keep all storm water management facilities free of debris. Lot owners are responsible for operation and maintenance requirements of stormwater management facilities set forth by this plan. Borough of Chambersburg personnel are permitted to access stormwater management facilities for the purpose of inspection.

No person shall place any structure, fill, landscape or vegetation into a stormwater management facility or drainage easement, which would limit or alter the intended function of the facility, without written approval from the Municipality.

**Post-Construction Management Plan Goals:**

- It shall be incumbent upon the owner/operator of this project to implement Best Management Practices (BMPs) to satisfy the following post-construction stormwater management goals:
  - Preserve the integrity of stream channels.
  - Maintain and protect the physical, biological and chemical qualities of the receiving stream.
  - Prevent an increase in the rate of stormwater run-off.
  - Minimize any increase in stormwater run-off volume.
  - Minimize impervious areas.
  - Maximize the protection of existing drainage features and existing vegetation.
  - Minimize lead churning and grading.
  - Minimize soil compaction.
  - Utilize structural or non-structural BMPs that prevent or minimize changes in stormwater run-off.

The owner/operator shall employ the Best Management Practices (BMPs) described within these plans. If conditions exist during and after the construction of this project which do not satisfy the above described goals, additional BMPs shall be employed by the owner/operator as necessary to satisfy the goals.

**CRITICAL STAGES OF PCSM PLAN BMP IMPLEMENTATION**

The owner/operator shall be responsible to plan, direct, and be responsible for construction inspection during critical stages of implementation of the approved PCSM plan. The critical stages of implementation and the critical time of implementation for this project include the following:

Proposed Stage	Critical Time
Soil Amendment Placement	Examination of scattered sub-grade

**GEOLOGIC FEATURES AND SITE SOILS**

The project site is located within the Great Valley Sector of the Ridge and Valley Province of Pennsylvania. The project site is geologically underlain by Devonian, Silurian, and meta-sedimentary bedrock of the Chambersburg formation of the Ordovician age. There are no significant geologic features or activities shown within the project site with the exception of the planned Erosion & Sediment Control BMPs, the potential for pollution during construction caused by erosion, or soil conditions to be treated. The plan is intended to address the owner/operator at the least potential and to require him to report any suspected instances of suitable activity to the engineer. Typical subsurface repair methodology is included on the plan.

**NOTICE TO EXCAVATORS AND CONTRACTORS**

The Pennsylvania One Call System Underground Utility Line Protection Law (Act 287, as amended) requires excavators and contractors to notify the utilities listed below by contacting the Pennsylvania One Call System at 1-800-242-7776 or 811 not less than three (3) or more than ten (10) working days prior to excavation or demolition work at this site so that there is no disruption of services or bodily harm. Definition of excavation is to dig, cut, blast, tear, burn, grade or trench. Failure to notify is a direct violation of the law and penalties can be enforced.

**UTILITY LOCATIONS**

Utility locations and information shown are approximate at best and were obtained by field observations and/or from available sources. All utility locations shall be verified by the contractor before beginning excavation and/or construction.

**PENNSYLVANIA ONE CALL SYSTEM NOTIFICATION**

1. All known existing utilities have been shown on this plan.  
2. All utilities have been notified under the PA One Call System as required by PA Act 287, as amended, by Gevin E. Block Engineering, Inc. PA One Call Design Serial No. 202210140 & 202210292.

**CHAPTER 93 CLASSIFICATION OF RECEIVING STREAM**

The run-off from this project flows to Conococheague Creek, which is classified as Warm Water Runoff (WWR) and Migratory Fishery (MF).

**FLOOD PLAIN**

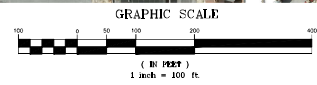
The Floodway and Special Flood Hazard Boundaries have been shown on this plan in accordance with the Flood Insurance Rate Map published by the U.S. Department of Homeland Security and the Federal Emergency Management Agency (Community Map Number 42058C0291E).

**WETLANDS**

The Chambersburg, PA Quadrangle of the National Wetland Inventory Maps does not indicate the presence of jurisdictional wetland habitats within the project site. No field or aerial data have been provided to identify any wetland habitats. Phase 1 of the Southgate Redevelopment Project is proposed on what is existing pavement / existing gravel and therefore there are no wetland habitats present in the project area of Phase 1.

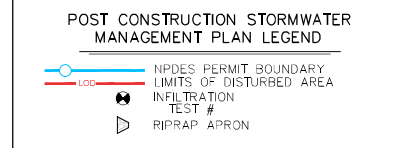
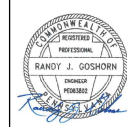
**SOILS**

All soils located within the NPDES permit boundary are Urban Land-Utilities complex 0 to 25 percent slope (Uu).



**REVISIONS**

NO.	DATE	DESCRIPTION	BY



**NPDES Permit Boundary**  
Area = 17.4 acres

**Limit of Disturbed Area =**  
1.16 acres

**Post Construction Stormwater Management Plan (Existing Conditions)**

NPDES PLAN  
of  
MEETING PLACE GREENWAY PROJECT AT SOUTHGATE  
for  
The Borough of Chambersburg  
located in  
Chambersburg Borough, Franklin County, PA

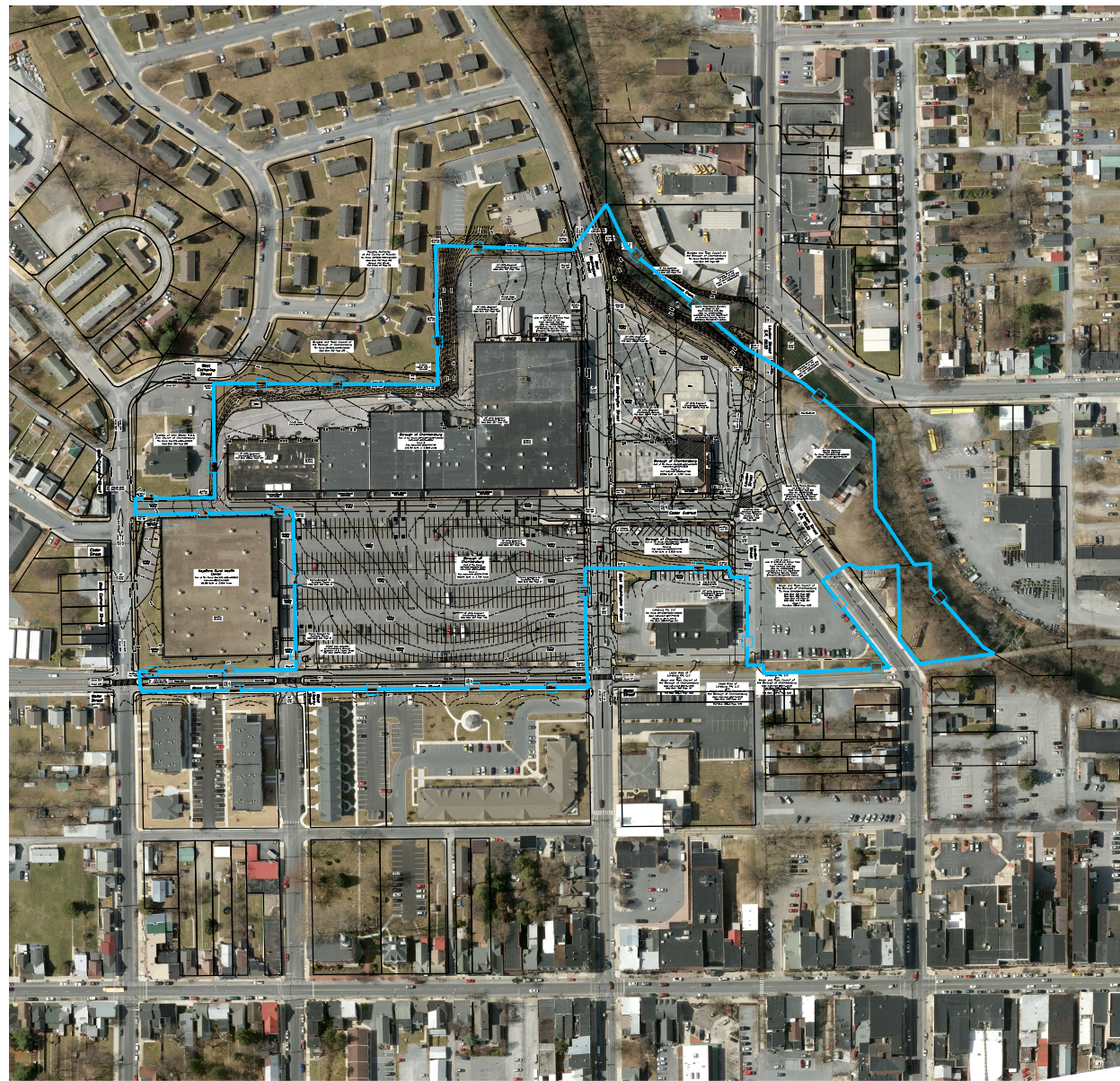
DENNIS E. BLOCK ENGINEERING, INCORPORATED  
ENGINEERING-SURVEYING-PLANNING  
2400 PHILADELPHIA AVENUE  
CHAMBERSBURG, PA 17201  
(717)263-8794 (888)238-0661

DWN	CLIENT	PROJECT NO.	SHEET
	1075	210092	PC-1 of PC-3
CHK	DATE	ARCH/CD DRAWING	DRAWING NO.
	08/24/23	REF. NUMBER	23-37
APP	SCALE	1"=100'	

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**Equitable Owner/Developer/  
Applicant:**  
BOROUGH OF CHAMBERSBURG  
100 SOUTH SECOND STREET  
CHAMBERSBURG, PA 17201



**CRITICAL STAGES OF PCSM PLAN BMP IMPLEMENTATION**  
A licensed professional engineer shall be present onsite and be responsible for construction inspection during critical stages of implementation of the approved PCSM plan. The critical stages of implementation and the critical time of implementation for this project shall include the following:

Critical Stage	Critical Time
Soil Amendment Placement	Evaluation of scarified sub-grade

**GEOLOGIC FEATURES AND SITE SOILS**  
The project site is located within the Great Valley Section of the Ridge and Valley Province of Pennsylvania. The project site is predominantly underlain by the various listed bedrock and metasedimentary bedrock of the Chambersburg Formation of the Devonian age. There are no significant geologic features or soil profile visible within the project site. With the employment of the planned Erosion & Sediment Control BMPs, the potential for pollution during construction caused by geologic or soil conditions is reduced. The plan is intended to advise the owner/operator of the least potential and to require him to report any suspected incidence or visible activity to the engineer. Typical subsurface repair methodology is included on the plan.

**NOTICE TO EXCAVATORS AND CONTRACTORS**  
The Pennsylvania One Call System underground utility line protection law (Act 287, as amended) requires excavators and contractors to notify the utility listed herein by contacting the Pennsylvania One Call System at 1-800-242-1776 or 811 not less than three (3) nor more than ten (10) working days prior to excavation of demolition work at this site so that there is no disruption of services or bodily harm. Definition of excavation: to dig, sink, burst, burst, bore, grade or trench. Failure to notify is a direct violation of the law and penalties can be enforced.

**UTILITY LOCATIONS**  
Utility locations and information shown are approximate at best and were obtained by field observations and/or from available sources. All utility locations shall be verified by the contractor before beginning excavation and/or construction.

**PENNSYLVANIA ONE CALL SYSTEM NOTIFICATION**  
1. All known existing utilities have been shown on this plan.  
2. All utilities have been notified under the PA One Call System as required by PA Act 287, as amended by Dennis E. Black Engineering, Inc. PA One Call Design Serial No. 20220101040 & 20220109052.

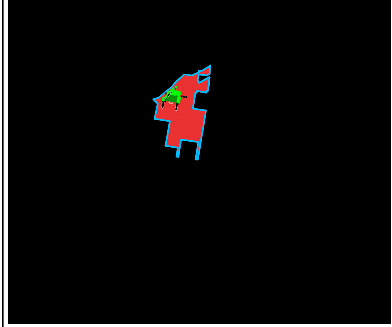
**CHAPTER 93 CLASSIFICATION OF RECEIVING STREAM**  
Site number from this project flows to Conococheague Creek, which is classified as warm water fishery (WFF) and Migratory fishery (MF).

**FLOOD PLAN**  
The Floodway and Special Flood Hazard Boundaries have been shown on this plan in accordance with the Flood Insurance Rate Map published by the U.S. Department of Homeland Security and the Federal Emergency Management Agency (Community Map Number 4205502291E).

**WETLANDS**  
The Chambersburg, PA Quadrangle of the National Wetland Inventory Maps does not indicate the presence of jurisdictional wetland habitats within the project site. No field investigation has been performed to identify any wetland habitats. Phase 1 of the Southgate Redevelopment Project is proposed on what is existing pavement / existing gravel and therefore there are no wetland habitats present in the project area of Phase 1.

**SOILS**  
All soils located within the NPDES permit boundary are Urban Land-Urbanshes complex O to 25 percent slope (Uu).

**Chambersburg Quod  
Vicinity Map**  
Scale: 1"=1000'



**LEGEND**

- PROPERTY LINE
- ADJOINING PROPERTY LINE
- EASEMENT LINE
- CENTERLINE
- FLOODPLAIN BOUNDARY
- ZONING BOUNDARY
- FENCE LINE
- CLS# RAIL
- STREAM LODGE
- EX. OVERHEAD UTILITY LINE
- EX. UNDERGROUND UTILITY LINE
- PROP. UNDERGROUND TELEPHONE
- PROP. UNDERGROUND CABLE TV
- EXISTING SEWER LINE
- EXISTING WATER LINE
- EXISTING GAS LINE
- WETLAND BOUNDARY
- EXISTING STORM SEWER
- EXISTING CONDUIT LINE
- PROPOSED CONTROL LINE
- EXISTING SPOT ELEVATION
- PROPOSED SPOT ELEVATION
- SOIL BOUNDARY
- SOIL SYMBOL
- DENOTES PRIORITY CORNER
- SANITARY SEWER CLEANOUT
- WATER VALVE
- WATER METER
- PROPOSED WELL
- FIRE HYDRANT
- GAS VALVE
- ELECTRIC MANHOLE
- TELEPHONE MANHOLE
- EXISTING LIGHT POLE
- PROPOSED LIGHT POLE
- EXISTING UTILITY POLE
- UTILITY POLE AND GUY WIRE
- EVERGREEN TREE
- STORM SEWER INLET
- VARD INLET
- PARKING METER
- SIGN
- BOLLARD
- BENCHMARK
- NOW OR FORMERLY EXISTING IRON PIN SET

**EROSION & SEDIMENT CONTROL PLAN LEGEND**

- NPDES PERMIT BOUNDARY
- LIMITS OF DISTURBED AREA
- PROPOSED SILT SOCK
- SOIL TYPE BOUNDARY
- ORANGE CONSTRUCTION FENCE
- TEMPORARY INLET PROTECTION
- PERC TEST LOCATION

**NPDES Permit Boundary  
Area = 17.4 acres**

**Limit of Disturbed Area =  
1.16 acres**

**Erosion and Sediment Control Plan (Existing Conditions)**

NPDES PLAN  
OF  
MEETING PLACE GREENWAY PROJECT AT SOUTHGATE  
for  
**The Borough of Chambersburg**  
located in  
Chambersburg Borough, Franklin County, PA

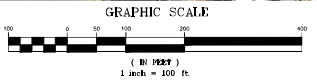
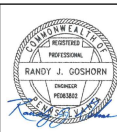
**DENNIS E. BLACK ENGINEERING, INCORPORATED**  
ENGINEERING—SURVEYING—PLANNING  
2400 PHILADELPHIA AVENUE  
CHAMBERSBURG, PA 17201  
(717)263-8794 (888)238-0661

DWN: \_\_\_\_\_ CLIENT: 1076 PROJECT NO.: 210092 SHEET ES-1 OF ES-3  
CHK: \_\_\_\_\_ DATE: 08/24/23 AIRCAD DRAWING NO.: \_\_\_\_\_  
APP: \_\_\_\_\_ SCALE: 1"=100' REF. NUMBER: \_\_\_\_\_ DRAWING NO.: **23-37**

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**REVISIONS**

NO.	DATE	DESCRIPTION	BY



FILE: N:\land\Projects\2021\01\0021\00\sheet\1\Map\02\0021\_00\SouthGate-NPDES\_revised.dwg LAYOUT: ES-1 BY: Sherry CN: 8/24/2023 12:32 PM







## PROPOSAL BOND

BIDDER (Name and Address):

SURETY (Name and Address):

OWNER (Name and Address):

**BOROUGH OF CHAMBERSBURG**  
100 South 2nd Street  
Chambersburg, PA 17201

PROJECT

**MEETING PLACE GREENWAY PROJECT**

Bid Date:

Project Identification:

General Construction

Contract Number and Identification:

BOND

Date:

Amount:

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to Owner upon default of Bidder the full face amount of this Bond.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents, the executed Agreement required by the Bidding Documents, and any Performance Bonds, Payment Bonds, Certificates of Insurance, or other documents required by the Bidding Documents and Contract Documents.
3. This obligation shall be null and void if:
  - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any Performance Bonds, Payment Bonds, Certificates of Insurance, or other documents required by the Bidding Documents and Contract Documents, or
  - 3.2 All Bids are rejected by Owner, or
  - 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof).

4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt of Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of and any and all defenses based on or arising out of any time extension to issue Notice of Award, provided that the time for issuing Notice of Award shall not in the aggregate exceed 120 days from Bid opening date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in paragraph 4 above is received by Bidder and Surety, and in no case later than one year after Bid opening date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notice required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the first page of this Bond. Such notices may be sent by personal delivery, commercial courier or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of the Bond conflicts with any applicable provision of any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

**(If Bidder is an Individual)**

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Individual

Trading and doing business as:

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Address of Business

**(If Bidder is a Partnership - All General Partners Must Sign)**

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Name of Partnership

---

Address of Partnership

---

Signature of Witness

---

Signature of Partner

---

Signature of Witness

---

Signature of Partner

---

Signature of Witness

---

Signature of Partner

**(If Bidder is a Corporation)**

Attest:

	_____
	Name of Corporation
_____	_____
Signature of Secretary or Assistant Secretary	Address of Principal Office
(Corporate Seal)	_____
	State of Incorporation
	_____
	Signature of President or Vice President

Type or print name below each signature.

**(Corporation Surety)**

	_____
	Name of Corporation
	_____
	Address of Office
_____	_____
Signature of Witness	Signature of Attorney-in-fact

Attach an appropriate power of attorney, dated as of the same date as the Bond, evidencing the authority of the Attorney-in-fact to act in behalf of the corporation.

Type or print name below each signature.

**NOTE: Substitute Proposal Bond Form is not acceptable. Failure to submit Bond on this form will be reason for rejection of Bid.**

**END OF PROPOSAL BOND**

## AGREEMENT

**THIS AGREEMENT** (hereinafter, the "Agreement") made this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ (the "Effective Date") by and between the Borough of Chambersburg, a Municipal Corporation organized and existing under the laws of the Commonwealth of Pennsylvania, (hereinafter the "Borough") and \_\_\_\_\_ (hereinafter the "Contractor").

### WITNESSETH

**WHEREAS**, the Borough has authorized certain items of work in connection with "Specifications and Contract Documents for Meeting Place Greenway Project" (hereinafter the "Specifications"), as required, all in accordance with said Contract Documents as further defined below, attached hereto and made a part herein; and

**WHEREAS**, the Contractor has submitted to the Borough a Bid for certain work in conformity with said Specifications, a copy of which proposal is hereto attached and made a part hereof (hereinafter the "Proposal"); and

**WHEREAS**, the Borough, after due consideration and appropriate action, has determined that it is in the best interest of the Borough to award a contract to the Contractor for said Item(s) of work included in said bid in accordance with the terms and conditions set forth herein.

**NOW THEREFORE**, the Borough and the Contractor in consideration of the requirements, terms and conditions of said Specifications and the offers, promises and representations made by the Contractor in said Proposal, by each of the parties hereto, on their parts, to be observed and fulfilled, intending to be legally bound, do hereby agree as follows:

#### **1. Recitals**

The above recitals are incorporated herein by reference thereto and made a part of this Agreement.

#### **2. Contract Documents**

The Contract Documents include the following documents issued under the Specifications: Notice / Advertisement, Instructions to Bidders, General Terms and Conditions, Project Location Map, Non-Discrimination Notice, Bidder Affidavit, Anti-Collusion Affidavit, SAM.gov Notice, MS-944 Form including all MS-944 attachments, Construction Plan Sheets for Each Street, Proposal Bond, Receipt of Confirmation of Bidding and Contract Documents (if applicable), any and all Addenda (if applicable), Receipt of Addenda (if applicable), Affidavit of Compliance with Pennsylvania Steel Products Procurement Act, Agreement, Performance Bond, Payment Bond, Public Works Employment Verification Form, Affidavit RE Accepting Provisions of the Workman's Compensation Act, Specifications, Notice of Inspection Form, completed W-9 Form, Borough of Chambersburg Procurement Policy (Part 1, Part 2, Part 3 and Part 4), Borough of Chambersburg Drug-Free Workplace Certification, Davis-Bacon Wage Determination and any required attachments or written amendment(s) and Notice to Proceed (hereinafter the "Contract Documents"), which documents are incorporated into this Agreement by reference.

#### **3. Basis of Agreement**

The parties hereto recognize that the Contract Documents are the basis of this Agreement, and the parties accept the same, and declare that there are no understandings, representations or promises,

written or verbal, having any bearing on this Agreement which are not expressed in said Contract Documents and Contractor's Proposal or written in this Agreement .

#### **4. Scope of Work**

The Contractor agrees to furnish all labor, superintendence, materials, necessary equipment, other utilities and facilities, and to otherwise perform all work and services necessary for or incidental to and otherwise perform all obligations imposed by this Agreement and to faithfully perform and complete all of said work connected therewith in full and strict conformity with the Contract Documents and this Agreement and to demonstrate and make good any guarantees and warranties therein required and contained, for all of which things faithfully and fully performed and completed for the following items (hereinafter the "Work"):

Item 1: Reconstruct Center Street

All as more fully set forth in the Contract Documents and/or on the MS-944 Form.

#### **5. Payment**

5.1. The Borough shall pay and the Contractor shall receive and accept as full payment for the performance of the Contractor's obligations hereunder, the price(s) stipulated in the Proposal hereto attached and in the manner as specified in the Contract Documents and this Agreement, subject to the retainage provisions set forth in this Section 5. All payments will be processed through the Borough's standard accounts payable system.

##### **5.2. Retainage.**

5.2.1. The Borough shall withhold ten percent (10%) of the amount of approved invoices until the Work is fifty percent (50%) completed. When the Work is fifty percent (50%) completed, one-half of the amount retained by the Borough will be returned to Contractor; provided that the Borough approves the payment of this portion of the retained amount; and, provided further, that the Contractor is making satisfactory progress and there is no specific cause for greater withholding, as determined by the Borough in its sole and absolute discretion.

5.2.2. After the Work is fifty percent (50%) completed and up to the date of Substantial Completion, subsequent approved invoices shall be paid by the Borough subject to withholding by the Borough of five percent (5%) of each such approved invoice so that the total amount withheld from Contractor shall not exceed five percent (5%) of the value of completed Work based on approved invoices. Substantial Completion shall be the time at which the Work or specified part thereof has progressed to the point where in the sole and absolute opinion of the Borough the Work or a specified part thereof is sufficiently complete in accordance with the Contract Documents, so that the Work can be utilized for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

5.2.3. After the Work is substantially complete, subsequent approved invoices shall be paid, by the Borough, subject to withholding, by the Borough, of an amount equal to one and one-half times the amount required to complete any uncompleted minor items, provided there is no specific cause for greater withholding, as determined by the Borough in its sole and absolute discretion.

5.2.4. In the event that a dispute arises between the Borough and the Contractor, which dispute is based on increased costs incurred by one contractor occasioned by delays or other actions of another contractor, additional retainages in the sum of one and one-half times the amount of any possible liability may be withheld by the Borough in its sole and absolute discretion from the Contractor until such times as a final resolution is agreed to by all parties directly or indirectly involved, unless the contractor causing the additional claim furnishes a Bond in a form, substance and amount satisfactory to the Borough to indemnify the Borough against the claim.

### 5.3. Final Payment.

5.3.1. Final Inspection. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, the Borough will promptly make a final inspection of the Work and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

#### 5.3.2. Application for Final Payment.

5.3.2.1. After Contractor has, in the sole and absolute opinion of the Borough, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents, and other documents, Contractor may make application for final payment following the procedure for progress payments.

5.3.2.2. The final Application for Payment shall be accompanied by:

- 5.3.2.2.1. an invoice for the work approved by the Borough;
- 5.3.2.2.2. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance as required;
- 5.3.2.2.3. consent of the surety, if any, to final payment;
- 5.3.2.2.4. a list of all Claims against the Borough that Contractor believes are unsettled; and
- 5.3.2.2.5. complete and legally effective releases or waivers (satisfactory to the Borough) of all Lien rights arising out of or Liens filed in connection with the Work.

5.3.2.3. In lieu of the releases or waivers of Liens specified in Paragraph 5.3.2.2.5. and as approved by the Borough, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which the Borough might in any way be responsible, or which might in any way result in liens or other burdens on the Borough's property, have been paid or

otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full; Contractor may furnish a bond or other collateral in a form, substance and amount satisfactory to the Borough to indemnify the Borough against any Lien.

#### 5.3.3.Final Payment and Acceptance.

5.3.3.1. Upon final completion and acceptance of the Work in accordance with Paragraph 5.3.2, the Borough shall pay the remainder of the Contract Price less the amount of liquidated and/or other damages and the amount of any unresolved claims, which have been filed against the Borough in connection with the Work within thirty (30) days of final completion and acceptance of the Work as provided for herein.

#### 5.3.4.Interest.

The final payment if not paid when due in accordance with Paragraph 5.3.3, less any deduction for liquidated and/or other damages or unresolved claims, shall bear interest at the rate of ten percent (10%) per annum or, when the Borough has issued bonds or notes to finance the Project, at the rate of interest of the bond or note issue, whichever is less. No interest will be paid on progress payments.

### **6. Contract Times**

- 6.1. Term: The term of this Agreement shall begin on the Effective Date and terminate at midnight on August 31, 2025 unless terminated or extended at the Borough's sole and absolute option as provided for herein.
- 6.2. Contract Times: All time set forth for completion of milestones (if any), substantial completion (if any), and completion as set forth in the Contract Documents are of the essence.
- 6.3. Liquidated Damages: The Borough and Contractor recognize that time is of the essence of this Agreement and that the Borough will suffer financial loss if the Work is not completed within the times specified in Paragraph 6.1 above, plus any extensions thereof. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by the Borough if the Work is not completed on time. Accordingly, instead of requiring any such proof, the Borough and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the Borough One Thousand Dollars (\$1,000.00) for each calendar day that expires after the time specified in Paragraph 6.1 above.
- 6.4. Additional Damages: In addition to the liquidated damages amount(s) specified above under Paragraph 6.3, Contractor also agrees to reimburse the Borough for all administrative, legal, engineering and construction observations costs, associated with Contractor's failure to meet any of the milestones as set forth herein.
- 6.5. Alternate Damages: The Borough, at its sole option, may waive liquidated damages as provided in Paragraph 6.3 and elect to recover from Contractor the Borough's actual damages for such delay. Actual damages may include, without limitation, any fines or penalties imposed on the Borough by any regulatory body plus all actual damages suffered by the Borough as a result of such delay including, without limitation, loss of revenue, engineering fees and consultants fees, construction observation fees, and legal fees incurred by the Borough as a result of such delay.



## **7. Termination / Suspension**

Should the Contractor fail to perform the Work and/or Services to the satisfaction of the Borough or to comply with any of the provisions of the Agreement or the Contract Documents, the Borough may terminate the Agreement and the Contract for cause upon seven (7) days written notice of intent to terminate to Contractor. Contractor's services will not be terminated if the Contractor begins within seven (7) days of receipt of the notice of intent to terminate to correct and cure the deficiencies set forth in said notice and it proceeds in a diligent manner to cure such deficiencies within no more than fifteen (15) days of receipt of said notice, unless the Borough in its sole and absolute discretion extends such time to cure in writing.

Notwithstanding the foregoing, the Borough may terminate this Agreement and the Contract without cause and without prejudice to any other right or remedy of the Borough upon ten (10) days' written notice to Contractor.

Contractor may only terminate this Agreement and the Contract in the event the Borough is in default and fails to cure said default within thirty (30) days from the date the Borough receives written notice from Contractor, which said notice shall set forth the alleged default.

In the event that the Borough terminates the Agreement and the Contract as provided for herein, Contractor agrees that Contractor shall not be entitled to, and shall not be paid, an amount of loss of anticipated profits or revenue or other economic loss arising out of and/or resulting from such termination. Contractor agrees that its sole remedy shall be payment for services rendered prior to termination of the Contract, provided however that the Borough may offset any amount owed to the Contractor for services rendered by Contractor prior to termination for any damages, and/or costs suffered and/or incurred by the Borough as a result of any breach or failure by Contractor.

The Borough has the right to suspend performance of the Agreement and the Contract, at any time and without cause, by written notice, upon which the Contractor shall be entitled to an increase in the contract time and contract price caused by the suspension, as determined by the Borough in its sole and absolute discretion.

## **8. Change Orders**

8.1. Any alteration, modification, or deviation from the Contract Price, which shall include the moneys payable by the Borough to the Contractor for completion of the Work, materials and/or Services in accordance with the Contract Documents, and/or Contract Times, which shall include the number of days or dates in the Contract Documents to achieve any and all milestones, Substantial Completion, and completion of the Work and/or Services so that it is ready for final payment as further set forth in the Contract Documents and as further identified in Section 6, must be carried out upon written Change Order signed and dated by both the Borough and the Contractor unless otherwise provided for within this Section 8. Change Orders, when signed and executed by the Contractor and the Borough, shall be made part of this Contract. This written authorization must be provided prior to the commencement of any Additional or Extra Work.

8.2. Additional Work, which is defined as work of a type already provided by the Contract and for which the Contract has established a unit price, is generally used to describe work arising when alterations in the work are authorized but do not result in a significant change in the character of the work as required under the original contract. Prices related to Change Orders for Additional Work are processed as adjustments to a contract unit price.

8.3. Extra Work is defined as work arising from changes in quantities or alterations in the Work that results in a significant change in the character of the work under contract, or work having no

quantity or price included in the Contract that is determined by the Borough to be necessary or desirable to complete the Contract. Prices related to Change Orders for Extra Work shall be proposed by the Contractor and negotiated with the Borough.

- 8.4. The Borough Manager, or designee, has the authority to approve all Field Change Orders, which are necessary for the completion of the Contract and do not exceed ten percent (10%) of the Proposal price. All other Change Orders are deemed Major Change Orders and shall only be approved by Town Council. The Borough Manager shall make the determination of what is a Field Change Order or Major Change Order in his sole and absolute discretion.
- 8.5. Contractor shall not be entitled to an increase in the Contract Price or an extension of Contract Times with respect to any work performed that is not required by the Contract Documents except in the case of an emergency, as further discussed in Paragraph 8.9 below.
- 8.6. The Borough shall have sole and absolute discretion to grant a Change Order.
- 8.7. Borough Initiated Change Order. Without invalidating the Contract, the Borough may, at any time or from time to time, order additions, deletions, or revisions in the Work and/or materials by request for Change Order. Upon receipt of any such document, Contractor shall notify the Borough of the entitlement to, if any, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that would result from the Change Order. If a change in Contract Price and/or Contract Time will result, the parties shall agree to such modification in the Change Order. If the parties are unable to agree, the Borough may continue with the Contract as drafted or terminate the Contract.
- 8.8. Contractor Initiated Change Order. Contractor shall promptly notify the Borough with the request for Change Order in the event that the Contractor determines that the following is necessary or desirable: 1) a change of Work and/or Services; or 2) a change of Contract Price or Contract Times. Said request of Change Order shall include the change of work together with any and all modifications to the Agreement including but not limited to changes to the Contract Price and/or Contract Times. The Borough, in its sole and absolute discretion, shall either agree or reject the request for Change Order. In the event that the Borough agrees to the request for Change Order, the parties sign and execute a written Change Order as set forth herein.
- 8.9. Notwithstanding the foregoing, in emergencies affecting the safety or protection of persons or the Work or property at the particular project site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give the Borough prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If the Borough determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Order will be issued.
- 8.10. Contractor shall not be entitled to an adjustment in the Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a sub-contractor or supplier shall be deemed to be delays within the control of Contractor. Contractor shall be entitled to an equitable and reasonable adjustment of Contract Times, but not an increase in a Contract Price, for delays related to Force Majeure, abnormal weather conditions, or other causes not the fault of and beyond the control of the Borough and the Contractor.

## **9. Contractor's Representations**

In order to induce the Borough to enter into this Agreement and Contract, Contractor makes the following representations:

- 9.1. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Contract Documents including any applicable "technical data".
- 9.2. Contractor has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance, and furnishing of the Work.
- 9.3. Contractor is familiar with and is satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, performance, and furnishing of the Work.
- 9.4. Contractor is aware of the general nature of work to be performed by the Borough and others at the site that relates to the Work as indicated in the Contract Documents.
- 9.5. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the site, reports, and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- 9.6. Contractor has given the Borough written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, prior to executing this Agreement, and the written resolution thereof by the Borough is acceptable to Contractor, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- 9.7. Contractor acknowledges the Borough may apply for other funding assistance for the Work and if such funding is awarded, Contractor and/or subcontractors may be required to submit additional information or documentation, and Contractor and/or subcontractors may be required to adhere to additional criteria necessary to satisfy additional funding requirements.
- 9.8. Contractor is authorized to do business in Pennsylvania and that the person signing on behalf of the Contractor is authorized to bind Contractor to the terms and conditions set forth herein.

## **10. Subsurface & Physical Conditions and Underground Facilities**

The Borough may furnish to the Contractor reports and or drawings known to the Borough relating to subsurface and physical conditions, explorations, tests and Underground Facilities at or contiguous to the location for which the work contemplated under this Agreement is to be performed. The Borough makes no warranties or representations regarding the accuracy of such information and Contractor shall not rely on the information as accurate. Contractor acknowledges that such reports and drawings may not be complete for Contractor's purposes. Contractor acknowledges that the Borough does not assume responsibility for the accuracy or completeness of information and data shown or indicated. Underground Facilities shall include underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. If an Underground Facility is uncovered or revealed at or contiguous to the site which was not shown or indicated, or not shown or indicated with

reasonable accuracy, Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith identify the owner of such Underground Facility and give written notice to that owner and to the Borough.

## **11. Existing Utilities**

Contractor shall comply with Federal, State, and local regulations relating to the requirement to notify utility companies, including any utility owned and operated by the Borough, prior to performing work that has the potential to damage the facilities of such utility companies. Where such utility company facilities are located underground, Contractor shall make arrangements for a utility company representative to locate the underground facilities prior to initiating excavation work. If any utility company facility is damaged during the Work, Contractor shall immediately notify the affected utility company. If the utility had been correctly located and marked in the field by its owner, Contractor shall be fully responsible for repairing or replacing such damaged facilities, at no cost to the Borough, in accordance with utility company's requirements. If Contractor fails to promptly repair or replace damaged facilities, Borough or utility company may arrange to have the required work performed by others and the cost of such work will be charged to the Contractor by deduction from a progress payment.

## **12. Correction of Defective Work**

12.1. Prompt notice of all defective Work of which the Borough has actual knowledge will be given to Contractor. Defective Work may be rejected, corrected, or accepted as provided in this Paragraph 12.

12.2. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, the Borough may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Borough to stop the Work shall not give rise to any duty on the part of the Borough to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

12.3. Correction Period

12.3.1. If within two (2) years after the date of completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents), which shall be evidenced by final payment under Paragraph 5.3, or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by the Borough is found to be defective, Contractor shall promptly, without cost to the Borough and in accordance with the Borough's written instructions:

12.3.1.1. repair such defective land or areas; or

12.3.1.2. correct such defective Work; or

12.3.1.3. if the defective Work has been rejected by the Borough, remove it from the Project and replace it with Work that is not defective; and

12.3.1.4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.

12.3.2. If Contractor does not promptly comply with the terms of the Borough's written instructions, or in an emergency where delay would cause serious risk of loss or damage, the Borough may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

12.3.3. In special circumstances where a particular item of equipment is placed in continuous service before completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

12.3.4. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 12, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

12.3.5. Contractor's obligations under this Paragraph 12 are in addition to any other obligation or warranty. The provisions of this Paragraph 12 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

#### 12.4. Acceptance of Defective Work

If, instead of requiring correction or removal and replacement of defective Work, the Borough prefers to accept it, the Borough may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to the Borough's evaluation of and determination to accept such defective Work and for the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to the recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and the Borough shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted.

#### 12.5. The Borough May Correct Defective Work

If Contractor fails within a reasonable time after written notice from the Borough to correct defective Work, or to remove and replace rejected Work, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, the Borough may, after seven days written notice to Contractor, correct, or remedy any such deficiency.

In exercising the rights and remedies under this Paragraph, the Borough shall proceed expeditiously. In connection with such corrective or remedial action, the Borough may exclude Contractor from all or part of the worksite, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the worksite, and incorporate in

the Work all materials and equipment stored at the Site or for which the Borough has paid Contractor but which are stored elsewhere. Contractor shall allow the Borough, the Borough's representatives, agents and employees, the Borough's other contractors, access to the Site to enable the Borough to exercise the rights and remedies under this Paragraph 12.

All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by the Borough in exercising the rights and remedies under this Paragraph 12 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and the Borough shall be entitled to an appropriate decrease in the Contract Price. Such claims costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

**13. Force Majeure**

The Borough, the Contractor, and sub-contractors shall not be held responsible for any delay, default, or nonperformance directly caused by an act of God, unforeseen adverse weather events, accident, labor strike, fire, explosion, riot, war, rebellion, terrorist activity, sabotage, flood, epidemic, act of federal or state government, labor, material, equipment, or supply shortage. Notwithstanding the foregoing, such delays, defaults, or nonperformance shall result from matters that would not be reasonably foreseen by a Contractor exercising reasonable due diligence and/or care.

**14. Non-Discrimination**

The Contractor shall not discriminate against any employee, applicant for employment, or any person seeking the Services of the Contractor to be provided under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or presence of any sensory, mental, or physical handicap.

**15. Assignment**

No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents .

**16. Remedies**

No remedy herein conferred upon any party is exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or provided by law, equity, statute, or unless otherwise stated herein. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other exercise or further exercise thereof. Notwithstanding the foregoing, Contractor waives any and all claims to consequential, incidental, compensatory or punitive damages that may arise out of and/or resulting from this Agreement, including but not limited to loss of anticipated profits or revenue or other economic loss in the event this Agreement is terminated. Further, Contractor agrees that Contractor's sole remedy for any claim arising out of or relating to this Agreement shall be payment for services rendered prior to any termination of the Agreement, provided however that the Borough may offset any amount owed to the Contractor for services rendered by Contractor prior to termination of the Agreement for

any damages, and/or costs suffered and/or incurred by the Borough as a result of any breach or failure by Contractor.

**17. Governing Law / Venue / Jurisdiction**

This Agreement shall be construed according to, be subject to, and be governed by the laws of the Commonwealth of Pennsylvania. Any legal and/or equitable action arising out of or relating to, directly or indirectly, this Agreement shall be filed with the Court of Common Pleas in and for of Franklin County, Pennsylvania.

**18. Entire Agreement**

This Agreement contains the entire Agreement between the parties and no other agreements, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or bind any of the parties. No modification, amendment, change or addition to this Agreement shall be binding on the parties unless reduced in writing mutually agreed to, and signed by the parties authorized representatives.

**19. Successors and Assigns**

The Borough and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

**20. Severability**

If any terms or provisions or portions thereof of this Agreement or application thereof become invalid, the remainder of said term or provision and/or portion thereof of this Agreement shall not be affected thereby; and, to this end, the parties hereto agree that the terms and provisions of this Agreement are severable.

**21. Independent Contractors**

Any Work to be performed by the Contractor or its sub-contractors, if any, under this Agreement are provided as independent contractors. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties. All persons engaged in any of the Work to be performed pursuant to this Agreement shall at all times and places be subject to the Contractor's sole direction, supervision, and control. The Contractor shall exercise control over the means and manner in which it, its employees, and sub-contractors perform the Work. The Contractor does not have the power or authority to bind the Borough in any promise, agreement, or representation unless expressly provided written agreement to do so. The Contractor also hereby represents and warrants that it and any sub- contractors has and will continue to maintain all licenses and approvals required to conduct its business and to provide the Work as required pursuant to this Agreement.

**22. Disputes**

Before any litigation is brought pursuant to this Agreement, the parties hereto agree to submit any dispute between them to mediation. Such mediation shall be a condition precedent to either party instituting litigation unless a stay of an applicable statute of limitations or repose is necessary. Such mediation may be initiated by written request and will occur within thirty (30) days of such request. A mutually agreeable impartial mediator may be retained, if requested by either party, to assist in the mediation process. In the event the parties cannot agree to a mediator, the parties will continue to put forth names for a mutually agreeable time, after which litigation may be commenced in Franklin County Court of Common Pleas if a mediator is not agreed upon. In the event mediation does not result in the successful resolution of the dispute, either party may institute any and all actions

necessary to protect their rights at law and/or equity in accordance with this Agreement. No remedy herein conferred upon any party is exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or provided by law, equity, statute, or unless otherwise stated herein. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other exercise or further exercise thereof. Notwithstanding the foregoing, Contractor waives any and all claims to consequential, incidental, compensatory or punitive damages that may arise out of and/or resulting from this Agreement, including but not limited to loss of anticipated profits or revenue or other economic loss in the event this Agreement is terminated. Further, Contractor agrees that Contractor's sole remedy for any claim arising out of or relating to this Agreement shall be payment for services rendered prior to any termination of the Agreement, provided however that the Borough may offset any amount owed to the Contractor for services rendered by Contractor prior to termination of the Agreement for any damages, and/or costs suffered and/or incurred by the Borough as a result of any breach or failure by Contractor.

**23. Effective Date**

As used herein, the "Effective Date" shall mean the later of the Borough execution date and the Contractor execution date, each of which is set forth on the signature page hereof.

**24. Counterparts**

This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same instrument.

**(SIGNATURES APPEAR ON THE FOLLOWING PAGE)**



**IN WITNESS WHEREOF**, the parties hereto, intending to be legally bound hereby, have caused these present to be executed by their duly authorized officials.

**(If Contractor is an Individual)**

_____ Signature of Witness	_____ Signature of Individual	_____ Date
-------------------------------	----------------------------------	---------------

Trading and doing business as:

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Address of Business

**(If Contractor is a Partnership - All General Partners Must Sign)**

\_\_\_\_\_  
Name of Partnership

\_\_\_\_\_  
Address of Partnership

_____ Signature of Witness	_____ Signature of Partner	_____ Date
-------------------------------	-------------------------------	---------------

_____ Signature of Witness	_____ Signature of Partner	_____ Date
-------------------------------	-------------------------------	---------------

_____ Signature of Witness	_____ Signature of Partner	_____ Date
-------------------------------	-------------------------------	---------------

**(If Contractor is a Corporation)**

Attest:

\_\_\_\_\_  
Name of Corporation

\_\_\_\_\_  
Signature of Secretary or  
Assistant Secretary

\_\_\_\_\_  
Address of Principal Office

(Corporate Seal)

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

\_\_\_\_\_  
Signature of  
President or Vice President

\_\_\_\_\_  
Date

Attest:

**BOROUGH OF CHAMBERSBURG**

100 South 2<sup>nd</sup> Street  
Chambersburg, PA 17201

\_\_\_\_\_  
Jamia L. Wright

\_\_\_\_\_  
**Allen B. Coffman**

\_\_\_\_\_  
**Date**

Borough Secretary

**President of Town Council**

**END OF AGREEMENT**

## PERFORMANCE BOND

CONTRACTOR (Name and Address):

SURETY (Name and Address):

OWNER (Name and Address):

**BOROUGH OF CHAMBERSBURG**  
100 South Second Street  
Chambersburg, PA 17201

### AGREEMENT

Amount:

Project Identification

**Meeting Place Greenway Project**

Contract Identification:

General Construction

### BOND

Date:

Amount:

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the Performance of the Work as defined by the Agreement, which is incorporated herein by reference.
2. If the Contractor performs the Work, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Paragraph 3.1.
3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
  - 3.1 The Owner has notified the Contractor and the Surety at its address described in Article 10 below, that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Work. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Work, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor default; and
  - 3.2 The Owner has declared a Contractor default and formally terminated the Contractor's right to complete the Work. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Paragraph 3.1; and
  - 3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Agreement or to a contractor selected to perform the Work in accordance with the terms of the Agreement with the Owner.

4. When the Owner has satisfied the conditions of Article 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

- 4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Work; or
- 4.2 Undertake to perform and complete the Work itself, through its agents or through independent contractors; or
- 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Work, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Work, and pay to the Owner the amount of damages as described in Article 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or
- 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
  1. After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or
  2. Deny liability in whole or in part and notify the Owner citing reasons therefor.

5. If the Surety does not proceed as provided in Article 4 within fifteen (15) business days of Owner's satisfaction of the conditions of Article 3, or within twenty-four (24) hours after notice, where notice states that immediate action by the Surety is necessary to safeguard life or property, the Surety shall be deemed to be in default on this Bond three (3) days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

6. After the Owner has terminated the Contractor's right to complete the Work, and if the Surety elects to act under Paragraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Agreement, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Agreement. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Work, the Surety is obligated without duplication for:

- 6.1 The responsibilities of the Contractor for:
  1. Completion of the Work.
  2. Correction of defective work during the one-year Correction Period, as defined in Paragraph 12 of the Agreement. The one-year Correction Period shall be extended for one year from the completion of the correction of defective work.
- 6.2 Additional legal, design, professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Article 4; and

6.3 Liquidated damages, or at the option of the Owner, actual damages caused by delayed performance or non-performance of the Contractor.

7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Work, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.

8. To the extent of payment to the Surety of the Balance of the Contract Price, the Surety shall defend, indemnify, and hold harmless the Owner from all claims, suits, causes of action, and demands (including all costs of litigation and reasonable attorney fees), which are brought against Owner by Contractor or by any other party and which arise from or by reason of payment to the Surety of the Balance of the Contract Price.

9. The Surety hereby waives notice of any change, including changes of time, to the Agreement or to related subcontracts, purchase orders, and other obligations.

10. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working and within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Article are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

11. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the front page.

12. When this Bond has been furnished to Owner in compliance with the Public Works Contractor's Bond Law of 1967, 8 P.S. § 191 *et. seq.*, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

13. The law controlling the interpretation or enforcement of this Bond shall be Pennsylvania Law.

14. Definitions:

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Agreement after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Agreement.

14.2 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Agreement.

14.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Agreement or to perform and complete or comply with the other terms thereof.

**(If Contractor is an Individual)**

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Individual

Trading and doing business as:

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Address of Business

**(If Contractor is a Partnership - All General Partners Must Sign)**

\_\_\_\_\_  
Name of Partnership

\_\_\_\_\_  
Address of Partnership

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

**(If Contractor is a Corporation)**

ATTEST:

\_\_\_\_\_  
Name of Corporation

\_\_\_\_\_  
Signature of Secretary or  
Assistant Secretary

\_\_\_\_\_  
Address of Principal Office

(CORPORATE SEAL)

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

\_\_\_\_\_  
Signature of  
President or Vice President

Type or print name below each signature.

**(Corporation Surety)**

\_\_\_\_\_  
Name of Corporation

\_\_\_\_\_  
Address of Office

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Attorney-in-fact

Attach an appropriate power of attorney, dated as of the same date as the Bond, evidencing the authority of the Attorney-in-fact to act in behalf of the corporation.

Type or print name below each signature.

**NOTE: Substitute Performance Bond Form is not acceptable. Failure to submit Bond on this form will be reason for rejection of Bid.**

## PAYMENT BOND

CONTRACTOR (Name and Address): SURETY (Name and Address):

OWNER (Name and Address): **BOROUGH OF CHAMBERSBURG**  
100 South Second Street  
Chambersburg, PA 17201

AGREEMENT **Meeting Place Greenway Project**

Amount:  
Project Identification:

Contract Identification: General Construction

### BOND

Date:  
Amount:

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Work as defined by the Agreement, which is incorporated herein by reference.
2. With respect to the Owner, this obligation shall be null and void if the Contractor:
  - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
  - 2.2 Defends, indemnifies, and holds harmless the Owner from all claims, demands, liens, or suits by any person or entity who furnished labor, materials, or equipment for use in the performance of the Work, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Article 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
4. The Surety shall have no obligation to Claimants under this Bond until:
  - 4.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Article 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.



4.2 Claimants who do not have a direct contract with the Contractor:

1. Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
2. Have either received a rejection in whole or in part from the Contractor, or not received within thirty (30) days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
3. Not having been paid within the above thirty (30) days, have sent a written notice to the Surety (at the address described in Article 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

5. If a notice required by Article 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.

6. When the Claimant has satisfied the conditions of Article 4, the Surety shall promptly and at the Surety's expense take the following actions.

- 6.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
- 6.2 Pay or arrange for payment of any undisputed amounts.
- 6.3 The Surety's failure to discharge its obligations under this Section 6 shall not be deemed to constitute a waiver of defenses the Surety or the Contractor may have or acquire as to a claim. However, if the Surety fails to discharge its obligations under this Section 6, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs to recover any sums found to be due and owing to the Claimant under this Section 6.

7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

8. Amounts owed by the Owner to the Contractor under the Agreement shall be used for the performance of the Work and to satisfy claims, if any, under any Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Work are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the Work.

9. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Work. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. The Surety hereby waives notice of any change, including changes of time, to the Agreement or to related subcontracts, purchase orders, and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraphs 4.2.3 or 4.1, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Agreement, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the front page. Actual receipt of notice by Surety, the Owner, or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the front page.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. Definitions:

15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Work. The intent of this Bond shall be to include without limitation in the terms "labor, materials, or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Work, architectural and engineering services required for performance of the Work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

15.2 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Agreement or to perform and complete or comply with the other terms thereof.

**(If Contractor is an Individual)**

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Individual

Trading and doing business as:

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Address of Business

**(If Contractor is a Partnership - All General Partners Must Sign)**

\_\_\_\_\_  
Name of Partnership

\_\_\_\_\_  
Address of Partnership

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

**(If Contractor is a Corporation)**

ATTEST:

\_\_\_\_\_  
Name of Corporation

\_\_\_\_\_  
Signature of Secretary or  
Assistant Secretary

\_\_\_\_\_  
Address of Principal Office

(CORPORATE SEAL)

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

\_\_\_\_\_  
Signature of  
President or Vice President

Type or print name below each signature.

**(Corporation Surety)**

\_\_\_\_\_  
Name of Corporation

\_\_\_\_\_  
Address of Office

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Attorney-in-fact

Attach an appropriate power of attorney, dated as of the same date as the Bond, evidencing the authority of the Attorney-in-fact to act in behalf of the corporation.

Type or print name below each signature.

**NOTE: Substitute Payment Bond Form is not acceptable. Failure to submit Bond on this form will be reason for rejection of Bid.**

**END OF PAYMENT BOND**



## NOTIFICATION OF INSPECTION

SYS	SR OR WO	SPUR	PHA	SECT	ORGN	ALLOT	CST. FCT	S#	COUNTY
0	MUNIC	0	9	000	0800	6 11	9415	NA	

\* CMS/ECMS No.: Yes  No  (if yes) # \_\_\_\_\_ Project Value: \$ \_\_\_\_\_

Federal Project No.: \_\_\_\_\_ or 100% State

Prime Contractor: \_\_\_\_\_

Special Provision for fabricated material(s)?: Yes  (please attach), No

Project Let Date: \_\_\_\_\_

<u>Fabricator(s)/Location(s)</u>	<u>Material Description</u>	<u>Anticipated Production Date (Range)</u>	<u>Quantity</u>

Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Name

\_\_\_\_\_ Phone: # \_\_\_\_\_  
Signed Name

E-Mail: \_\_\_\_\_

**\* REQUIRED FIELD (missing and/or incomplete information may result in our inability to provide inspection Services.**

*This completed form must be forwarded to the Chief, Structural Materials Engineer, Material Testing Division-Bureau of Construction and Materials, to authorize inspection for fabricated materials. Inspection is required for, but not limited to, products defined in Publication 408, Sections 601.2.3(a) - special design concrete pipe, 714 - precast concrete products, 1085 - precast concrete box culverts, 1086 - precast sound barrier, 1101 - highway light poles, 1104 - traffic poles, 1105 - fabricated structural steel and 1107 - prestressed concrete bridge beams.*

**Mail to**

Pennsylvania Department of Transportation  
 Materials and Testing Division - Structural Materials Section  
 81 Lab Lane  
 Harrisburg PA 17110

**Fax to**

(717) 705-5750  
**E-Mail (preferred)**  
[ra-pdstructmatls@state.pa.us](mailto:ra-pdstructmatls@state.pa.us)

# Request for Taxpayer Identification Number and Certification

**Give Form to the  
 requester. Do not  
 send to the IRS.**

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Print or type.  
 See Specific Instructions on page 3.

<b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
<b>2</b> Business name/disregarded entity name, if different from above	
<b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.	<b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
<input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate	Exempt payee code (if any) _____
<input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ <b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.	Exemption from FATCA reporting code (if any) _____
<input type="checkbox"/> Other (see instructions) ▶ _____	<small>(Applies to accounts maintained outside the U.S.)</small>
<b>5</b> Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
<b>6</b> City, state, and ZIP code	
<b>7</b> List account number(s) here (optional)	

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

<b>Social security number</b>										
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	-		-							
<b>or</b>										
<b>Employer identification number</b>										
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		-								

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
------------------	----------------------------	--------

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

By signing the filled-out form, you:

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

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

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

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

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

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

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

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

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

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

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

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

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

## Backup Withholding

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

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

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

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

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

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

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

## Updating Your Information

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

## Penalties

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

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

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

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

## Specific Instructions

### Line 1

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

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

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

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

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

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

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

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

### Line 2

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

### Line 3

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

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

### Line 4, Exemptions

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

#### Exempt payee code.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

G—A real estate investment trust

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

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

J—A bank as defined in section 581

K—A broker

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

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

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

### Line 5

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

### Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

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

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

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

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

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

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

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

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

## Part II. Certification

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

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

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

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

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

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

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

### What Name and Number To Give the Requester

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

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

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

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

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

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

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

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

### Secure Your Tax Records From Identity Theft

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

To reduce your risk:

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

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

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

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

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

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

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

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

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

## Privacy Act Notice

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

# **BOROUGH OF CHAMBERSBURG**



**100 S. SECOND STREET  
CHAMBERSBURG PA 17201**

## **Procurement Policy**

**Procurement:**

**General – Part 1**

- **Section 3 Insurance, Bonds and Related Matters – pg. 13**
- **PA Prevailing Wage; Davis Bacon; Copeland anti-kickback – pg. 43**
- **MBE/WBE**

**Federal – Part 2 – Discrimination**

- **Davis Bacon – pg.8**
- **MBE/WBE – pg. 18**

**Procurement – General Contract Conditions**

**Part 1**

# GENERAL CONDITIONS

## PART I CONTRACT CONDITIONS

These General Conditions are divided into three parts. Part I applies to all contracts entered into between the OWNER and the CONTRACTOR. Part II (Federal Requirements) sets forth those requirements and conditions which apply to the Project if the funding is federal in origin. Part III (State Requirements) sets forth those requirements and conditions enforced by the Commonwealth of Pennsylvania. Part I may be amended by the detail or technical specifications, however, any other section of the Contract Documents will not amend Part II or III. In addition, special conditions may also apply to the project and are included in the Contract Documents if applicable.

### SECTION 1 GENERAL

#### 1.1 DEFINITIONS

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

- 1.1.1 *Addenda*: Written or graphic instruments issued prior to the opening of Bids which clarify, modify correct, interpret or change the Bidding Requirements or Contract Documents.
- 1.1.2 *Agreement (or Contract Agreement)*: The written contract between the OWNER and the CONTRACTOR covering the Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof as provided therein.
- 1.1.3 *ARCHITECT OR ENGINEER*: The ARCHITECT or ENGINEER authorized by the OWNER's as its technical and/or design representative for the project.
- 1.1.4 *Bid*: The offer or proposal of the Bidder submitted on the prescribed form, setting forth the prices for the Work to be performed.
- 1.1.5 *Bidder*: Any person, firm or corporation submitting a Bid for the Work.
- 1.1.6 *Bidding Documents*: The advertisement or invitation to Bid, instructions to Bidders, the Bid form, and the proposed Contract Documents (including all Addenda).
- 1.1.7 *Bonds*: Bid, Performance, Payment and Maintenance Bonds and other instruments or security furnished by the CONTRACTOR and his surety in accordance with the Contract Documents.
- 1.1.8 *Change Order*: A written order to the CONTRACTOR authorizing an addition, deletion or revision in the Work within the general scope of the Contract Documents, or authorizing an adjustment in the Contract Price or Contract Time.
- 1.1.9 *Contract Documents*: The Agreement, Addenda, CONTRACTOR's Bid, the Notice to Proceed, the Bonds, the General Conditions, the Supplementary Conditions, if any, the Specifications (Standard,

Detail or Technical) and the Drawings, together with all written amendments, Change Orders, field orders and written interpretations and/or clarifications.

- 1.1.10 *Contract Price*: The moneys payable by the OWNER to the CONTRACTOR for completion of the Work in accordance with the Contract Documents as stated in the Agreement.
- 1.1.11 *Contract Times*: The number of days or the dates stated in the Agreement: (i) to achieve Substantial Completion and (ii) to complete the Work so that it is ready for final payment as evidenced by the ARCHITECT's or ENGINEER's written recommendation of final payment.
- 1.1.12 *CONTRACTOR*: The person, firm or corporation with whom the OWNER has entered into the Agreement.
- 1.1.13 *Drawings (or Contract Drawings or Plans or Contract Plans)*: The drawings which show the scope, extent and character of the Work to be furnished and performed by the CONTRACTOR. Shop drawings are not Drawings as so defined.
- 1.1.14 *ENGINEER or ARCHITECT*: The ENGINEER or ARCHITECT authorized by the OWNER's as its technical and/or design representative for the Project. Wherever the term "ENGINEER" is used, it shall mean ENGINEER or ARCHITECT or other design professional acting as the OWNER's representative, as applicable.
- 1.1.15 *Field Order*: A written order effecting a change in the Work not involving an adjustment in the Contract Price or an extension of the Contract Time issued by the ENGINEER to the CONTRACTOR during construction.
- 1.1.16 *Lump Sum Price*: The amount Bid as a single item for the Work completed and ready to use.
- 1.1.17 *Materials*: Materials incorporated or to be incorporated in the Contract Work or to be used in the operation of the completed improvements.
- 1.1.18 *MBE*: A person, firm or corporation qualifying under the OWNER's Minority and Women Business Enterprise Plan as a bona fide Minority Business Enterprise.
- 1.1.19 *Notice of Award*: The written notice of the acceptance of the Bid from the OWNER to the successful Bidder.
- 1.1.20 *Notice to Proceed*: A written notice given by the OWNER (or its representative) to the CONTRACTOR fixing the date on which the Contract Times will commence to run; and on which the CONTRACTOR shall start to perform its obligations under the Contract Documents.
- 1.1.21 *OWNER*: The public body or authority, corporation, association, firm or person with whom the CONTRACTOR has entered into the Agreement and for whom the Work is to be provided.
- 1.1.22 *Plans*: (see "Drawings").
- 1.1.23 *Project*: The undertaking to be performed as provided in the Contract Documents.



- 1.1.24 *Resident Project Representative*: Any authorized representative of the OWNER who is assigned to the project site or any part thereof, including the ENGINEER and the ENGINEER'S authorized representative.
- 1.1.25 *Shop Drawings*: All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the CONTRACTOR, a Subcontractor, manufacturer, supplier or distributor, which illustrate how specific portions of the Work shall be fabricated or installed.
- 1.1.26 *Specifications*: A part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and Workmanship.
- 1.1.27 *Subcontractor*: An individual, firm or corporation having a direct contract with the CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the site.
- 1.1.28 *Substantial Completion*: The Work (or a specified part thereof) has progressed to the point where, in the opinion of the ENGINEER (as evidenced by a definitive certificate of substantial completion), it is sufficiently complete so that the Work or specified part can be utilized for the purposes intended. Use of this term is referenced to the "Public Works Contract Regulation Law," Act No. 317 of 1978 as amended by Act No. 200 of 1982.
- 1.1.29 *Supplemental Unit Prices*: The unit prices included on the CONTRACTOR'S Bid which apply to increasing or decreasing the Project quantities on the basis of Unit Price payment. (See "Unit Price").
- 1.1.30 *Supplementary Conditions*: The part of the Contract Documents which amends or supplements these General Conditions.
- 1.1.31 *Supplier*: A manufacturer, fabricator, supplier, distributor, material man or vendor having a direct contract with the CONTRACTOR or with any Subcontractor to furnish materials or equipment to be incorporated into the work.
- 1.1.32 *Underground Facilities*: All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems, or water. Use of this term is referenced to the "Underground Utility Line Protection Law." Act 38 of 1991, or as amended.
- 1.1.33 *Unit Price*: Any price Bid under the respective items of the Proposal Form whether such price be per unit of measurement, per each or per lump sum.
- 1.1.34 *User*: When used in relationship to a utility, shall mean the utility OWNER or utility operator. Use of this term is referenced to the "Underground Utility Line Protection Law," Act 38 of 1991, or as amended.
- 1.1.35 *WBE*: A person, firm or corporation qualifying under the OWNER'S Minority and Women Business Enterprise Plan as a bona fide Woman-Owned Business Enterprise.

1.1.36 *Work*: The entire construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials and equipment into the construction, and performing or furnishing services and furnishing documents, all as required by the Contract Documents.

1.1.37 *Written Notice*: Any notice to any part of the Agreement relative to any part of this Contract in writing and considered delivered and the service thereof completed when posted by Certified or Registered Mail to the said party at his last given address, or delivered in person to said party or his authorized representative on the Work.

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

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

## 1.2 SCOPE OF WORK

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

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

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

## **SECTION 2 CONTRACT AND CONTRACT DOCUMENTS**

### 2.1 GENERAL

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

### 2.2 BIDDING DOCUMENTS

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

2.2.1 Advertisement for Bids (or Invitation for Bids).

2.2.2 Information for Bidders (or Instructions to Bidders).

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

## 2.3 CONTRACTUAL DOCUMENTS

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

## 2.4 GENERAL CONDITIONS

The General Conditions outline certain general responsibilities of the OWNER and the CONTRACTOR (who are the parties to the Contract Agreement) and also those responsibilities delegated by the OWNER to the ARCHITECT or ENGINEER who acts as the agent of the OWNER. These General Conditions are divided into two parts. Part I applies to all contracts entered into between the OWNER and the CONTRACTOR, regardless of the source of funding for the Project. Part II—Federal Requirements sets forth those requirements and conditions, which apply, to the Project as a result of the Community Development Block Grant Funding. Part I may be amended by the Detail or Technical Specifications. Any other section of the Contract Documents will not amend Part II.

## 2.5 PLANS AND SPECIFICATIONS

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

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

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

## 2.6 NOTICE OF CHANGE OF ADDRESS

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

## 2.7 ASSIGNMENT OF CONTRACT

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

## 2.8 MODIFICATION OF CONTRACT

### 2.8.1 CHANGES INITIATED BY OWNER

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

The amount of compensation to be paid to the CONTRACTOR or credited to the OWNER for any changes to the Contract, as so ordered, shall be determined as indicated in Subsection 2.8 C, "Basis for Determination of Additional Compensation."

## 2.8.2 CHANGES INITIATED BY CONTRACTOR

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

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

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

The amount of compensation to be paid to the CONTRACTOR or credited to the OWNER for any changes to the Contract, as so ordered, shall be determined as indicated in Subsection 2.8 C, "Basis for Determination of Additional Compensation."

## 2.8.3 BASIS FOR DETERMINATION OF ADDITIONAL COMPENSATION

When additional compensation is due the CONTRACTOR or when a credit is due the OWNER for changes to the Contract, the amount of such additional compensation or credit shall be determined as follows:

- (A) By such applicable unit prices, if any, as are set forth in the Contract Documents; claims for additional compensation shall be accompanied by itemized information showing the location of the extra Work and the quantity of each item for which the CONTRACTOR requests payment. The location shall reference the construction, stationing, street names and property OWNER's; or,
- (B) By a lump sum mutually agreed upon by the OWNER and the CONTRACTOR; or,
- (C) If no such unit prices are so set forth and if the parties cannot agree upon a lump sum, then by the cost (or in the case of credit – the estimated cost) to the CONTRACTOR for the materials, labor and equipment costs. These costs shall be calculated in accordance with Pennsylvania Department of Transportation Publication 408, latest edition, for extra Work performed on a force account basis as follows:
  - (i) Labor – Wages of forepersons; equipment operators; and skilled, semi-skilled, and common laborers directly assigned to the specific operation will be reimbursed as direct labor at contract or actual payroll rate of wages per hour and actual fringe benefits paid, for each hour that such employees are actually engaged in the performance of the authorized Work and, if directed, overtime as provided by existing laws and regulations.

Indirect labor cost added to the direct labor cost will be allowed as follows:

Social Security Tax at the percentage legally required;

Unemployment Tax at the percentage legally required;  
Worker's Compensation Insurance at the policy percentage rate;  
CONTRACTOR's Public Liability Insurance at the policy percentage rate;  
CONTRACTOR's Property Damage Liability Insurance at the policy percentage rate,  
including coverage for damage due to blasting and explosions, when additional  
coverage is secured on projects requiring blasting.

- (ii) Material – The cost of material used will be reimbursable at the actual cost of material, including applicable tax and transportation charges, shown on invoices.
- (iii) Equipment – Reasonable rental rates for equipment, including machinery and trucks, mutually considered necessary, will be allowed, computed as follows:

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

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

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

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

- (iv) Services by Others – For any service such as maintenance and protection of traffic signing, Engineering services, or specialized construction analysis not considered as subcontract Work requiring prequalification, the CONTRACTOR will be compensated at the invoice price plus 2% to cover administration and all other costs.

- (v) Insurance – When Railroad’s Protective Public Liability Insurance or Railroad’s Protective Property Damage Liability Insurance are required by the Contract, reimbursement of insurance premium paid will be allowed at the policy premium rate.

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

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

- (vi) Subcontract – For work to be performed by a Subcontractor, payment will be the actual and reasonable cost of the subcontracted Work, computed on the foregoing basis, as authorized and accepted in writing.
- (vii) Overhead and Profit – Except as specified in Subsection 2.8C 3 (d), to cover all administration, general superintendence, other overhead, bonds, insurance, anticipated profit, and use of small tools and equipment, for which no rental is allowed, add 25% to the labor cost, the material cost, the equipment cost and, when applicable, add 2% to the total force-account invoice for subcontract Work.

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

Claims for additional compensation shall be accompanied by itemized records showing the following items:

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

#### 2.8.4 REQUESTS FOR PAYMENT

Requests for additional compensation shall be made in accordance with this Paragraph 2.8 and with Paragraph 7.8, "Requests for Extra Compensation."

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

#### 2.8.5 EMERGENCIES

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

#### 2.9 ORAL AGREEMENTS

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

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

#### 3.1 CONTRACTOR'S LIABILITY INSURANCE

The CONTRACTOR shall purchase and maintain, from a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, such comprehensive liability and other insurance as is appropriate for the Work being performed and furnished and as will provide protection from claims set forth below which may arise out of or result from CONTRACTOR's performance and furnishing of the Work and CONTRACTOR's other obligations under the Contract Documents, whether it is to be performed or furnished by CONTRACTOR, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform or furnish any of the Work, or by anyone for whose acts any of them may be liable:

- 3.1.1 Claims under Workers' compensation, disability benefits and other similar employee benefit acts;
- 3.1.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees;
- 3.1.3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees;
- 3.1.4 Claims for damages insured by customary personal injury liability coverage which are sustained: (i) by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR, or (ii) by any other person for any other reason;
- 3.1.5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting there from; and



3.1.6 Claims for damages because of bodily injury or death of any person or property damage arising out of the Ownership, maintenance or use of any motor vehicle.

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

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

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

- 3.1.7 Include as additional insured (subject to any customary exclusion in respect of professional liability) OWNER, ENGINEER, ENGINEER’s Consultants and any other persons or entities identified in the Contract Documents, all of whom shall be listed as additional insured, and include coverage for the respective officers and employees of all such additional insured;
- 3.1.8 Include the specific coverage’s and be written for not less than the limits of liability provided herein or required by Laws or Regulations, whichever is greater;
- 3.1.9 Include completed operations insurance;
- 3.1.10 Include contractual liability insurance covering CONTRACTOR’s indemnity obligations under this contract;
- 3.1.11 Contain a provision or endorsement that the coverage afforded will not be cancelled, materially changed or renewal refused until at least thirty days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured identified to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the CONTRACTOR pursuant to paragraph 5.3.2 will so provide);
- 3.1.12 Remain in effect at least until final payment and at all times thereafter when CONTRACTOR may be correcting, removing or replacing defective Work; with respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment (and CONTRACTOR shall furnish OWNER and each other additional insured identified to whom a certificate of insurance has been issued evidence satisfactory to OWNER and any such additional insured of continuation of such insurance at final payment and one year thereafter).

### 3.2 OWNER’S LIABILITY INSURANCE

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

### 3.3 PROPERTY INSURANCE

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

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

OWNER may purchase and maintain such additional property insurance as it deems a necessary or as required by Laws and Regulations which will include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and any other persons or entities identified in the Contract Documents, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

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

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

### 3.4 WAIVER OF RIGHTS

OWNER and CONTRACTOR intend that all policies purchased in accordance with this section will protect OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and all other persons or entities identified to be listed as insured or additional insured in such policies and will provide primary coverage for all losses and damages caused by the perils covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insured will have no rights of recovery against any of the insured or additional insured there under. OWNER and CONTRACTOR waive all rights against each other and their respective officers, directors, employees and agents for all losses and damages caused by, arising out of or resulting from any of the perils covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, ENGINEER, ENGINEER's Consultants and all other persons or entities identified to be listed as insured or additional insured under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by OWNER as trustee or otherwise payable under any policy so issued.

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

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

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

### 3.5 RECEIPT AND APPLICATION OF INSURANCE PROCEEDS

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

OWNER as fiduciary shall have power to adjust and settle any loss with the insured unless one of the parties in interest shall object in writing within fifteen days after the occurrence of loss to OWNER's exercise of this power. If such objection be made, OWNER as fiduciary shall make settlement with the insured in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest

is reached, OWNER as fiduciary shall adjust and settle the loss with the insured and, if required in writing by any party in interest, OWNER as fiduciary shall give bond for the proper performance of such duties.

### 3.6 LIMITS OF INSURANCE COVERAGE

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

General Liability:	
Bodily Injury	\$1,000,000
Property Damage	\$1,000,000
Automobile Liability:	
Combined Single Limit	\$1,000,000
Excess Liability	\$1,000,000
Worker's Compensation	Statutory
Employer's Liability	\$ 100,000

Property Insurance: Builder's Risk "All-Risk"

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

Special Hazards Insurance

When the Work involves occupancy of railroad right of way, highway right of way, use of marine equipment or Work in navigable waterways, or any other special hazard, adequate liability insurance shall be provided by the CONTRACTOR as required by the railroad or the regulatory agency or governmental body having jurisdiction over the Work site(s). In the case of railroad protect insurance, the conditions of the License Agreement between the OWNER and the railroad will be fully met by the CONTRACTOR'S insurance, with such special insurance certificates or "additional insured" as may be required. In the case of occupancy of PennDOT right of way, the CONTRACTOR will furnish all certificates required by PennDOT, on the form(s) prescribed by PennDOT.

### 3.7 PARTIAL UTILIZATION—PROPERTY INSURANCE

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

### 3.8 INDEMNIFICATION

The CONTRACTOR shall waive any right of contribution and shall indemnify and hold harmless the OWNER, its agents and employees, and the ENGINEER, from and against all claims, damages, losses and expenses, including attorney's fees arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense is caused in whole or in part by any negligent act or omission of the CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified here under. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this agreement.

In any and all claims against the OWNER or ENGINEER or any of their agents or employees and consultants by any employee of the CONTRACTOR, Subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under the foregoing Paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or any Subcontractor under Workers' or Workmen's compensation acts, disability benefit acts or other employee benefit acts.

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

Any provision of this Paragraph 3.10 in respect of indemnification which is prohibited or unenforceable by law in the State in which the Work, or other performance described in this Contract is cited shall be ineffective to the extent of such prohibition or unenforceability and shall not invalidate the remaining provisions of this Paragraph 3.10 or this Contract.

### 3.9 SURETY BONDS

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

All Bonds shall be in the forms prescribed by law or regulation or by the Contract Documents and be executed by such sureties as are named either in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department or on the current edition of the "Surety List" of licensed companies published by the Commonwealth of Pennsylvania Insurance Department, Company Division System. All Bonds signed by an agent must be accompanied by a certified copy of the Authority to act, dated concurrent with the Bond.

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

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

3.9.1 PERFORMANCE BOND

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.

3.9.2 PAYMENT BOND

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 Subcontractors in the prosecution of the Work provided for in the Contract and shall be conditioned for the prompt payment of all such material furnished or labor supplied or performed in the prosecution of the Work.

3.9.3 MAINTENANCE BOND

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

3.9.4 CONSENT OF SURETY TO FINAL PAYMENT

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

**SECTION 4  
RESPONSIBILITY OF THE ENGINEER**

4.1 GENERAL

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

4.2 OBSERVATION OF THE WORK

All materials and each part or detail of the Work shall be subject at all times to observation by the ENGINEER and the OWNER, and the CONTRACTOR will be held strictly to the intent of the Contract Documents in regard to quality of materials, Workmanship and the diligent execution of the Contract.

Observations may be made at the site or at the source of material supply, whether mill, plant or shop. The ENGINEER shall be allowed access to all parts of the Work and shall be furnished with such information and assistance by the CONTRACTOR as is required to make his observations.

#### 4.3 ACCEPTANCE OF WORK

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

#### 4.4 ENGINEER IS OWNER'S REPRESENTATIVE

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

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

#### 5.1 LANDS AND RIGHTS OF WAY

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

#### 5.2 PERMITS

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

### 5.3 BASE LINES AND GRADES

The OWNER, prior to the start of the Work, will furnish basic offset lines or points for structures and basic centerline data, if required, for pipelines and sewers or drains. A system of elevation benchmarks, or the OWNER shall also furnish accurate points of elevation.

### 5.4 OWNER'S RIGHT TO CORRECT DEFICIENCIES

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

### 5.5 UNDERGROUND STRUCTURES

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

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

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

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

If (a) the CONTRACTOR shall be adjudged bankrupt or make an assignment for the benefit of creditors; or (b) a receiver or liquidator shall be appointed for the CONTRACTOR, or for any of his property, and shall not be dismissed within twenty days after such appointment, or the proceedings in connection therewith shall not be stayed on appeal within said twenty days; or (c) the CONTRACTOR shall refuse or fail after notice or warning from the ENGINEER to supply enough properly skilled Workmen or proper materials; or (d) the CONTRACTOR shall refuse or fail to prosecute the Work or any part thereof with such diligence as will ensure its completion within the period herein specified (or any duly authorized extension thereof), or shall fail to complete the Work within said period; or (e) the CONTRACTOR shall fail to make prompt payment to persons supplying labor or materials for the Work;



or (f) the CONTRACTOR shall fail or refuse to regard laws, ordinances or the instructions of the ENGINEER or otherwise be guilty of a substantial violation of any provision of this Contract; then, and in any such event, the OWNER, without prejudice to any other rights or remedy it may have, may, by ten days' notice to the CONTRACTOR, terminate the employment of the CONTRACTOR and his rights to proceed, either as to the entire Work or (at the option of the OWNER) as to any portion thereof as to which delay shall have occurred, and may take possession of the Work and complete the Work by Contract or otherwise, as the OWNER may deem expedient. In such case, the CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the compensation to be paid the CONTRACTOR hereunder shall exceed the expense of so completing the Work (including compensation for additional managerial, administrative and inspection services and damages for delay), such excess shall be paid to the CONTRACTOR. If such expense shall exceed such unpaid balance, the CONTRACTOR and his sureties shall be liable to the OWNER for such excess. If the right of the CONTRACTOR to proceed with the Work is so terminated, the OWNER may take possession of, and utilize in completing the Work, such materials, appliances, supplies, plant and equipment as may be on the site of the Work and necessary therefore. If the OWNER does not so terminate the right of the CONTRACTOR to proceed, the CONTRACTOR shall continue to Work.

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

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

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

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

SECTION 6  
CONTRACTOR'S RIGHTS AND RESPONSIBILITIES

6.1 GENERAL

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

The duties and obligations imposed by these General Conditions, in particular but without limitation the warranties, guarantees and obligations imposed by Paragraphs 3.11 B and 6.18 and the rights and remedies available to the OWNER there under, shall be in addition to, and shall not be construed in any way as a limitation of, any rights or remedies which are otherwise imposed or available by law, or special guarantee or by other provisions of the Contract Documents.

6.2 APPLICABLE LAWS AND REGULATIONS

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

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

All Work performed for public bodies within the Commonwealth of Pennsylvania, for construction, reconstruction, repair or maintenance shall utilize only steel produced in the United States (in accordance with Act Number 3-1978, the "Steel Products Procurement Act").

6.3 PERMITS, LICENSES AND CERTIFICATES

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

When new construction is adjacent to or crosses highways, railroads, streets or utilities under the jurisdiction of State, County, City or other public agency, public utility or private entity, the CONTRACTOR shall secure written permission from the proper authority before executing such new construction. A copy of this written permission must be filed with the OWNER before any Work is done. The CONTRACTOR shall replace or repair all existing facilities damaged in the execution of this Contract. The CONTRACTOR will be required to furnish a release from the proper authority before final acceptance of the Work.

#### 6.4 STRUCTURES OR WORK IN NAVIGABLE STREAMS

The CONTRACTOR shall secure permits from the United States Government for any necessary construction Work or other activity relative to use of any navigable stream. Occupancy permits for permanent lines; structures or improvements will be obtained by the OWNER. The CONTRACTOR shall place and maintain all signals required by the Federal Government or as otherwise ordered.

#### 6.5 PERMITS AND INSPECTION CHARGES

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

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

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

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

#### 6.6 PROJECT SIGNS

Unless specified otherwise in the Detail Specifications, each CONTRACTOR shall furnish and erect one (1) project sign, with the information set forth below being painted on both sides. Each sign shall be placed perpendicular to the main highway adjacent to the area of Work, so that it can be noted by traffic moving in either direction.

The sign shall be of substantial construction and made of good quality, one-inch stock lumber with two-inch by one-inch strip molding around the outer edges, the signs to be at least four feet by six feet in dimension. The signs shall be erected on two-inch by four-inch uprights, carefully braced and placed in the ground to the required depth.

The entire sign on both sides shall be given a priming coat of oil paint, tow coats of white oil paint and lettering placed on each side of the sign containing, essentially, the following information:

BOROUGH OF CHAMBERSBURG  
CENTER STREET IMPROVEMENTS PROJECT  
CONTRACT NUMBER  
FUNDING FOR THIS PROJECT  
HAS BEEN PROVIDED  
BY A GRANT FROM THE  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

The wording is subject to final approval and may be revised prior to actual initiation of the Work. The CONTRACTOR shall, in addition to the foregoing signs, provide all other signs in accordance with detailed instructions as required when any other Federal and/or State grants are involved in the project. The CONTRACTOR shall protect and maintain the signs in good condition throughout the life of the project.

6.7 CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

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

6.8 UNDERGROUND STRUCTURES

6.8.1 CONTRACTOR'S BID

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

6.8.2 UNDERGROUND UTILITY PROTECTION LAW – ACT 1991-38

(A) General

The CONTRACTOR shall adhere to all the requirements of Pennsylvania Act Number 1991-38. A Summary of the CONTRACT's responsibilities under the Act is as follows.

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

- (i) To ascertain types and location of all USERS' lines at the site of the excavation.
- (ii) To obtain, or ensure that the OWNER has obtained, all necessary permits.
- (iii) Not less than three nor more than ten Working days prior to the day of beginning such Work, to notify each USER of the CONTRACTOR's intent to perform such Work at its site or sites, and to request the USER to mark the location of the underground lines at the site. If the CONTRACTOR intends to perform Work at multiple sites or over a large area, he shall take reasonable steps to Work with USERS so that they may locate their facilities at a time reasonably in advance of actual start of excavation or demolition Work at each site. The CONTRACTOR shall be deemed to have give notice under the Act if he calls the Pennsylvania One-Call System.
- (iv) To exercise due care, and to take all reasonable steps necessary to avoid injury to or otherwise interfere with all lines where locations have been provided to the CONTRACTOR by the USERS in accordance with the Act. If accurate information is not available, the CONTRACTOR shall employ prudent techniques to ascertain the precise position of such facilities.
- (v) If the USER fails to respond to the CONTRACTOR'S timely request within two Work days or the USER notifies the CONTRACTOR that the line cannot be marked within that time frame and a mutually agreeable date for marking cannot be arrived at, the CONTRACTOR may proceed with excavation, providing he exercises due care in his endeavors.
- (vi) To inform each employee employed by him at the location of such Work of the information obtained by him. The CONTRACTOR and his employees shall:
  - a. Plan the excavation to avoid damage to or minimize interference with the USER'S facilities in the construction area. Excavation, which requires temporary or permanent interruption of a USER'S service, shall be coordinated with the affected USER in all cases.

- b. After consulting with each USER, provide such support for USER'S lines in the construction area, including during filling operations, as may be reasonably necessary for the protection of such utilities.
- (vii) To report immediately to the USER any break or leak on its lines, or any dent, gouge, groove or other damage to such lines or to their coating or cathodic protection, made or discovered in the course of the excavation or demolition Work.
- (viii) To alert immediately the occupants of premises as to any emergency that may be created or discovered at or near such premises.
- (iv) The time requirements of Paragraph (3) above shall not apply to the CONTRACTOR when performing excavation Work in an emergency; nonetheless, all USERS must be notified as soon as possible before, during or after excavation, depending upon the circumstances.
- (x) The CONTRACTOR shall give such notices as are called for above through the One-Call System.
- (xi) A CONTRACTOR shall use the color white to mark a proposed excavation site.

(B) Utilities Which are Covered by Act 38

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

(C) Utilities Not Covered by Act 38

Underground structures and facilities including those not subject to Act 38, but which are either indicated on the Plans or are mentioned in the Detail Specifications or can be assumed to exist because of visible evidence in the vicinity of the proposed Work, shall be accurately located by the CONTRACTOR prior to performing any excavation (other than test holes). The CONTRACTOR shall not rely solely on the Pennsylvania One-Call System in obtaining information relating to utilities not covered by Act 38.

6.8.3 SUBSURFACE EXPLORATION BY CONTRACTOR

It shall be the responsibility of the CONTRACTOR to determine the exact location of all existing underground structures and utilities such as pipes, drains, sewers, electric line, telephone lines, cable TV lines, gas lines

And water lines and the character of all soil materials and conditions before actual construction commences. In addition to any requirements imposed by law, the CONTRACTOR is responsible to perform such subsurface excavation and/or other investigations as will fully inform him of the location of all underground structures and utilities and the character of all soil materials and conditions.

#### 6.8.4 PROTECTION OF EXISTING UTILITIES

The CONTRACTOR shall exercise extreme care to protect all buried, surface and aerial utilities and utility service connections encountered during the Work. All facilities and utilities shall be assumed to be in use. The CONTRACTOR shall comply with Pennsylvania Act 1991-38 and shall contact all USERS where utilities are indicated on the Contract Drawings, in the Specifications, are on file with the County, or can otherwise reasonably be expected to exist. After confirmation of the exact location of the existing facilities by the USER, the CONTRACTOR may proceed with the Work. If a USER fails to locate its facilities, the CONTRACTOR shall use prudent techniques (including hand dug test holes) to locate said USER'S facilities. All existing utilities and service connections damaged by the CONTRACTOR shall be repaired or replaced by the CONTRACTOR or the USER to the satisfaction of the USER and the OWNER and at no additional expense to the OWNER.

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

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

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

#### 6.8.5 OBSTRUCTIONS BY UNDERGROUND UTILITIES AND STRUCTURES

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

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

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

#### 6.8.6 RELOCATION OF EXISTING UTILITIES

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

#### 6.8.7 ADDITIONAL COMPENSATION FOR ADJUSTMENTS DUE TO UNDERGROUND UTILITIES AND STRUCTURES

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

- (A) The CONTRACTOR must have complied with Act 38 and these Specifications in locating all utilities shown on the Contract Drawings, indicated in the Detail Specifications, on file with the County, or which can be assumed to exist because of visible evidence in the vicinity of the Work.
- (B) The CONTRACTOR must have notified the OWNER of a potential claim for extra compensation prior to performing any Work for which such claim may be made, and shall have received instructions from the OWNER regarding the method of proceeding with the Work. If the CONTRACTOR fails to notify the OWNER, then the entire cost of protecting the utility, repairing the utility, relocating the utility, or relocating the new pipeline shall be borne by the CONTRACTOR.
- (C) The CONTRACTOR must provide evidence that the location of an underground structure or utility is substantially different from the location as shown on the Contract Plans and will interfere with the construction of the project to the extent that the project cannot be constructed as designed. The phrase "substantially different" shall, for the purposes of this Paragraph, be defined to mean more than 18 inches horizontally from the location indicated on the Contract Plans. If, and only if, the Contract Plans include a profile of the proposed facility and the assumed exact location of the existing utility or underground structure is shown on that profile, then the phrase "substantially different" shall be expanded to include those existing utilities or underground structures which occupy the same vertical space as the proposed facility was designed to occupy.

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

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



## 6.9 SURVEYS

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

## 6.10 LANDS BY CONTRACTOR

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

## 6.11 PRIVATE AND PUBLIC PROPERTY

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

## 6.12 REPORTS, RECORDS AND DATA

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

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

## 6.13 MATERIALS AND EQUIPMENT

The CONTRACTOR shall furnish only materials and equipment which conform to the Specifications and any Addenda thereto. Immediately after signing the Contract Agreement the CONTRACTOR shall furnish to the ENGINEER a complete statement of the origin, composition, manufacture and proposed sources of supply for all materials and equipment required for this Work, whether supplied by the CONTRACTOR or by any

Subcontractor. The statement shall include the CONTRACTOR'S certification that all materials and equipment will conform to the Specifications. In addition, the CONTRACTOR shall provide six copies of installation, operation and maintenance instructions for each piece of equipment to be furnished. The CONTRACTOR may request substitution of alternate equipment to that specified but such request shall include a change in Contract Price for furnishing and installation of such equipment, together with all pertinent equipment specifications.

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

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

#### 6.14 EXAMINATION AND TESTING

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

The CONTRACTOR shall pay for all required tests of materials, unless otherwise indicated. The selection of bureaus, laboratories and/or agencies for the inspection and testing of supplies, materials or equipment shall be subject to the approval of the OWNER. Satisfactory documentary evidence that the materials have passed the required inspection and tests must be furnished to the OWNER. All materials entering permanent structures, upon which the strength, life or durability depends, shall be tested. The CONTRACTOR shall supply proof of and guarantee the fitness of the materials for the uses to which he places them. In general, tests shall be performed by a reputable commercial testing laboratory acceptable to the ENGINEER. Where small quantities of such materials are required, certified tests of the manufacturer will be accepted if made by a qualified person in his employ and the reports carry his notarized signature. The extent of testing is more fully outlined in the Contract Documents.

#### 6.15 SPECIFIED BRANDS OF MATERIALS

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

Whenever a material, article or piece of equipment is identified on the Plans or in the Specifications by reference to manufacturers' or vendors' names, trade names, catalogue numbers and such other, it is intended merely to establish a standard; and any material, article or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable

provided the material, article or equipment so proposed is, in the opinion of the ENGINEER, of equivalent substance and function. It shall not be purchased or installed by the CONTRACTOR without the ENGINEER's written acceptance.

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

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

#### 6.16 TITLE TO MATERIALS

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

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

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

#### 6.17 PATENTS, ROYALTIES AND LICENSES

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

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

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

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

#### 6.18 SUPERVISION BY CONTRACTOR

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

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

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

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

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

#### 6.19 CONTRACTOR RESPONSIBLE UNTIL WORK COMPLETED

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

Neither the final certificate of payment nor any provision in the Contract Documents, nor partial or entire occupancy of the premises by the OWNER, shall constitute an acceptance of Work not done in accordance with the Contract Documents or relieve the CONTRACTOR of liability in respect to any express warranties or responsibility for faulty materials or Workmanship. The CONTRACTOR shall remedy any defects in the Work

and pay for any damage to other Work resulting there from, which shall appear within a period of two years or within such longer period as may be prescribed by Law or by the Detail Specifications from the date or final acceptance of the Work. The OWNER will give notice of observed defects within reasonable promptness.

All loss or damage arising out of the nature of the Work, or any damage to the Work itself to be done under this Contract or from any unforeseen obstructions or difficulties which may be encountered in the prosecution of the same, or from the action of the elements, or from any cause or causes whatsoever, until the same shall have been finally accepted, shall be sustained and paid for by the CONTRACTOR.

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

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

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

#### 6.21 SANITARY PROVISIONS

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

#### 6.22 SAFETY PROVISIONS

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

6.22.1 All persons on the Work site or who may be affected by the Work;

6.22.2 All the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and

6.22.3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and Underground Facilities not designated for removal, relocation or replacement in the course of construction.

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

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

The CONTRACTOR and Subcontractors shall comply with the U. S. Department of Labor Safety and Health Regulations for construction promulgated under the Occupational Safety and Health Act of 1970 (P.L. 91-596) and under Section 107 of the Contract Work Hours and Safety Standards Act (P.L. 91-54). In addition, the CONTRACTOR and Subcontractor shall comply with the regulations of any State and/or Federal agency having jurisdiction. The OWNER and/or ENGINEER will in no way be liable or accept liability for any defaults of the CONTRACTORS of the said standards set out in said legislation or regulations.

#### 6.23 WORK DURING AN EMERGENCY

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

#### 6.24 WARNING SIGNS AND BARRICADES

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

#### 6.25 PUBLIC CONVENIENCE

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

#### 6.26 PROTECTION, SUPPORT AND MAINTENANCE OF STRUCTURES

The CONTRACTOR and Subcontractors shall comply with Act 38 of 1991, as amended, which requires proper location of Underground Facilities and utilities prior to any excavation activity.

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

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

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

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

#### 6.27 WEATHER CONDITIONS

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

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

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

#### 6.29 REMOVAL OF WATER

The CONTRACTOR shall at all times during the construction of the Work and at the completion for final inspection, provide and maintain ample means or equipment with which to promptly remove and properly dispose of all water entering the excavation or other parts of the Work, and keep said excavation dry until the structures to be built therein are completed. No masonry shall be laid in water and water shall not be allowed to rise over masonry until the concrete or mortar has set at least twenty-four hours. All water pumped or drained from the Work hereunder shall be disposed of in a suitable manner without damage to adjacent property or to other Work under construction, and in accordance with the provisions of these Contract

Documents. Such sewer as are built as a part of this Contract may be used for the removal of water, under conditions acceptable to the ENGINEER, but such drains or outlets shall be left in a clean and satisfactory condition at the expiration of the Contract.

#### 6.30 CONTRACTOR TO PROVIDE WATCHMEN

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

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

#### 6.31 FIRES, SIGNS, LOADING AND REFUSE

The CONTRACTOR shall promulgate and enforce rules to prevent and it shall be is duty to prevent:

- 6.31.1 The lighting of open fires in or near any structures;
- 6.31.2 The erection on or near the Work of any sign, billboard or advertisement by the CONTRACTOR or his Subcontractors, except by written order or permission;
- 6.31.3 The loading of any part of a structure with a weight greater than it will safety bear;
- 6.31.4 Leaving of any refuse on or in the vicinity of the Work which will attract mice, rats or vermin.

#### 6.32 USE OF PREMISES AND REMOVAL OF DEBRIS

The CONTRACTOR expressly undertakes, at his own expense:

- 6.32.1 To take every precaution against injuries to persons or damages to property;
- 6.32.2 To store his apparatus, materials, supplies and equipment in such orderly fashion at the site of the Work as will not unduly interfere with the progress of his Work or the Work of any other CONTRACTOR's;
- 6.32.3 To place upon the Work, or any part thereof, only such loads as are consistent with the safety of that portion of the Work;
- 6.32.4 To frequently clean up all refuse, rubbish, scrap materials, and debris caused by his operations, to the end that all times the site of the Work shall present a neat, orderly and Workmanlike appearance;



- 6.32.5 Before final payment, to remove all surplus material, false Work, temporary structures, including foundations thereof, construction materials and tools of any description, and debris of every nature resulting from his operations, and to put the site in a neat, orderly condition;
- 6.32.6 To effect all cutting, fitting or patching of his Work required to make the same to conform to the Plans and Specifications, and, except with the consent of the ENGINEER, not to cut or otherwise alter the Work of any other CONTRACTOR.

### 6.33 EROSION AND SEDIMENTATION CONTROL

#### 6.33.1 REQUIREMENTS FOR EROSION AND SEDIMENTATION CONTROL

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

- (A) Dumping of spoil material into the stream or on the banks thereof where it may wash or slide into the stream.
- (B) Excessive or unnecessary operation of equipment in the stream.
- (C) Pumping of silt-laden water from excavations into the stream.
- (D) Disposal of trees, brush and other debris into the stream.
- (E) Altering the flow line of the stream.

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

All Work in the floodplain and stream areas shall be performed in accordance with the requirements established by the Pennsylvania Department of Environmental Resources, the County Conservation District and local municipality. The Work in the floodplains shall be performed only when the stream is at or below normal level. The procedure to be followed for crossing the open channel portion of the stream is as follows:

- (F) A backhoe sitting off to one side of the stream will be used to excavate the trench across the stream. Random crossing of the stream will not be permitted. The flow will be diverted only to the extent necessary to perform the excavation.
- (G) The location of sanitary facilities over or adjacent to streams, wells or springs is prohibited.
- (H) All operations shall be conducted in such a manner to minimize turbidity in the stream at and below the site of Work. The requirements on turbidity as established by the Pennsylvania Department of Environmental Resources shall be met.

- (I) Prior to blasting in the vicinity of a stream, the CONTRACTOR shall obtain a permit from the Pennsylvania Fish Commission and the CONTRACTOR shall comply with the rules and regulations of said Commission governing the use of explosives.
- (J) The back filling of the trench in which the pipe will be laid shall be done so as to eliminate the formation of a permanent ridge in the stream bed.
- (K) Installation of the pipeline shall proceed in such a manner as to expedite completion of the entire crossing as one operation to include removal of the excess material from the stream channel and the restoration and seeding of the disturbed bank areas.
- (L) The CONTRACTOR shall communicate with the Pennsylvania Fish Commission prior to starting the Work and shall comply with the rules and regulations of said Commission relative to eliminating any objectionable turbidity during installation of the pipeline.
- (M) The CONTRACTOR shall reduce by the greatest extent practicable the area and duration of exposure of readily erodible soils.
- (N) The CONTRACTOR shall protect the soils by use of temporary vegetation or seeding and mulch, or by accelerating the establishment of permanent vegetation. Complete and protect segments of Work as rapidly as is consistent with construction schedules.
- (O) The CONTRACTOR shall retard the rate of runoff from the construction site and control disposal of runoff.
- (P) The CONTRACTOR shall trap sediment resulting from construction in temporary or permanent silt holding basins. This includes pump discharges resulting from dewatering operations.
- (Q) The CONTRACTOR shall sprinkle or apply dust suppressors, or otherwise keep dust within tolerable limits on haul road and at the site.
- (R) The CONTRACTOR shall use temporary bridges or culverts where fording of streams is necessary. Borrow areas should be at a location where pollution from the operation can be minimized. Locations should be avoided where pollution would be inevitable. Should construction operations be suspended for any appreciable length of time, temporary measures for the control of erosion must be utilized.
- (S) Provisions shall be made for protection against discharge of pollutants such as chemicals, fuel, lubricants, sewage and such other materials into the stream.

#### 6.33.2 METHODS FOR EROSION AND SEDIMENTATION CONTROL

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

- (A) No trees may be removed from stream banks.
- (B) Topsoil will be stripped, stockpiled and protected.

- (C) Stone riprap will be placed on disturbed portions of stream banks at stream crossings in order to maintain the original alignment thereof.
- (D) Ditches will be back filled as specified and brought to the original ground surface elevation, the top layers being from the stripped topsoil stockpile.
- (E) All usable sod and landscaping materials will be replaced on the excavation areas, or a seeding of ryegrass made on the fertilized backfill areas.
- (F) Critical area vegetation stabilization – Critical areas are those in which cutting, filling and grading soils with heavy equipment often results in the exposure of soils and subsoil. Certain conditions resulting from such exposure, such as acidity, low fertility, compaction, or dryness or wetness, which is unfavorable to plant growth, often prevail. Excessively long slopes and steep grades are often encountered or created. Water disposal structures are normally subjected to hydraulic forces requiring both special establishment techniques and grasses which have high resistance to scouring. However, plants and techniques are available to provide both temporary and permanent protective cover on these difficult sites.

These are:

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

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

- (G) Permanent Vegetation – For both sodding and seeding, there is a fairly wide choice of grasses, legumes and other plants for use on critical areas. The final choice of species should be determined by weighing such factors as adaptability, use, aesthetic requirements, a degree of maintenance that can be expected and other special considerations.
- (H) Diversions – A diversion consists of a channel or ditch and a ridge constructed across a sloping land surface on the contour, or which predetermined grades to intercept and divert surface run-off before it gains sufficient volume and velocity to create harmful erosion. The water is collected and conveyed laterally along the diversion at slow velocity and discharged into a protected area or outlet channel.
- (I) Bench Terraces – Bench terraces are relatively flat surfaces constructed on sloping land or embankments to planned dimensions and grades. Bench terraces are applied along

the contour with the length and width controlled by the natural terrain and the required erosion limitations.

- (J) Sediment Basins – The construction of an earth fill type dam downstream from a development area serves to regulate runoff and trap sediment. The sediment can be removed mechanically as the storage space behind the dam becomes filled, or sufficient space may be built into the structure to provide storage for its useful life. The Whole structure can be removed after stability is reached in the development area, or it can be retained and maintained to enhance the area.
- (K) Installation of straw bale barriers.

All protection devices shall be installed prior to the performance of any Work in the area and will be removed after completion of the Work.

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

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

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

No areas of bare, unvegetated or unpaved soil will be exposed for a period of time exceeding twenty calendar days.

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

## 6.34 EMPLOYMENT REQUIREMENTS

### 6.34.1 EQUAL EMPLOYMENT OPPORTUNITY

- (A) The CONTRACTOR will be required to comply with Title VI and other applicable provisions of the Civil Rights Act of 1964; the Department of Labor Equal Opportunity Clause (41 CFR 60-1.4); the President's Executive Order 11246, 29 CFR Part 30, and all related laws, amendments and regulations of the Federal and State governments as relate to equal employment opportunity.
- (B) The CONTRACTOR shall not discriminate against any applicant for employment, employee or any independent CONTRACTOR or any other person because of race, color, religious creed, ancestry, national origin, age, sex or family status.
- (C) The CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees or agents are treated during employment, without regard to their

race, color, 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 or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training.

- (D) The CONTRACTOR shall post in conspicuous places, available to employees, agents, applicants for employment and other persons, notices setting forth the provisions of this nondiscrimination clause.
- (E) The CONTRACTOR shall in solicitations or advertisements placed by him or in his behalf state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age or sex.
- (F) The CONTRACTOR shall send each labor union or Worker's representative with which he has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or Worker's representative of his commitment to this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment. Similar notices shall be sent to every other source of recruitment utilized by CONTRACTOR.
- (G) It shall be no defense to a finding of a noncompliance with Executive Orders indicated in Paragraph 6.34 A (1) above or any Regulations issued pursuant to said Executive Orders of this nondiscrimination clause that the CONTRACTOR had delegated some of his employment practices to any union, training program or other source of recruitment which prevents him from meeting his obligations.
- (H) Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that the CONTRACTOR will be unable to meet his obligations under Executive Orders or any Regulations issued pursuant to said Executive Order or this nondiscrimination clause, the CONTRACTOR shall then employ and fill vacancies through other employment procedures without regard to race, color, religious creed, ancestry, national origin, sex or age, taking affirmative action to obtain qualified minority group persons.
- (I) The CONTRACTOR shall comply with all rules, regulations and orders issued by Federal and State governments relating to laws prohibiting discrimination in hiring or employment opportunities. In the event of the CONTRACTOR'S noncompliance with the nondiscrimination clause of this Contract or with any such rules, regulations or orders, this Contract may be cancelled, terminated or suspended in whole or in part, and the CONTRACTOR may be declared ineligible for further contracts, and such other sanctions may be imposed and remedies invoked as provided by rule, regulation or order of Federal or State governments, or as otherwise provided by law.
- (J) The CONTRACTOR shall furnish all information and reports required by Federal or State governments and will permit access to his books, records, and accounts by appropriate agencies, for purposes of investigation to ascertain compliance with provisions of Executive Orders indicated in Paragraph 6.34 A (1) or any Regulations issued pursuant to said Executive Orders or this nondiscrimination clause.

- (K) The CONTRACTOR shall actively recruit minority Subcontractors or Subcontractors with substantial minority representation among their employees.
- (L) The CONTRACTOR shall include the provisions of Paragraphs 6.33 A (1) through 6.33 A (10) in every subcontract or purchase order, so that such provisions will be binding upon each Subcontractor or vendor or other person.
- (M) The terms used in this nondiscrimination clause shall have the same meaning as in the Contract Compliance Regulations issue pursuant to Executive Order 1972-1 and Executive Order 11246.

#### 6.34.2 EMPLOYMENT OF LOCAL LABOR

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

#### 6.34.3 MINIMUM WAGE RATES

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

Federal statute and regulations require certain efforts and submittal of information. The CONTRACTOR'S attention is directed to the General Conditions—Part II. The minimum wage rates applicable to all Contracts, as established and to the extent available are included with the Contract Specifications.

#### 6.34.4 PENNSYLVANIA PREVAILING WAGE ACT

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

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

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

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

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

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

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

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

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

- (A) Name of project.
- (B) Name of public body for which it is being constructed.
- (C) The crafts and classifications of Workers listed in the Secretary's general prevailing minimum wage determination for the particular project.
- (D) The general prevailing wage rates determined for each craft and classification and the effective date of any changes.
- (E) A statement advising Workers that if they have been paid less than the general prevailing minimum wage rate for their job classification or that the CONTRACTOR and/or Subcontractor are not complying with the Act in any manner whatsoever, they may file a protest in writing with the Secretary of Labor and Industry within three (3) months of the date of the occurrence, objecting to the payment to any CONTRACTOR to the extent of the amounts due or to become due to them as wages for Work performed on the public Work project. Any Workers paid less

than the rate specified in the Contract shall have civil right of action for the difference between the wage paid and the wages stipulated in the Contract, which right of action must be exercised within six (6) months from the occurrence of the event creating such right.

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

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

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

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

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

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

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



## 6.35 MINORITY AND WOMEN BUSINESS ENTERPRISES

The promotion and encouragement of minority and/or women business enterprises is a commitment and objective of the Borough of Chambersburg. The goals and objectives of Executive Orders 11625 and 12138 will be enforced under this Contract. The CONTRACTOR agrees to abide by these Executive Orders and by the Franklin County's Minority and Women Business Enterprise Plan (MBE/WBE Plan) and to involve Minority and Women Business Enterprises to the greatest extent feasible on the Project, either as subcontractors, material suppliers, or service providers. All records of solicitation and utilization of MBE's and WBE's will be kept and submitted to the OWNER by the CONTRACTOR as required by the Franklin County's MBE/WBE Plan. Please refer to General Conditions, Part II, Federal Requirements, Section 14 for further information concerning Minority and Women Business Enterprises.

Bidders must complete and submit Form STD-168 with the bid. Failure to submit this form will result in the bid being rejected as non-responsive. Bidders may conduct a search for MBE/WBE business enterprises through the PA Department of General Services' Minority/Women Business Enterprise Database via the World Wide Web at <http://www.dgs.state.pa.us/cabd/mwbddata.htm>. Search the following Counties for solicitation: Adams, Cumberland, Dauphin, Fulton, Juniata, Huntingdon, and Perry. Solicit MBE/WBE subcontractors, vendors, manufacturers, or suppliers whose services, material, or supplies are within the scope of work and which the CONTRACTOR reasonably believes it will choose to subcontract with or purchase from.

For assistance with the process, please contact the Franklin County Planning Commission at (717) 261-3855.

### 6.35.1 FAIR HOUSING – SEX DISCRIMINATION (See Part 4)

## 6.36 DATE OF STARTING AND COMPLETING WORK

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

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

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

## 6.37 ORDER TO WORK

Where the order of Work is stated in the Contract, the CONTRACTOR shall comply there with unless given written permission to change such orders. Where the order is not so stated, the CONTRACTOR, before starting the Work, shall submit to the OWNER a schedule setting forth the order in which he will start and

Complete the various portions of the Work and, upon acceptance of said schedule, shall strictly conform thereto unless given written permission to depart there from.

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

#### 6.38 PROSECUTION OF WORK

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

#### 6.39 COMPETENT WORKERS

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

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

#### 6.40 SUBCONTRACTING

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

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

The CONTRACTOR shall be as fully responsible to the OWNER for the acts and omissions of his 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.

The CONTRACTOR shall cause appropriate provisions to be inserted in all sub-contracts relative to the Work to bind Subcontractors to the CONTRACTOR by terms of the General Conditions and other Contract Documents, insofar as applicable to the Work of the Subcontractors, and to give the CONTRACTOR the same power as regards terminating any subcontract that the OWNER may exercise over the CONTRACTOR under any provision of the Contract Documents. All provisions of law and regulation, whether related to

Funding requirements or otherwise, shall apply equally to all Subcontractors as well as prime CONTRACTORS.

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

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

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

#### 6.41 WORK BY OTHERS

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

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

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

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

#### 6.42 COOPERATION OF TRADES

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

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

#### 6.43 COOPERATION OF CONTRACTORS

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

#### 6.44 NOTICE OF IMPERFECT WORK OR MATERIAL

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

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

#### 7.1 DETAILED BREAKDOWN OF CONTRACT AMOUNT

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

#### 7.2 PARTIAL MONTHLY PAYMENTS

Once each calendar month, conforming to the monthly meeting schedule of the OWNER, the OWNER will approve partial payment to the CONTRACTOR, on the basis of an estimate prepared and certified by the

CONTRACTOR and accepted by the ENGINEER. The CONTRACTOR will be notified as to the date each month when estimates must be submitted to the ENGINEER. In cases where Project funding is from State or Federal agencies, the OWNER will make prompt submittal to such agencies to permit draw down of grant and/or loan funds. Because of processing time required by governmental bodies, a period of 30-45 days may be required before the OWNER is in receipt of funds which will be used to pay the CONTRACTOR's periodic estimates. The CONTRACTOR will take cognizance of this fact and agrees that no claim for extra payment will be made due to the failure of the OWNER to make prompt payment if said delays are caused by such factors.

### 7.3 RETAINAGE

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

7.3.1 Defective Work.

7.3.2 Evidence indicating the probable filing of claims by other parties against the CONTRACTOR which may adversely affect the OWNER.

7.3.3 Failure of the CONTRACTOR to make payments due to Subcontractors, material suppliers or employees

7.3.4 Damage to another CONTRACTOR.

### 7.4 PAYMENT FOR UNCORRECTED WORK

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

### 7.5 PAYMENT FOR REMOVAL OF REJECTED WORK AND MATERIALS

#### 7.5.1 GENERAL

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

#### 7.5.2 REMOVAL BY OWNER

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

#### 7.6 ESTIMATES OF ENGINEER TO BE FINAL

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

#### 7.7 STATED ALLOWANCES

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

#### 7.8 REQUESTS FOR EXTRA COMPENSATION

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

Should the CONTRACTOR fail to notify the OWNER in advance, as required, or to submit his claim within thirty days, as required above, it will be taken as conclusive evidence that no claim exists. The basis of payment for extra Work shall be as described in Paragraph 2.8.

#### 7.9 NO CHARGE FOR DELAY

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

#### 7.10 LIQUIDATED DAMAGES

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

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

#### 7.11 FINAL PAYMENT

When the project is substantially complete the CONTRACTOR may request a final inspection and submit an application for final payment. Within 30 days after receipt of the request for final inspection, the ENGINEER shall perform a "Final Inspection" of the CONTRACTOR's Work. If the project is "Substantially Complete," the ENGINEER shall issue a certificate of "Substantial Completion", and shall process the application for Final Payment. The OWNER shall, within 45 days from the date of "Substantial Completion", pay the CONTRACTOR in full for all Work completed and the amount retained shall be no more than one and one-half times the amount necessary to complete any then remaining uncompleted minor items, as determined by the ENGINEER. The payment(s) from the OWNER after substantial completion of the contract shall bear interest at the rate of 10% per annum after the date such payment becomes due and payable as indicated above. The ENGINEER shall list in detail each and every uncompleted item and a reasonable cost of completion. Final payment of any amount so withheld for the completion of minor items shall be paid within 45 days of completion of the items listed by the ENGINEER and submittal of the "Consent of Surety to Final Payment" and all required guarantee and maintenance bonds.

#### 7.12 ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

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

**PROCUREMENT – GENERAL CONTRACT CONDITION**

**Federal Requirements**

**Part 2**



## GENERAL CONDITIONS

### PART II FEDERAL REQUIREMENTS

All bidders must comply with the following Federal requirement.

1. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (P.L. 88-352)

“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 the Community Development Block Grant program.”

2. EXECUTIVE ORDER 11063, AS AMENDED

“No person in the United States shall on the grounds 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. EQUAL OPPORTUNITY (EXECUTIVE ORDER 11246)

3.1 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:

- (A) 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 the employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (B) 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.
- (C) The CONTRACTOR will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

3.2 If the contract amount exceeds \$10,000, the following conditions shall apply:

- (A) 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 the employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (B) 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.
- (C) The CONTRACTOR will sent 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 of 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.
- (D) 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.
- (E) The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and the rules, regulations and relevant orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Secretary of Labor, PA DCED or the Borough of Chambersburg for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (F) 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 rules, regulations or order of the Secretary of Labor, or as otherwise provided by law.
- (G) The CONTRACTOR will include section 3.2 in its entirety 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 Borough of Chambersburg may direct as means of enforcing such provisions, including sanctions for non compliance:

Provided, however, that in the event of a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Borough of

Chambersburg, the CONTRACTOR may request the United States to enter into such litigation to protect the interest of the United States.

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

Compliance with this requirement is applicable to only construction contracts in excess of \$10,000.

- 4.1 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 therein.
- 4.2 The goals and timetables for minority and female participation, expressed in percentage terms for the CONTRACTOR's aggregate work force in each trade on all construction work in the covered area, are as follows:

Goals and Timetables for  
Minority Participation  
for Each Trade  
%

Goals and Timetables for  
Female Participation  
for 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 specifications set forth in 41 CFR Part 60-4, paragraph 3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the CONTRACTOR shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from CONTRACTOR to CONTRACTOR or from project to project for the sole purpose of meeting the CONTRACTOR's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

- 4.3 The Borough of Chambersburg will submit written notification PA DCED within ten (10) working days of award of any construction subcontract in excess of ten thousand (\$10,000) dollars at any tier of construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number; estimated dollar amount of the subcontract; estimate starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

5. STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATION (EXECUTIVE ORDER 11246)

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

5.2 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 ten thousand (\$10,000) dollars the provisions of these specifications and the notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

5.3 If the CONTRACTOR is participating (pursuant to 41 CFR Part 60-4.5) in a Hometown Plan approved by the United States Department of Labor in the covered area either individually or through 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 within 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.

5.4 The CONTRACTOR shall implement the specific affirmative action standards provided in paragraphs 5.7.A through 5.7.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.

- 5.5 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.
- 5.6 In order for the non-working 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 United States Department of Labor.
- 5.7 The CONTRACTOR shall take specific affirmative action's to insure equal employment opportunity. The evaluation of the CONTRACTOR's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The CONTRACTOR shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
- (A) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the CONTRACTOR's employees are assigned to work. The CONTRACTOR where possible, will assign two or more women to each construction project. The CONTRACTOR shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the CONTRACTOR's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - (B) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the CONTRACTOR or its unions have employment opportunities available, and maintain a record of the organization's 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 for referral and was not referred back to the CONTRACTOR by the union or, if referred, not employed by the CONTRACTOR, this shall be documented in the file with the reason therefore, along with whatever additional actions the CONTRACTOR may have taken.
  - (D) Provide immediate written notification to the Director when the union or unions with which the CONTRACTOR has a collective bargaining agreement has not referred to the CONTRACTOR a minority person or women sent by the CONTRACTOR, or when the CONTRACTOR has other information that the union referral process has impeded the CONTRACTOR's efforts to meet obligations.

- (E) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the CONTRACTOR's employment needs, especially those programs funded or approved by the Department of Labor. The CONTRACTOR shall provide notice of these programs to the sources compiled under (5.7.B) 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 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 the specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and in disposition of the subject matter.
- (H) Disseminate the CONTRACTOR's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the CONTRACTOR's EEO policy with other CONTRACTORS and subcontractors with whom the CONTRACTOR does or anticipates doing business.
- (I) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the CONTRACTOR's recruitment area and employment needs. Not later than one (1) month prior to the date for acceptance of applications for apprenticeship or other training by 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 work force.
- (K) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR 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 specifications are being carried out.
- (N) Ensure that all facilities and company activities are non-segregated except that separate or single user toilets and necessary changing facilities shall be provided to assure privacy between the sexes.
- (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.

5.8 CONTRACTORS are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations. 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 of these specifications provided that the CONTRACTOR actively participate 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 the concrete benefits of the program are reflected in the CONTRACTOR's minority and female work force participation, makes good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the CONTRACTOR. The obligation to comply, however, is the CONTRACTOR's and failure of such a group to fulfill an obligation shall not be a defense for the CONTRACTOR's noncompliance.

5.9 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 of women is underutilized).

5.10 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.

5.11 The CONTRACTOR shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

5.12 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.

- 5.13 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 B.8 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 41CFR Part 60-4-8.
- 5.14 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.
- 5.15 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 Community Development Block Program).

## 6. FEDERAL LABOR STANDARDS PROVISIONS

### 6.1 APPLICABILITY

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

### 6.2 DAVIS-BACON ACT (40 U.S.C. 276A-276A-5)

The Davis-Bacon Act provides that contracts in excess of two thousand dollars (\$2,000) funded in whole or in part with Federal funds for the construction, alteration, and/or repair, including painting and decorating, of public buildings or public works, which involve the employment of laborers and/or mechanics shall contain provisions with respect to minimum wages, fringe benefits, payments without deductions or rebates, withholding funds from contractors to ensure compliance with the wage provisions, and termination of the contract or debarment for failure to adhere to the required provisions. Determination of minimum wages and fringe benefits is made by the U.S. Secretary of Labor.

### 6.3 MINIMUM WAGE RATES FOR LABORERS AND MECHANICS

#### (A) Minimum Wages

- (i) 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 the 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 and mechanics, are considered wages paid to such laborers and 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 the 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 posed (WH-1321) shall be posted at all times by the CONTRACTOR and its subcontractors at the site of the work in a prominent and accessible space where it can be easily seen by the workers.

- (ii) 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. PA DCED shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met;
  - (a) The work to be performed by the classification requested is not performed by a classification in the wage determination.
  - (b) The classification is utilized in the area by the construction industry.
  - (c) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (iii) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and a PA 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 PA 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 the thirty (30) days of receipt and so advised PA DCED or its designee within thirty (30) day period that additional time is necessary.

- (iv) In the event the CONTRACTOR, the laborers or mechanics to be employed in the classification or their representatives, and PA DCED or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), PA DCED or its designee shall refer the questions, including the views of all interested parties and the recommendations of PA DCED or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within thirty (30) days of receipt and so advise PA DCED or its designee within the 30-day period that additional time is necessary.
  - (v) 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.
  - (vi) 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.
  - (vii) If the CONTRACTOR does not make payment to a trustee or other third person, the CONTRACTOR may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided that the Secretary of Labor has found, upon the written request of the CONTRACTOR, that the applicable standards of the Davis-Bacon Act has been met. The Secretary of Labor may require the CONTRACTOR to set aside in a separate account assets for meeting the obligations under the plan or program.
- (B) Withholding PA 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 an apprentices, trainee and helper, employed or working on the site of the work, all or part of the wages required by the contract PA DCED or its designee may, after written notice to the CONTRACTOR, sponsor, applicant, or owner, take such actions may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. PA DCED or its designee may, after written notice to the CONTRACTOR, disburse such amounts withheld for and on account of the contract or subcontractor to the respective employees to whom they are due.
- (C) Payroll and Basic Records
- (i) Payrolls and basic records relating thereto shall be maintained by the CONTRACTOR during the course of work preserved for a period of three (3) 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 worker, his or her correct classification, hourly rate of wages paid (including rates of contribution or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1b(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 show the costs anticipated or the actual cost incurred providing such benefits. CONTRACTOR's employing apprentices or trainees under approved programs shall maintain written evidence of the registration or apprenticeship programs and certifications of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

- (ii) The CONTRACTOR shall submit weekly for each week in which any contract work is performed a copy of all payrolls to Franklin County 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 Franklin County 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)(1). 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 029-055-0001401, U.S. Government Printing Office, Washington D.C. 20402. The prime CONTRACTOR is responsible for the submission of payrolls by all subcontractors.
- (iii) 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:
  - (a) That the payroll for the payroll period contains information required to be maintained under 29 CFR Part 5.5(a)(3)(1) and that such information is correct and complete;
  - (b) 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 wage earned, other than permissible deductions as set forth in 29 CFR Part 3;
  - (c) 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.

- (d) The falsification of any of the above certifications may subject the CONTRACTOR or Subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the U.S. Code.
- (e) The weekly submission of properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance" required by 29 CFR Part 5.5, paragraph A.3(ii)(b).
- (f) The CONTRACTOR or subcontractor shall make records required under 29 CFR Part 5.5, paragraph A.3(l) available for inspection, copying, or transcription by authorized representatives of PA 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, PA DCED or its designee may, after written notice to the CONTRACTOR, sponsor, applicant, or owner, take such action as 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

- (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, 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 ninety (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 journeyman on the job site in any craft classification shall not be greater than the ratio permitted to the CONTRACTOR as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, whom 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 type 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 specific in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator 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 the apprentices at less than the applicable pre-determined rate for the work performed until an acceptable program is approved.

- (ii) Trainees except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidence by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeyman 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 trainees 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 Hourly 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.
- (iii) Equal Employment Opportunity The utilization of apprentices, trainees, and journeymen under this part shall be conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR Part 30.
- (iv) Subcontracts The CONTRACTOR or subcontractor will insert in any subcontractors contract the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as PA DCED or its designee may be 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 a subcontractor or lower tier subcontractor with all contract clauses in 29 CFR 5.5.

- (v) Contract Termination & Debarment A breach of the contract clauses in 29 CFR Part 5.5 may be grounds for termination of the contract, and for debarment as a CONTRACTOR and a subcontractor as provided in 29 CFR 5.5.
- (vi) 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 the 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 PA DCED or its designee, the U.S. Department of Labor, or the employees or their representatives.
- (vii) Certification of Eligibility
  - (a) By entering into this contract, the CONTRACTOR certifies that neither it (nor he or she) nor any person 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).
  - (b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR Part 5.12(a)(1).
  - (c) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C, U. S. Housing Administration Transaction, "provides in part; 'Whoever, for the purpose . . . 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.'"
- (viii) 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 employees has filed any complaint or instituted or caused to be instituted any proceedings 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.

## 7. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- 7.1 The Contract Work Hours and Safety Standards Act applies to Federal contracts and federally assisted contracts. The Act provides that work in excess of forty (40) hours per week is to be compensated for at rates not less than one and one-half times the basic rate of pay. The Act also provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to health and safety, as determined under

construction, safety and health standards promulgated by the U.S. Secretary of Labor. The Act mandates that all contracts requiring the employment of laborers or mechanics (and watchmen and guards) contain implementing provisions which will render the CONTRACTOR and any subcontractor responsible for violations liable to the affected employees for their unpaid wages and to the United States for liquidated damages. The Act establishes an appeals procedure and makes it a Federal criminal misdemeanor to intentionally violate the Act.

- 7.2 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 laborer or mechanic in any work week in which he is employed on such work to work in excess of forty (40) hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1 ½) times his basic rate of pay for all hours worked in excess of forty (40) hours in such work week.
- 7.3 LIABILITY FOR UNPAID WAGES AND LIQUIDATED DAMAGES In the event of any violation of the clause set forth in paragraph 8.1, the CONTRACTOR or any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such CONTRACTOR and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchman and guards, employed in violations of the clause set forth in paragraph 8.1, in sum of ten (\$10) dollars for each calendar day on which such individual was required or permitted to work in excess of the standard work week of forty (40) hours without payment of the overtime wages required by the clause set forth in paragraph 8.1.
- 7.4 WITHHOLDING FOR UNPAID WAGES AND LIQUIDATED DAMAGES PA DCED or its designee shall upon its own action, or upon written request of an authorized representative of the U.S. Department of Labor, withhold or cause to be withheld, from any monies payable on account of work performed by the CONTRACTOR or subcontractor under any such contract or any other Federal contract with the same CONTRACTOR, or any other Federally assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same 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.
- 7.5 HEALTH AND SAFETY
- (A) No laborer or mechanics 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 State. 96).
  - (C) The CONTRACTOR shall include the following provisions of this Article in every subcontractor's contract 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.

7.6 SUBCONTRACTS The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in Section 8 and also a clause requiring the subcontractors to include 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 Section 8.

8. COPELAND ANTI-KICKBACK ACT (40 U.S.C. 276C)

The Copeland Anti-Kickback Act makes it a criminal offense for any person to induce, by any manner whatsoever, any person employed in the construction, prosecution, completion, or repair of any public building, public work, or building or work financed in whole or in part by Federal loans or grants, to give up any part of the compensation to which he is entitled under his contract of employment. The Act also requires the submission of weekly payrolls and statement of compliance by all CONTRACTOR's in a format which meets the requirements of 29 CFR Part 5.5. The Act applies to both contracts and subcontracts. The regulations at 29 CFR Part 3.3(c), which implement the Act, indicate that the payroll statement requirements do not apply to any contract of two thousand dollars (\$2,000) or less.

9. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

9.1 This Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) as amended, the regulations issued at 24 CFR Part 135, and any applicable rules and orders of PA DCED issued there under prior to the execution of this Agreement. The Section 3 clause, set forth in 24 CFR Part 135.20(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 Community Development Block Grant Program or HOME 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 1968, as amended, 12 U.S.C. 1701u. 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 said labor organization or representative of workers of his commitment 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 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 a subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- (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 regulations set forth in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

#### 10. LEAD-BASED PAINT REQUIREMENTS

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

#### 11. CLEAN AIR AND CLEAN WATER ACTS

This agreement is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., Section 308 of the Federal Water Pollution Control Act, as amended, 33 USC 1318, and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

In compliance with said regulations, the CONTRACTOR and any of its subcontractors for work funded under the agreement which is in excess of one-hundred thousand dollars (\$100,000) agree to the following requirements.

- 11.1 A stipulation by the CONTRACTOR or subcontractor that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
- 11.2 Agreement by the CONTRACTOR to comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 USC 1856c-8, and Section 308 of the Federal Water Pollution Control Act, as amended, 33 USC 1318, relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all other regulations and guidelines issued there under.

- 11.3 Give prompt notice to the Franklin County Planning Commission 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.
- 11.4 Agreement by the CONTRACTOR that he will include or cause to be included the criteria and requirements in paragraph (a) through (d) 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 provisions.
- 11.5 In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

12. ENERGY CONSERVATION PROVISIONS

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

13. SECTION 109 OF THE HOUSING & COMMUNITY DEVELOPMENT ACT OF 1974

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

14. MINORITY/WOMEN'S BUSINESS ENTERPRISE

14.1 PARTICIPATION LEVEL

- (A) The Borough of Chambersburg has established minimum participation levels (MPL's) at 5% for minority business enterprises (MBE) and 3% for women business enterprise (WBE) to be used solely as a threshold in determining bidder responsibility. A bidder will not be rejected as not responsible sole because it fails to reach the MPL's. 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.
- (B) MBE/WBE subcontractors and manufactures will be credited toward the minimum level at 100%. Stocking suppliers are credited at 100%. Non-stocking suppliers which are commonly and ordinarily the custom in the industry and a part of the industry's trade practices are credited at 100%; non-stocking suppliers which are not commonly and ordinarily the custom in the industry nor a part of the industry's trade practice are not credited.
- (C) A firm which is both an MBE and a WBE will only receive credit toward MPL's as either an MBE or WBE, but not both. Bidders must indicate on Form STD-168, MBE/WBE Contract/Solicitation and Commitment Statement whether the firm is being listed as either MBE or 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 MBE/WBE's 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 its own employees.

#### 14.2 RESPONSIVENESS

- (A) Bidders must complete and submit Form STD-168 with the bid. Failure to submit this form with the bid will 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 supplies 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 MPL's have not been met. This explanation must demonstrate that the bidder has not engaged in discriminatory practices in solicitation and utilization of MWBEO-certified MBE/WBE's 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:
  - (i) Indicate whether MBE/WBE's 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.
  - (ii) 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.
  - (iii) In any case where no quotations are received nor commitments made to MBE/WBE firms, indicate on Form STD-168 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 such evidence, the bid submission shall be considered non-responsive and the bid rejected.
- (E) Information related to the above may be submitted on Form STD-168 or on additional paper.

#### 14.3 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 MPL's for MBE/WBE participation, the bidder will be presumed not to have discriminated in their selections. Where the MPL's are not met, the Borough of Chambersburg will determine whether discrimination has occurred. If, after investigation, including a review of

Form STD-168, 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 standards for review:
  - (i) The bidder whose actions resulted in a limited or no commitment to MBE/WBE's was not motivated by consideration of race or gender.
  - (ii) MBE/WBE's were not treated less favorably than other businesses in the contract solicitation and commitment process.
  - (iii) Solicitation and commitment decisions were not base upon policies which disparately affect MBE/WBE's.
- (C) Commitments to MBE/WBE firms made at the time of bidding must be maintained throughout the term of the contract, unless a change in commitment to these firms is preapproved by the Borough of Chambersburg or the administering agency performing the evaluation of the Invitation to Bid.

#### 14.4 ACCESS TO INFORMATION

The Borough of Chambersburg 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 non-responsive.

#### 14.5 MBE/WBE CERTIFICATION

- (A) Bidders will not be given credit for MBE/WBE's which are not certified by the Pennsylvania Department of General Services Minority and Women Business Enterprise Office (MWBE0).
- (B) Under the State Act of December 21, 1984, No. 230, P.L. 210, 18 PA. C.S.A section 4107.2, a person commits a felony of the third degree if, in the course of business, he/she engages in deception relating to MBE/WBE certification.

#### 14.6 RECORD KEEPING AND REPORTING

The CONTRACTOR will keep such records as are necessary to determine compliance with its minority and women business enterprises 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 Borough of Chambersburg may make periodic reviews of records pertaining to relevant contracts.

The prime CONTRACTOR must provide the Borough of Chambersburg 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.

MBE/WBE subcontractors must provide the Borough of Chambersburg 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.

15. AGE DISCRIMINATION ACT OF 1975

“No person in the United States shall be 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.”

16. SECTION 504 OF THE REHABILITATION ACT OF 1973

“No qualified individual with handicaps shall, solely on the basis of handicaps, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance.”

**PROCUREMENT – GENERAL CONTRACT CONDITION**

**State Requirement**

**Part 3**

## GENERAL CONDITIONS

### PART III STATE REQUIREMENTS

All bidders must comply with the following Commonwealth of Pennsylvania requirements:

1. PENNSYLVANIA STEEL PRODUCTS PROCUREMENT ACT

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 there under. 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

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

CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employee 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 or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training.

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

- 2.2 CONTRACTOR shall in advertisements or requests for employment replaced by it or on its behalf state that all qualified applicants will receive consideration for employment without regard to their race, color, religious creed, ancestry, national origin, age or sex.
- 2.3 CONTRACTOR shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this nondiscrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by CONTRACTOR.
- 2.4 It shall be no defense to a finding of noncompliance with the Contract Compliance regulations issued by the Pennsylvania Human Relations Commission of this nondiscrimination clause that CONTRACTOR had delegated some of its employment practices to any union, training program or other source of recruitment which prevents it from meeting its obligation. However, if the evidence indicates that the CONTRACTOR was not on notice of the third-party discrimination or made a good faith effort to correct it; such factor shall be considered in mitigation in determining appropriate sanctions.

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



# BOROUGH OF CHAMBERSBURG



**100 S. SECOND STREET  
CHAMBERSBURG PA 17201**

## **Part 4**

**Section 6.35.1 – from Page 46**

**General Contract Conditions**

**Sexual Discrimination**

### **6.35.1 Fair Housing-Sex Discrimination**

The Fair Housing Act was enacted as Title VIII of the Civil Rights Act of 1968. The Fair Housing Act outlaws discrimination on the basis of seven criteria in housing-related practices dealing with every “dwelling” not covered by one of the Act’s exemptions (42 U.S.C.-3604).

The Fair Housing Act prohibits discrimination in the sale or rental of dwelling on the basis of race, color, religion, or national origin. Congress added three additional bases of prohibited discrimination to the Fair Housing Act: “sex” was added in 1974, and “familial status” and “handicap” were added in 1988.

For the purposes of the Fair Housing Act a “dwelling” is defined as “any building, structure, or any portion thereof which is occupied as, or designed or intended for occupancy as, a “residence” by any individual or family and “any vacant land which is offered for sale or lease for the construction or location thereon of such building, structure, or portion thereof (42 U.S.C\_3602(b)).

It is illegal to discriminate on the basis of sex in the sale, rental, financing of dwelling, and in other housing-related transactions.

#### **Examples of such discrimination include:**

- Applying different terms and conditions of housing because of sex
- Denying a housing application, a dwelling, or evicting persons because of sex
- Steering or restricting persons to one area of a building or complex based on sex
- Housing advertisements stating that persons preferred or not wanted because of sex
- Refusing to rent to a person who resists the landlord’s sexual advances or to make life difficult for a tenant who has resisted such advances

#### **Sexual Harassment in Housing**

It is illegal to deny or limit services or facilities in connection with the sale or rental of a dwelling because a person failed or refused to provide sexual favors. Sexual harassment claims include:

- Making a sexual demand on a resident in order for that resident to get needed maintenance on the apartment, to get a rent concession, or to avoid an eviction
- A “hostile environment” claim, which can give rise to claims concerning the psychological well-being of a resident who can demonstrate such a situation.

#### **Examples of such Discrimination Include:**

- Refusing to rent to a person who resists the landlord’s sexual advances or to make life difficult for a tenant who has resisted such advances.
- The landlord tells you he’ll only keep renting to you if you do on a date with him.
- A maintenance person comes to fix your sink and makes sexual jokes, comments, and gestures to you while there.
- Your property manager tells you, “I’ll take \$100 off your rent – if you . . .”

**Borough of Chambersburg**



**DRUG-FREE WORKPLACE POLICY**

## **BOROUGH OF CHAMBERSBURG**

### **DRUG-FREE WORKPLACE CERTIFICATION**

#### **INSTRUCTIONS:**

The certification form that follows is a certification required by the U. S. Department of Housing and Urban Development (HUD) in awarding the CDBG or HOME funding. A signed copy of this certification is required from each contractor or sub-contractor if it is later determined that the Contractor /Sub-recipient knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

#### **CERTIFICATION :**

- A. The Contractor / sub-recipient certifies that it will provide a drug-free workplace by:
- Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Sponsor's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
  - Establishing a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace,
  - The employer's policy of maintaining a drug-free workplace
  - Any available drug counseling, rehabilitation, and employee assistance programs
  - The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace,
  - Making it a requirement that each employee be given a copy of the employer's drug policy.
- B. The Contractor / sub-recipient will notify the employee that, as a condition of employment the employee will :
- Abide by the terms of the stated Drug Policy, and
  - Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
  - Notifying HUD within ten days after receiving a notice from an employee or otherwise receiving actual notice of such conviction;
  - Taking one of the following actions, within 30 days of receiving notice with respect to any employee so convicted :
    - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
    - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
    - (3) Making a good faith effort to continue to maintain a drug-free workplace;

**DRUG-FREE WORKPLACE CERTIFICATION**

**Applicant/Contractor Name:** \_\_\_\_\_

**Program / Activity / Project receiving Federal Grant Funding:**  
\_\_\_\_\_

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

**Location of project:**

- **Address:** \_\_\_\_\_
- **City:** \_\_\_\_\_
- **County:** \_\_\_\_\_
- **State:** \_\_\_\_\_
- **ZIP:** \_\_\_\_\_

**COMMENTS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Executed this \_\_\_\_\_ date of \_\_\_\_\_, \_\_\_\_\_ (Year).

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed name)

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

**DAVIS-BACON ACT /  
COPELAND “ANTI-  
KICKBACK” ACT**

## Fact Sheet #66: The Davis-Bacon and Related Acts (DBRA)

This fact sheet provides general information concerning DBRA.

### Coverage

DBRA requires payment of prevailing wages on federally funded or assisted construction projects. The [Davis-Bacon Act](#) applies to each federal government or District of Columbia contract in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of [public buildings or public works](#). Many federal laws that authorize federal assistance for construction through grants, loans, loan guarantees, and insurance are Davis-Bacon “related Acts.” The “related Acts” include provisions that require Davis-Bacon labor standards apply to most federally assisted construction. Examples of “related Acts” include the Federal-Aid Highway Acts, the Housing and Community Development Act of 1974, and the Federal Water Pollution Control Act.

### Basic Provisions/Requirements

Contractors and subcontractors must pay [laborers and mechanics employed](#) directly upon the [site of the work](#) at least the locally prevailing wages (including fringe benefits), listed in the Davis-Bacon wage determination in the contract, for the work performed. [Davis-Bacon labor standards clauses](#) must be included in covered contracts.

The Davis-Bacon “prevailing wage” is the combination of the basic hourly rate and any fringe benefits listed in a Davis-Bacon wage determination. The contractor’s obligation to pay at least the prevailing wage listed in the contract wage determination can be met by paying each laborer and mechanic the applicable prevailing wage entirely as cash wages or by a combination of cash wages and employer-provided bona fide fringe benefits. Prevailing wages, including fringe benefits, must be paid on all hours worked on the site of the work.

Apprentices or trainees may be employed at less than the rates listed in the contract wage determination only when they are in an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department.

Contractors and subcontractors are required to pay covered workers weekly and submit weekly certified payroll records to the contracting agency. They are also required to post the applicable Davis-Bacon wage determination with the [Davis-Bacon poster \(WH-1321\)](#) on the job site in a prominent and accessible place where they can be easily seen by the workers.

### Davis-Bacon Wage Determinations

Davis-Bacon wage determinations are published on the Wage Determinations On Line ([WDOL](#)) website for contracting agencies to incorporate them into covered contracts. The “prevailing wages” are determined based on wages paid to various classes of laborers and mechanics employed on specific types of construction projects in an area. Guidance on determining the type of construction is provided in All Agency Memoranda [Nos. 130](#) and [131](#).

## **Penalties/Sanctions and Appeals**

Contract payments may be withheld in sufficient amounts to satisfy liabilities for underpayment of wages and for liquidated damages for overtime violations under the Contract Work Hours and Safety Standards Act (CWHSSA). In addition, violations of the Davis-Bacon contract clauses may be grounds for contract termination, contractor liability for any resulting costs to the government and debarment from future contracts for a period up to three years.

Contractors and subcontractors may challenge determinations of violations and debarment before an Administrative Law Judge (ALJ). Interested parties may appeal ALJ decisions to the Department's Administrative Review Board. Final Board determinations on violations and debarment may be appealed to and are enforceable through the federal courts.

## **Typical Problems**

(1) Misclassification of laborers and mechanics. (2) Failure to pay full prevailing wage, including fringe benefits, for all hours worked (including overtime hours). (3) Inadequate recordkeeping, such as not counting all hours worked or not recording hours worked by an individual in two or more classifications during a day. (4) Failure of to maintain a copy of bona fide apprenticeship program and individual registration documents for apprentices. (5) Failure to submit certified payrolls weekly. (6) Failure to post the Davis-Bacon poster and applicable wage determination.

## **Relation to State, Local, and Other Federal Laws**

The [Copeland "Anti-Kickback" Act](#) prohibits contractors from in any way inducing an employee to give up any part of the compensation to which he or she is entitled under his or her contract of employment, and requires contractors to submit a weekly statement of the wages paid to each employee performing DBRA covered work.

Contractors on projects subject to DBRA labor standards may also be subject to additional prevailing wage and overtime pay requirements under State (and local) laws. Also, overtime work pay requirements under CWHSSA) and the [Fair Labor Standards Act](#) may apply.

Under [Reorganization Plan No. 14 of 1950](#), (5 U.S.C.A. Appendix), the federal contracting or assistance-administering agencies have day-to-day responsibility for administration and enforcement of the Davis-Bacon labor standards provisions and, in order to promote consistent and effective enforcement, the Department of Labor has regulatory and oversight authority, including the authority to investigate compliance.

## **Where to Obtain Additional Information**

**For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).**

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

**U.S. Department of Labor**  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

**1-866-4-USWAGE**  
TTY: 1-866-487-9243  
[Contact Us](#)



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## **Davis-Bacon Act/Copeland “Anti-kickback” Act**

### **Title 40, Subtitle II, Part A, Chapter 31:**

#### **SUBCHAPTER IV**

#### **§ 3141. Definitions**

In this subchapter, the following definitions apply:

- (1) **Federal government.**— The term “Federal Government” has the same meaning that the term “United States” had in the Act of March 3, 1931 (ch. 411, [46 Stat. 1494](#) (known as the Davis-Bacon Act)).<sup>1</sup>
  
- (2) **Wages, scale of wages, wage rates, minimum wages, and prevailing wages.**— The terms “wages”, “scale of wages”, “wage rates”, “minimum wages”, and “prevailing wages” include—
  - (A) the basic hourly rate of pay; and
  - (B) for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the forgoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying the costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of those benefits, the amount of—
    - (i) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person under a fund, plan, or program; and
    - (ii) the rate of costs to the contractor or subcontractor that may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected.

#### **§ 3142. Rate of wages for laborers and mechanics**

- (a) **Application.**— The advertised specifications for every contract in excess of \$2,000, to which the Federal Government or the District of Columbia is a party, for construction, alteration, or repair, including painting and decorating, of public buildings and public works of the Government or the District of Columbia that are located in a State or the District of Columbia and which requires or involves the employment of mechanics or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics.

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<sup>1</sup> So in original. The period probably should be preceded by an additional closing parenthesis.

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- (b) Based on Prevailing Wage.**— The minimum wages shall be based on the wages the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there.
- (c) Stipulations Required in Contract.**— Every contract based upon the specifications referred to in subsection (a) must contain stipulations that—
- (1)** the contractor or subcontractor shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and the laborers and mechanics;
  - (2)** the contractor will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work; and
  - (3)** there may be withheld from the contractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the contractor or subcontractors or their agents.
- (d) Discharge of Obligation.**— The obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, under this subchapter and other laws incorporating this subchapter by reference, may be discharged by making payments in cash, by making contributions described in section [3141 \(2\)\(B\)\(i\)](#) of this title, by assuming an enforceable commitment to bear the costs of a plan or program referred to in section [3141 \(2\)\(B\)\(ii\)](#) of this title, or by any combination of payment, contribution, and assumption, where the aggregate of the payments, contributions, and costs is not less than the basic hourly rate of pay plus the amount referred to in section [3141 \(2\)\(B\)](#).
- (e) Overtime Pay.**— In determining the overtime pay to which a laborer or mechanic is entitled under any federal law, the regular or basic hourly rate of pay (or other alternative rate on which premium rate of overtime compensation is computed) of the laborer or mechanic is deemed to be the rate computed under section [3141 \(2\)\(A\)](#) of this title, except that where the amount of payments, contributions, or costs incurred with respect to the laborer or mechanic exceeds the applicable prevailing wage, the regular or basic hourly rate of pay (or other alternative rate) is the amount of payments, contributions, or costs actually incurred with respect to the laborer or mechanic minus the greater of the amount of contributions or costs of the types described in section [3141](#)
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[\(2\)\(B\)](#) of this title actually incurred with respect to the laborer or mechanic or the amount determined under section [3141 \(2\)\(B\)](#) but not actually paid.

**§ 3143. Termination of work on failure to pay agreed wages**

Every contract within the scope of this subchapter shall contain a provision that if the contracting officer finds that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid, the Federal Government by written notice to the contractor may terminate the contractor's right to proceed with the work or the part of the work as to which there has been a failure to pay the required wages. The Government may have the work completed, by contract or otherwise, and the contractor and the contractor's sureties shall be liable to the Government for any excess costs the Government incurs.

**§ 3144. Authority of Comptroller General to pay wages and list contractors violating contracts**

**(a) Payment of Wages.—**

- (1) **In general.**— The Comptroller General shall pay directly to laborers and mechanics from any accrued payments withheld under the terms of a contract any wages found to be due laborers and mechanics under this subchapter.
- (2) **Right of action.**— If the accrued payments withheld under the terms of the contract are insufficient to reimburse all the laborers and mechanics who have not been paid the wages required under this subchapter, the laborers and mechanics have the same right to bring a civil action and intervene against the contractor and the contractor's sureties as is conferred by law on persons furnishing labor or materials. In those proceedings it is not a defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

**(b) List of Contractors Violating Contracts.—**

- (1) **In general.**— The Comptroller General shall distribute to all departments of the Federal Government a list of the names of persons whom the Comptroller General has found to have disregarded their obligations to employees and subcontractors.
- (2) **Restriction on awarding contracts.**— No contract shall be awarded to persons appearing on the list or to any firm, corporation, partnership, or association in which the persons have an interest until three years have elapsed from the date of publication of the list.

**§ 3145. Regulations governing contractors and subcontractors (formerly Copeland Act provision)**

(a) **In General.**— The Secretary of Labor shall prescribe reasonable regulations for contractors and subcontractors engaged in constructing, carrying out, completing, or repairing public buildings, public works, or buildings or works that at least partly are financed by a loan or grant from the Federal Government. The regulations shall include a provision that each contractor and subcontractor each week must furnish a statement on the wages paid each employee during the prior week.

(b) **Application.** — Section 1001 of title 18 applies to the statements.

**§ 3146. Effect on other federal laws**

This subchapter does not supersede or impair any authority otherwise granted by federal law to provide for the establishment of specific wage rates.

**§ 3147. Suspension of this subchapter during a national emergency**

The President may suspend the provisions of the subchapter during a national emergency.

**§ 3148. Application of this subchapter to certain contracts**

This subchapter applies to a contract authorized by law that is made without regard to section 3709 of the Revised Statutes ([41 U.S.C. 5](#)), or on a cost-plus-a-fixed-fee basis or otherwise without advertising for proposals, if this subchapter otherwise would apply to the contract.

## SUBCHAPTER V – VOLUNTEER SERVICES

**§ 3161. Purpose**

It is the purpose of this subchapter to promote and provide opportunities for individuals who wish to volunteer their services to state or local governments, public agencies, or nonprofit charitable organizations in the construction, repair, or alteration (including painting and decorating) of public buildings and public works that at least partly are financed with federal financial assistance authorized under certain federal programs and that otherwise might not be possible without the use of volunteers.

**§ 3162. Waiver for individuals who perform volunteer services**

(a) **Criteria for Receiving Waiver.**— The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of subchapter IV of this chapter as set forth in the Indian Self-Determination and Education Assistance Act ([25 U.S.C. 450](#) et seq.), the Indian Health Care Improvement Act ([25 U.S.C. 1601](#) et

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seq.), and the Housing and Community Development Act of 1974 ([42 U.S.C. 5301](#) et seq.) does not apply to an individual—

- (1) who volunteers to perform a service directly to a state or local government, a public agency, or a public or private nonprofit recipient of federal assistance—
  - (A) for civic, charitable, or humanitarian reasons;
  - (B) only for the personal purpose or pleasure of the individual;
  - (C) without promise, expectation, or receipt of compensation for services rendered, except as provided in subsection (b); and
  - (D) freely and without pressure or coercion, direct or implied, from any employer;
- (2) whose contribution of service is not for the direct or indirect benefit of any contractor otherwise performing or seeking to perform work on the same project for which the individual is volunteering;
- (3) who is not employed by and does not provide services to a contractor or subcontractor at any time on the federally assisted or insured project for which the individual is volunteering; and
- (4) who otherwise is not employed by the same public agency or recipient of federal assistance to perform the same type of services as those for which the individual proposes to volunteer.

**(b) Payments.—**

- (1) **In accordance with regulations.**— Volunteers described in subsection (a) who are performing services directly to a state or local government or public agency may receive payments of expenses, reasonable benefits, or a nominal fee only in accordance with regulations the Secretary of Labor prescribes. Volunteers who are performing services directly to a public or private nonprofit entity may not receive those payments.
- (2) **Criteria and content of regulations.**— In prescribing the regulations, the Secretary shall consider criteria such as the total amount of payments made (relating to expenses, benefits, or fees) in the context of the economic realities. The regulations shall include provisions that provide that—
  - (A) a payment for an expense may be received by a volunteer for items such as uniform allowances, protective gear and clothing, reimbursement for approximate out-of-pocket expenses, or the cost or expense of meals and transportation;
  - (B) a reasonable benefit may include the inclusion of a volunteer in a group insurance plan (such as a liability, health, life, disability, or worker's compensation plan) or pension plan, or the awarding of a length of service award; and
  - (C) a nominal fee may not be used as a substitute for compensation and may not be connected to productivity.

**(3) Nominal fee.**— The Secretary shall decide what constitutes a nominal fee for purposes of paragraph (2)(C). The decision shall be based on the context of the economic realities of the situation involved.

**(c) Economic Reality.**— In determining whether an expense, benefit, or fee described in subsection (b) may be paid to volunteers in the context of the economic realities of the particular situation, the Secretary may not permit any expense, benefit, or fee that has the effect of undermining labor standards by creating downward pressure on prevailing wages in the local construction industry.

**Title 18, Part I, Chapter 41:**

**§ 874. Kickbacks from public works employees**

Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined under this title or imprisoned not more than five years, or both.

# **FEDERAL WAGE RATES**

**A. APPLICABILITY**

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

**(1) MINIMUM WAGES**

- (i) 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 often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH1321)) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place, where it can be easily seen by the workers.

**(ii) Additional Classifications.**

- (A) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor 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, the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division ("Administrator"), Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget ("OMB") under OMB control number 1235-0023.)
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, or HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1235-0023.)



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

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

**(iv)** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1235-0023.)

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

**(3) Payrolls and basic records.**

**(i) Maintaining Payroll Records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification(s), 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. (Approved by the Office of Management and Budget under OMB Control Numbers 1235-0023 and 1215-0018)

**(ii) Certified Payroll Reports.**

**(A)** The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead, the payrolls only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/agencies/whd/forms> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the U.S. Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1235-0008.)

- (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 provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;
  - (2)** That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;
  - (3)** That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract; and
- (C)** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by subparagraph (a)(3)(ii)(b).
- (D)** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

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

#### **(4) Apprentices and Trainees.**

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice’s level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination.

Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program.

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

- (ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed, unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate 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.

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

- (5) **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this Contract.
- (6) **Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs (1) through (11) in this paragraph (a) and such other clauses as HUD or its designee may, by appropriate instructions, require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.
- (7) **Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- (8) **Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this Contract.
- (9) **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the U.S. 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 HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.
- (10) **Certification of Eligibility.**
- (i) By entering into this Contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

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

(iii) Anyone who knowingly makes, presents, or submits a false, fictitious, or fraudulent statement, representation or certification is subject to criminal, civil and/or administrative sanctions, including fines, penalties, and imprisonment (e.g., 18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §§ 3729, 3802).

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

## **B. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The provisions of this paragraph (b) are applicable where the amount of the prime contract exceeds **\$100,000**. As used in this paragraph, the terms “laborers” and “mechanics” include watchmen and guards.

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

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph B(1) of this paragraph, the contractor, and any subcontractor responsible therefor, 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 B(1) of this paragraph, **in the sum set by the U.S. Department of Labor at 29 CFR 5.5(b)(2)** for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph B(1) of this paragraph. In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. § 2461 Note), the DOL adjusts this civil monetary penalty for inflation no later than January 15 each year.

**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall, upon its own action or upon written request of an authorized representative of the U.S. 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(2) of this paragraph.

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

## **C. HEALTH AND SAFETY**

The provisions of this paragraph (c) are applicable where the amount of the prime contract exceeds **\$100,000**.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health and safety, as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The contractor shall comply with all regulations issued by the Secretary of Labor pursuant to 29 CFR Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96), 40 U.S.C. § 3701 et seq.

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

Superseded General Decision Number: PA20230002

State: Pennsylvania

Construction Types: Heavy and Highway

Counties: Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie, Fayette, Forest, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Lawrence, McKean, Mercer, Mifflin, Potter, Somerset, Venango, Warren, Washington and Westmoreland Counties in Pennsylvania.

HEAVY AND HIGHWAY CONSTRUCTION PROJECTS (excluding sewer grouting projects and excluding sewage and water treatment plant projects)

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$17.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2024.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker

protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/05/2024
1	01/12/2024
2	01/19/2024
3	01/26/2024
4	02/23/2024
5	05/03/2024
6	06/07/2024
7	06/21/2024
8	07/05/2024

BOIL0013-005 01/01/2024

CENTRE, FRANKLIN, POTTER, CLINTON, FULTON, HUNTINDON AND MIFFLIN COUNTIES

	Rates	Fringes
BOILERMAKER.....	\$ 52.10	35.38

BOIL0154-004 01/01/2023

ALLEGHENY, ARMSTRONG, BEAVER, BEDFORD, BLAIR, BUTLER, CAMBRIA, CAMERON, CLARION, CLEARFIELD, CRAWFORD, ELK, FAYETTE, FOREST, GREENE, INDIANA, JEFFERSON, LAWRENCE, MCKEAN, MERCER, SOMERSET, VENANGO, WARREN, WASHINGTON AND WESTMORELAND COUNTIES

	Rates	Fringes
BOILERMAKER.....	\$ 45.60	31.37

BOIL0744-003 07/01/2008

ERIE COUNTY

	Rates	Fringes
BOILERMAKER.....	\$ 35.34	18.48

BRPA0005-033 05/01/2022

MIFFLIN COUNTY

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 32.66	21.58

BRPA0005-046 05/03/2020

FRANKLIN COUNTY

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 33.99	16.87

BRPA0005-071 05/03/2020

CLINTON COUNTY

	Rates	Fringes
BRICKLAYER.....	\$ 34.17	17.20
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BRPA0009-004 12/01/2022		

BEDFORD, BLAIR, CAMBRIA, CENTRE COUNTY (Halfmoon, Houston, Patton, Rush, Taylor and Worth Townships), FULTON, HUNTINGDON, and SOMERSET COUNTIES

	Rates	Fringes
Bricklayer, Stonemason & Marble Setter.....	\$ 34.14	22.00
-----		
BRPA0009-006 12/01/2022		

CLEARFIELD, FOREST, JEFFERSON, VENANGO, AND CLARION (Except Brady, Madison, Perry, Porter, Redbank, and Toby Townships) COUNTIES

	Rates	Fringes
Bricklayer, Stonemason.....	\$ 34.14	22.77
Marble mason.....	\$ 34.14	22.77
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BRPA0009-023 12/01/2022		

BEAVER COUNTY

	Rates	Fringes
BRICKLAYER.....	\$ 35.28	24.49
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BRPA0009-025 12/01/2022		

BUTLER, LAWRENCE, AND MERCER COUNTIES

	Rates	Fringes
BRICKLAYER.....	\$ 34.73	24.14
-----		
BRPA0009-032 06/01/2017		

FAYETTE (Jefferson & Washington Twps), GREENE (Except Cumberland, Dunkirk, Greene, Monongahelia Twps), INDIANA, AND WESTMORELAND (Rostraver Twp) COUNTIES

	Rates	Fringes
BRICKLAYER.....	\$ 31.00	20.66
-----		
BRPA0009-033 12/01/2022		

ARMSTRONG, CLARION (Brady, Madison, Perry, Tobe, Porter, Redbank Twps), FAYETTE (Except Jefferson & Washington Twps), GREENE (Cumberland, Dunkirk, Greene, Monongahelia Twps), INDIANA, AND WESTMORELAND (Except Rostrave Twp) COUNTIES

Rates Fringes

BRICKLAYER.....\$ 36.55 24.46

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BRPA0009-034 11/01/2019

ERIE COUNTY

Rates Fringes

BRICKLAYER.....\$ 28.64 21.86

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BRPA0009-058 06/01/2020

ALLEGHENY, WASHINGTON (Cross Creek, Hanover, Jefferson, Mt Pleasant, Nottingham, Peters, Robinson, Smith, Union Twps) COUNTIES

Rates Fringes

BRICKLAYER.....\$ 34.05 22.81

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BRPA0009-059 12/01/2022

CAMERON, ELK, McKEAN, POTTER AND WARREN COUNTIES

Rates Fringes

BRICKLAYER.....\$ 31.62 22.81

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CARP0274-001 01/01/2024

Rates Fringes

PILEDRIVERMAN

Piledriverman (welder).....\$ 42.13 21.92  
Piledriverman.....\$ 40.63 21.92

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CARP0274-002 01/01/2024

Rates Fringes

Diver.....\$ 60.95 21.92  
Tender.....\$ 40.63 21.92

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CARP0443-004 06/01/2023

Rates Fringes

MILLWRIGHT.....\$ 45.50 31.56%+9.01

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CARP2274-001 01/01/2024

Rates Fringes

CARPENTER (ALLEGHENY, ARMSTRONG, BEAVER, BUTLER, ERIE, FAYETTE, GREENE, LAWRENCE, MERCER, WASHINGTON, AND WESTMORELAND COUNTIES)

Carpenters (Welders).....\$ 41.60 21.34  
Carpenters.....\$ 40.10 21.34

CARPENTER (BEDFORD, BLAIR, CAMBRIA, CAMERON, CENTRE, CLARION, CLINTON, CLEARFIELD, CRAWFORD, ELK, FOREST,



FRANKLIN, FULTON, HUNTINGDON,  
 INDIANA, JEFFERSON, MCKEAN,  
 MIFFLIN, POTTER, SOMERSET,  
 VENANGO, AND WARREN COUNTIES)

Carpenters (Welders).....	\$ 41.35	21.34
Carpenters.....	\$ 39.85	21.34

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 ELEC0005-006 12/22/2023

ALLEGHENY, ARMSTRONG, BEDFORD, BLAIR, BUTLER CAMBRIA, CAMERON,  
 CENTRE (Remainder), CLARION, CLEARFIELD, ELK, FAYETTE, FULTON,  
 GREENE, HUNTINGDON, INDIANA, JEFFERSON, MCKEAN, SOMERSET,  
 VENANGO, WASHINGTON, AND WESTMORELAND COUNTIES

	Rates	Fringes
ELECTRICIAN.....	\$ 48.61	30.91

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 ELEC0056-004 06/01/2023

ERIE, FOREST AND WARREN COUNTIES

	Rates	Fringes
ELECTRICIAN.....	\$ 38.94	25.26

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 ELEC0126-005 06/03/2024

ALLEGHENY, ARMSTRONG, BEAVER, BEDFORD, BLAIR, CAMBRIA, CENTRE,  
 CLARION, CLEARFIELD, FAYETTE, FULTON, GREENE, HUNTINGDON,  
 INDIANA, JEFFERSON, SOMERSET, WASHINGTON AND WESTMORELAND

	Rates	Fringes
Line Construction:		
Cable Splicer.....	\$ 54.38	34.25%+11.50
Groundman.....	\$ 32.63	34.25%+11.50
Lineman.....	\$ 54.38	34.25%+11.50
Truck Driver.....	\$ 35.35	34.25%+11.50
Winch Truck Operator.....	\$ 38.07	34.25%+11.50

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 ELEC0126-007 06/03/2024

FRANKLIN AND MIFFLIN COUNTIES

	Rates	Fringes
Line Construction:		
Cable Splicer.....	\$ 53.20	34.25%+11.50
Groundman.....	\$ 31.92	34.25%+11.50
Lineman.....	\$ 53.20	34.25%+11.50
Truck Driver.....	\$ 34.58	34.25%+11.50
Winch Truck Operator.....	\$ 37.24	34.25%+11.50

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 \* ELEC0143-007 06/01/2024

FRANKLIN and MIFFLIN COUNTIES

	Rates	Fringes
ELECTRICIAN.....	\$ 38.75	26.68

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 ELEC0712-003 01/01/2024

CRAWFORD, BEAVER, LAWRENCE AND MERCER COUNTIES

	Rates	Fringes
ELECTRICIAN.....	\$ 47.30	28.12
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ELEC0812-008 06/01/2023		

CLINTON COUNTY

	Rates	Fringes
ELECTRICIAN.....	\$ 36.84	24.91
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ELEC0812-009 06/01/2023		

POTTER COUNTY

	Rates	Fringes
ELECTRICIAN.....	\$ 37.85	24.94
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ELEC0812-011 06/01/2023		

CENTRE COUNTY (Burnside, Curtin, Liberty, Howard, Marion, Walker, Miles, Haines Townships)

	Rates	Fringes
ELECTRICIAN.....	\$ 36.84	24.91
-----		
ELEC1319-004 01/01/2024		

BUTLER, CAMERON, CLINTON, CRAWFORD, ELK, ERIE, FOREST, LAWRENCE, MCKEAN, MERCER, VENANGO, WARREN AND POTTER COUNTIES

	Rates	Fringes
Line Construction:		
Equipment Operator.....	\$ 64.46	22.92
Groundmen.....	\$ 39.97	14.15
Linemen.....	\$ 64.46	28.42
Truck Driver.....	\$ 41.90	14.29
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ENGI0066-016 01/01/2024		

	Rates	Fringes
Power equipment operators: (ALLEGHENY, ARMSTRONG, BEAVER, BLAIR, BUTLER, CAMBRIA, CENTRE, CLARION, CLEARFIELD, CRAWFORD, ERIE, ELK, FAYETTE, GREENE, INDIANA, JEFFERSON, LAWRENCE, MCKEAN, MERCER, SOMERSET, VENANGO, WARREN, WASHINGTON, AND WESTMORELAND COUNTIES)		
GROUP 1.....	\$ 38.59	24.03
GROUP 1-A.....	\$ 41.59	24.03
GROUP 1-B.....	\$ 40.59	24.03
GROUP 2.....	\$ 38.33	24.03

GROUP 3.....	\$ 34.68	24.03
GROUP 4.....	\$ 34.22	24.03
GROUP 5.....	\$ 33.97	24.03

Power equipment operators:

(BEDFORD, CAMERON, CLINTON,  
FOREST, FRANKLIN, FULTON,  
HUNTINGDON, MIFFLIN, AND  
POTTER COUNTIES)

GROUP 1.....	\$ 38.30	24.03
GROUP 1-A.....	\$ 41.30	24.03
GROUP 1-B.....	\$ 40.30	24.03
GROUP 2.....	\$ 38.02	24.03
GROUP 3.....	\$ 34.38	24.03
GROUP 4.....	\$ 33.89	24.03
GROUP 5.....	\$ 33.68	24.03

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1 - Asphalt Paving Machine (Spreader), Autograde (C.M.I. and similar); Backfiller, Compactor with Blade, Backhoe - 360 and 180 degree Swing; Cableway; Caisson Drill (similar to Hugh Williams), Central Mix Plant; Cooling Plant; Concrete Paving Mixer, Concrete Pump (self-propelled); Cranes; Cranes (boom or mast over 101ft.\$ .50 per each additional 50 feet inclusive of jib), Cranes (Tower Stationary- Climbing Tower Crane); Derrick; Derrick Boat; Dozer(greater than 25,000 lbs.); Dragline; Dredge; Dredge Hydraulic; Elevating Grader; Franki Pile Machine; Gradall (remote control or otherwise),Grader (power-fine grade); Hllift (4 cy. and over); Hoist 2 Drums or more (in one unit); Hydraulic Boom Truck with pivotal cab (single motor-Pitman or similar),Hydraulic Boom Truck (non pivotal cab); Hydro-pneumatic Excavation Equipment (or similar); (Boom and Mast over 101 feet will be paid an additional 50 feet inclusive of jib if used;) Kocal; Mechanic, Locomotive (std. Gauge); Metro-chip Harvester or similar; Milling Machine (Roto Mill or similar); Mix Mobile; Mix Mobile (with Self Loading Attachment), Mucking Machine (tunnel); Pile Driver Machine; Pipe Extrusion Machine; Prespliter Drill (self contained); Refrigeration Plant (soil Stablization) Rough Terrain Crane (25 ton over) (Boom and Mast over 101 feet will be paid an additional 50 feet inclusive of jib if used); Rough Terrain Crane (under 25 ton), Scrapers; Shovel-Power; Slip form Paver (C.M.I. and similar); Trenching Machine (30,000 lbs. and over), Trenching Machine (under 30,000 lb.), Tunnell Machine (Mark XXI Jarva or similar), Vermeer Saw, Whirley, Mechanic, Compactor with blade

GROUP 1-A Backhoes-360 degree swing (above 120,000 lbs. gross weight); Cranes (over 100 tons), Cranes-Rough Terrain (over 100 ton); Tug Boat Pilot (on boats over 800 horsepower)

GROUP 1-B Backhoes-360 degree swing (above 70,000 lbs. to 120,000 lbs. gross weight); Cranes (up to 100 ton), Cranes-Rough Terrain (65 ton-100 ton), Tower Crane

GROUP 2: Asphalt plant operator; auger (tractor mtd.); auger (truck mtd.); belt loader (euclid or similar); boring machine; cable placer or layer; Directional drill over 3,000 lbs thrust; concrete batch plant (electronically synchronized); concrete belt placer (C.M.I. and similar); concrete finishing machine and spreader, concrete mixer (over 1 cy.) concrete pump (stationary); core drill (truck or skid mtd. - similar to penn drill), dozer (25,000 lbs or

less); Ditch Witch Saw, force feedloader; fork lift (lull or similar); grader - power; grease unit operator (head); guard rail post driver (truck mounted) guard rail post driver (skid type); hilift (under 4 cy.); skid steer loader; hydraulic boom truck (non-pivotal cab); job work boat (powered), jumbo operator; locomotive (narrow guage); minor equipment operator (accumulative four units); mucking machine; multi-head saw (groover); overhead crane; roller -power- asphalt; ross carrier; side boom or tractor mounted boom; shuttle buggy (asphalt), stone crusher (screening-washing plants); stone spreader (self propelled) truck mounted drill (davey or similar); welder and repairman; well point pump operator; bidwell concrete finishing machine (or similar).

GROUP 3: Broom Finisher (C.M.I. or similar); Compactors/Rollers (static or vibratory (Self-propelled) on dirt or stone; Curb Builder; Minor Equipment Operator (two or three units); Multi-head Tie Tamper; Pavement Breaker (self-propelled or ridden); Soil Stabilizer Machine; Tire Repairman; Tractor (snaking and hauling); Well Driller and Horizontal: Winch or "A" Frame Truck (when hoisting and lowering).

GROUP 4: Ballast Regulator; Compressor; Concrete Mixer (1 cy. & under with skip); Concrete Saw (Ridden or self-propelled); Conveyor; Elevator (Material hauling only); Fork-lift (Ridden or self-propelled); Form Line Machine; Generator; Groute Pump; Heater (Machinical); Hoist (single Drum); Ladavator, Light Plant; Mulching Machine; Personnel Boat (Powered), Pulverizer, Pumps, Seeding Machine, spray Cure Machine (powered Driven); Subgrader; Tie Puller; Tugger; Welding Machine (Gas or Diesel).

GROUP 5: Deck Hand; Farm Tractor; Fireman on Boiler; Oiler; Power Broom; Side Delivery Shoulder Spreader (attachment);

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IRON003-001 06/01/2023

ALLEGHENY, FAYETTE, WESTMORELAND, CAMBRIA, INDIANA, ARMSTRONG, BUTLER, BEAVER, CLARION, AND WASHINGTON COUNTIES

	Rates	Fringes
IRONWORKER.....	\$ 38.89	34.54

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IRON003-007 06/01/2023

BLAIR, CAMERON, CENTRE, CLEARFIELD, CLINTON, ELK, JEFFERSON, MCKEAN, AND POTTER COUNTIES

	Rates	Fringes
IRONWORKER.....	\$ 32.29	32.41

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IRON003-011 06/01/2023

CRAWFORD, ERIE, FOREST, AND WARREN COUNTIES

	Rates	Fringes
IRONWORKER.....	\$ 33.57	32.23

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IRON0207-002 06/01/2024

LAWRENCE, MERCER, AND VENANGO COUNTIES

	Rates	Fringes
IRONWORKER.....	\$ 34.83	27.41

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IRON0404-008 07/01/2023

FRANKLIN (Remainder), HUNTINGDON (Remainder), AND MIFFLIN COUNTIES

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 36.26	31.38

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IRON0549-002 12/01/2022

GREENE COUNTY

	Rates	Fringes
IRONWORKER.....	\$ 35.19	25.66

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IRON0568-004 05/01/2024

BEDFORD, FRANKLIN (Southwest 1/3), FULTON, HUNTINGDON (Western 2/3), AND SOMERSET COUNTIES

	Rates	Fringes
IRONWORKER Structural, Ornamental, Reinforcing, Machinery Mover, Rigger & Machinery Erector, Welder, Fence Erector.....	\$ 31.00	24.15

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LAB01058-001 01/01/2024

	Rates	Fringes
LABORER (BEDFORD, CAMERON, CENTRE, CLINTON, CRAWFORD, FOREST, FRANKLIN, FULTON, HUNTINGDON, JEFFERSON, MIFFLIN, AND POTTER COUNTIES)		
GROUP 1.....	\$ 32.10	25.50
GROUP 2.....	\$ 32.26	25.50
GROUP 3.....	\$ 32.75	25.50
GROUP 4.....	\$ 33.20	25.50
GROUP 5.....	\$ 33.61	25.50
GROUP 6.....	\$ 30.45	25.50
GROUP 7.....	\$ 33.10	25.50
GROUP 8.....	\$ 34.60	25.50

Laborers: (ALLEGHENY,  
ARMSTRONG, BEAVER, BLAIR,  
BUTLER, CAMBRIA, CLARION,  
CLEARFIELD, ELK, ERIE,  
FAYETTE, GREENE, INDIANA,  
LAWRENCE, MCKEAN, MERCER,

SOMERSET, VENANGO, WARREN,  
WASHINGTON, AND WESTMORELAND  
COUNTIES)

GROUP 1.....	\$ 32.20	25.50
GROUP 2.....	\$ 32.36	25.50
GROUP 3.....	\$ 32.75	25.50
GROUP 4.....	\$ 33.20	25.50
GROUP 5.....	\$ 33.61	25.50
GROUP 6.....	\$ 30.45	25.50
GROUP 7.....	\$ 33.20	25.50
GROUP 8.....	\$ 34.70	25.50

LABORERS CLASSIFICATIONS

GROUP 1: Asphalt curb sealer; Asphalt tamper; Batcherman (weigh) Blaster, Boatman, Brakeman, Change house attendant, Coffey dam, Concrete curing pitman, Puddler, Drill Runner's helper (Includes Drill Mounted on Truck, Track, or similar and Davey Drill Spots, Clean up, helps to maintain), Electric Brush and or Grinder, Fence Construction (Including Fence Machine Operator) Form stripper and Mover, Gabion (Erectors and Placers) Hydro jet blaster nozzle man; Landscape laborer, Manually moved emulsion sprayer, Radio actuated traffic control operator Rip rap work, scaffolds and Runways, Sheetters and Shorers (includes lagging) structural concrete Top Surfacers, Walk Behind Street Sweeper, and Wood Chipper; water boy

GROUP 2: Air tool operator (all types); Asphalt, batch & concrete plant operator (manually operated) Burner, Caisson; men (open air); Carryable pumps; Chain saw operator including attachments, Cribbing, (concrete or steel); Curb machine operator (asphalt or concrete walk behind); Diamond head Core Driller, Drill runner's helper (tunnel) Fork Lift, (walk behind), Form Setter (Road Forms Line man) Highway Slab reinforcement placers (including joint and Basket Setters) Hydraulic pipe pusher; Liner plates (Tile or Vitrified Clay) Mechanical compacting equipment operators, Mechanical joint sealer, Dope pot and Tar Kettle, Mortar mixer (hand or machine) Muckers, Brakemen & all other Labor, (Includes installation of utility lines) Pipe Layers /Fusion /Heating Iron (Regardless of materials) Portable Single Unit Conveyor, Post Hole Auger, (2 or 4 cycle hand operated) Power wheelbarrows and buggies, Rail porter or similar; Sand blaster; Signal Man, Vibrator operator, All RAILROAD TRACK WORK TO INCLUDE THE FOLLOWING: adzing machine, ballast Router, Bolting Machine, Power Jacks, Rail Drills, Railroad Brakeman, Rail Saws, Spike Drivers (Manually or hand held tool) Spike Pullers Tamping Machine, Thermitweld

GROUP 3: Asphalt Luteman/Raker, Blacksmith, Blaster, Brick, stone and block pavers and block cutters (wood, belgian and asphalt); Cement mortar lining car pusher; Cement mortar mixer (pipe relining); Cement mortar pipe reliners; concrete saw operator (walk behind); Curb cutters and setters; Elevated roadway drainage construction; erector of overhead signs, Form setter (road forms-lead man); Grout machine operator; Gunite or dry pack gun (nozzle and machine man); Manhole or catch basin builder (Brick block concrete or any prefabrication) Miners and drillers (including lining, supporting and form workmen, setting of shields, miscellaneous equipment and jumbos); Multi-plate pipe (aligning and securing); Placing wire mesh on gunite projects; Wagon drill operators (air track or similar);

Walk behind ditching machine (trencher or similar);crown  
screed adjuster and welder

GROUP 4: Reinforcing Steel Placer (Bending, aligning, and  
securing, Cadweld)

GROUP 5:High Burner, (Any burning not done from deck), Welder  
(Pipeline)

GROUP 6: Uniformed Flagperson, Watchman

GROUP 7: Toxic/Hazardous Waste Removal Laborer Levels C & D

GROUP 8: Toxic/Hazardous Waste Removal Laborer Levels A & B

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PAIN0021-019 05/01/2021

CLINTON COUNTY

	Rates	Fringes
Painters:		
Bridge.....	\$ 36.67	18.80
Brush & Roller.....	\$ 29.02	21.14
Spray.....	\$ 30.02	21.14

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PAIN0021-024 05/01/2021

FRANKLIN COUNTY

	Rates	Fringes
PAINTER		
Brush.....	\$ 25.84	16.30

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PAIN0057-014 06/01/2023

ALLEGHENY, FAYETTE, GREENE, WASHINGTON COUNTIES

	Rates	Fringes
Painters:		
Bridge.....	\$ 38.33	23.72
Brush & Roller.....	\$ 30.56	23.72
Spray.....	\$ 30.56	23.72

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PAIN0057-015 06/01/2023

ARMSTRONG, BEAVER, BEDFORD, BLAIR, BUTLER,CAMBRIA, CENTRE,  
CLARION, CLEARFIELD, ELK, FULTON, HUNTINGTON, INDIANA,  
JEFFERSON, LAWRENCE, MERCER, MIFFLIN, SOMERSET, VENANGO AND  
WESTMORELAND COUNTIES

	Rates	Fringes
Painters:		
Bridge.....	\$ 38.33	23.72
Brush and Roller.....	\$ 30.56	23.72
Spray.....	\$ 30.56	23.72

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PAIN0057-022 05/01/2024

	Rates	Fringes
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Painters: (ERIE, McKEAN, AND  
WARREN (Including Columbus  
and Freehold twps) COUNTIES)

Bridges, Stacks, Towers.....	\$ 28.87	24.89
Brush and Roller.....	\$ 26.37	24.89
Spray and Sandblasting.....	\$ 27.12	24.89

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PAIN0057-027 06/01/2023

CAMERON, CRAWFORD, POTTER, WARREN, (Excluding Columbus and  
Freehold twps)

	Rates	Fringes
PAINTER		
Brush and Roller.....	\$ 30.56	23.72

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PLAS0526-002 01/01/2024

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 35.14	26.30

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PLUM0027-001 06/01/2023

ALLEGHENY, ARMSTRONG, BEAVER, BUTLER, CLARION, GREENE (Except  
extreme Eastern portion), LAWRENCE, WASHINGTON (Except extreme  
Eastern portion) and WESTMORELAND (City of Arnold and City of  
New Kensington Only) COUNTIES

	Rates	Fringes
Plumbers and Pipefitters (Bridge Drain Pipe).....	\$ 48.65	25.47

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PLUM0027-009 06/01/2023

CRAWFORD, ERIE, FOREST, MCKEAN, MERCER, VENANGO and WARREN  
COUNTIES

	Rates	Fringes
Plumbers and Pipefitters (Bridge Drain Pipe).....	\$ 46.98	25.47

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PLUM0354-005 06/01/2012

BEDFORD, BLAIR, CAMBRIA, CAMERON, CLEARFIELD, ELK, FAYETTE,  
GREENE (Extreme Eastern portion), HUNTINGDON, INDIANA,  
JEFFERSON, SOMERSE, WASHINGTON (Extreme Eastern portion), AND  
WESTMORELAND COUNTIES

	Rates	Fringes
Plumbers and Pipefitters (Bridge Drain Pipe).....	\$ 35.54	19.97

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TEAM0040-006 01/01/2024

	Rates	Fringes
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TRUCK DRIVER (ALLEGHENY,  
 ARMSTRONG, BEAVER, BLAIR,  
 BUTLER, CAMBRIA, CENTRE,  
 CLARFIELD, CRAWFORD, ERIE,  
 FAYETTE, GREENE, INDIANA,  
 JEFFERSON, LAWRENCE, MCKEAN,  
 MERCER, SOMERSET, VENANGO,  
 WARREN, WASHINGTON, AND  
 WESTMORELAND)

GROUP 1.....	\$ 34.93	22.71
GROUP 2.....	\$ 35.39	23.02

Truck drivers: (BEDFORD,  
 CAMERON, CLAIRON, CLINTON,  
 ELK, FOREST, FRANKLIN,  
 FULTON, HUNTINGDON, MIFFLIN,  
 AND POTTER COUNTIES)

GROUP 1.....	\$ 34.79	22.63
GROUP 2.....	\$ 35.25	22.93

FOOTNOTES: A. Hazardous/toxic waste material/work level A & B receive additional \$2.50 per hour above classification rate

B. Hazardous/toxic waste materials/Work level C & D receive \$1.00 per hour above classification

TRUCK DRIVERS CLASSIFICATIONS

GROUP 1 - Single Axle (2 axles including steering axle); Includes partsman and warehoueman. Tandem - Tri-Axle - Semi-Tractor Trailer (combination) (3 axles or more including steering axle)

GROUP 2 - Specialty Vehicles; Heavy equipment whose capacity exceeds that for which state licenses are issued specifically refers to units in excess of eight (8) feet width (such as Euclids, Atley Wagon, Payloader, Tournawagons, and similar equipment when not self loaded); Tar and Asphalt Distributors Trucks, Heavy Duty Trailer, such as Low Boy, High Boy

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

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO

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

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those

classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

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

#### State Adopted Rate Identifiers

Classifications listed under the ""SA"" identifier indicate that the prevailing wage rate set by a state (or local) government was adopted under 29 C.F.R. 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 01/03/2024 reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.

Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

# **SUPPLEMENTARY CONDITIONS**

**Build America, Buy America (BABA Act)**

The Contractor must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC § 8301 note, and all applicable rules and notices, as may be amended, if applicable to the organization and all contractor’s performance of this Agreement. Pursuant to HUD’s Notice, “Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance” (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

This is applicable to projects over \$250,000 with the following implementation schedule.

	Iron and steel— BAP implementation point	Construction materials— specifically- listed—BAP implementation point	Construction materials—not listed—BAP implementation point
CDBG Formula Grants	November 15, 2022—as described in the November 23, 2022 Final Waiver	As of the date HUD obligates new FFA from Fiscal Year 2024 appropriations	As of the date HUD obligates new FFA from Fiscal Year 2025 appropriations

# SUPPLEMENTARY CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

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

OMB Approval No. 2502-0598  
(Exp. 06/30/2017)

Public Reporting Burden for this collection of information is estimated to average 0.2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.

## Article 1: Labor Standards

**A. Applicability.** The Project or program to which the construction work covered by this Contract pertains is being assisted or insured by the United States of America, and the following Federal Labor Standards Provisions are included in this Contract or related instrument pursuant to the provisions applicable to such Federal assistance or insurance. Any statute or regulation contained herein shall also include any subsequent amendment or successor statute or regulation.

**B. Minimum Wages.** Pursuant to Section 212 of the National Housing Act, as amended, 12 U.S.C. 1715c, the minimum wage provisions contained in this paragraph B do not apply to those projects with Security Instruments insured under Section 221(h)(1) designed for less than 9 families and they do not apply to those projects with Security Instruments insured under either Section 220 or 233 designed for less than 12 families.

1. (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the Project) shall 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 (40 U.S.C. 3141(2)(B)(ii)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each

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

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

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is 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 HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (“**Administrator**”). The Administrator, or an authorized representative, shall approve, modify, or disapprove every additional classification action within thirty (30) days of receipt and so advise HUD or its designee or shall notify HUD or its designee within the thirty (30) day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, shall issue a determination within thirty (30) days of receipt and so advise HUD or its designee or shall notify HUD or its designee within the thirty (30) day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs B.1.(ii)(b) or (c) of this Article, shall be paid to all workers



performing work in the classification under this Contract from the first day on which work is performed in the classification.

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

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the Project), all or part of the wages required by the Contract, HUD or its designee may, after written notice to the Contractor, sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

### **3. Payrolls, records, and certifications.**

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the Project). 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 (40 U.S.C. 3141(2)(B)(ii))), 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 (40 U.S.C. 3141(2)(B)(ii)), the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii)(a) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the Contract, but if the agency is not such a party, the Contractor shall submit the payrolls to the applicant, sponsor, or Owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347.pdf> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant sponsor, or Owner, as the case may be, for transmission to HUD or its designee, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

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

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete.

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

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

(d) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Sections 3801 et seq of Title 31 of the United States Code.

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

#### **4. Apprentices and Trainees.**

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

any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where the Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship, or a State Apprenticeship Agency recognized by such Office, withdraws approval of an apprenticeship program, the Contractor shall no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees shall 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's 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 classification of 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 shall no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

**5. Compliance with Copeland Act Requirements.** The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this Contract.

**6. Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs 1 through 10 of this paragraph B and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage determination, 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 referenced in this subparagraph.

**7. Contract termination and 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 or a subcontractor as provided in 29 CFR 5.12.

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

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

**10. Certification of Eligibility.**

(i) 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 (40 U.S.C. 3144(b)(2)) or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act (40

U.S.C. 3144(b)(2)) or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

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

### **C. Contract Work Hours and Safety Standards Act.**

**1. Applicability and Definitions.** This paragraph C of Article 1 is applicable only if a direct form of federal assistance is involved, such as Section 8, Section 202/811 Capital Advance, grants etc., and is applicable only where the prime contract is in an amount greater than \$100,000. As used in this paragraph C, the terms "laborers" and "mechanics" include watchmen and guards.

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

**3. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the immediately preceding subparagraph C.2, the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, the 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 such subparagraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in such subparagraph.

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

**5. Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs 1 through 5 of this paragraph C 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 such subparagraphs 1 through 5.

#### **D. Certification.**

For projects with Security Instruments insured under the National Housing Act, as amended, that are subject to paragraph B of this Article 1, the Contractor is required to execute the Contractor's Prevailing Wage Certificate within HUD-92448 as a condition precedent to insurance by HUD of the Loan, or an advance thereof, made or to be made by the Lender in connection with the construction of the Project.

### **Article 2: Equal Employment Opportunity**

**A. Applicability.** This Article 2 applies to any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee.

**B.** The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, disability 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.

**C.** The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, disability, or national origin.

**D.** The Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers representatives of the Contractor's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

E. The Contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor.

F. The Contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

G. 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 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.

H. The Contractor shall include the provisions of paragraphs A through H of this Article 2 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 shall be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as HUD or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance. *Provided, however,* that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD or the Secretary of Labor, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

### **Article 3: Equal Opportunity for Businesses and Lower Income Persons Located Within the Project Area**

A. This Article 3 is applicable to projects covered by Section 3, as defined in 24 CFR Part 135.

B. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from HUD and 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 requires that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the unit of local government or the metropolitan area (or non-metropolitan county) as determined by HUD in which the Project is located and 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 same metropolitan area (or non-metropolitan county) as the Project.



**Article 4: Health and Safety**

A. This Article 4 is applicable only where the prime contract is in an amount greater than \$100,000.

B. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

C. The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to 29 CFR Part 1926, and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

D. The Contractor shall include the provisions of this Article 4 in every subcontract so that such provisions shall be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as HUD or the Secretary of Labor shall direct as a means of enforcing such provisions.

## INDEMNIFICATION CERTIFICATE

To the fullest extent permitted by law, the contractor shall indemnify and hold harmless the City of Beckley, and agents and employees of said City from and against claims, damages, losses, and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including loss or use resulting therefrom, but only to the extent caused in whole or in part by acts or omissions of the contractor, a subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder.

Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to the City of Beckley. In claims against any person or entity indemnified under this paragraph by an employee of the contractor, a subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under this paragraph shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the contractor or a subcontractor under workers' or workmen's compensation acts, disability benefits acts, or other employee benefits acts.

\_\_\_\_\_  
CONTRACTOR

BY: \_\_\_\_\_  
Authorized Signature & Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

*The successful bidder must submit satisfactory proof of insurance and a signed Indemnification Certificate.*

**SECTION 3 &  
MBE/WBE  
SOLICITATION**



## SECTION 3 OVERVIEW

### FOR RECIPIENTS OF HUD HOUSING & COMMUNITY DEVELOPMENT FUNDING

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#### Why HUD Enforces Section 3?

Each year the U.S. Department of Housing and Urban Development invests billions of federal dollars into distressed communities for projects that build and rehabilitate housing; improve roads and community centers; and help families achieve the American Dream.

The Section 3 regulation acknowledges that HUD funding typically results in projects/activities that generate new contracting, employment, and other economic opportunities that not only impact bricks and mortar, but also create a multiplier effect for local housing providers and businesses that provide goods and services.

Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 135] represents HUD's policy for providing preference for new employment, training, and contracting opportunities created from the usage of covered HUD funds to low- and very low-income residents of the community where certain funds are spent (regardless of race or gender), and the businesses that substantially employ these persons.

#### Applicability of Section 3 to Housing and Community Development Assistance

The requirements of Section 3 apply to recipients of HUD Housing and Community Development funding exceeding **\$200,000**.

Section 3 does not apply on a "per-project" basis, whenever any portion of HUD funding is invested into projects involving **housing construction, demolition, rehabilitation, or other public construction (i.e., roads, sewers, community centers, etc.)**, the requirements of Section 3 apply.

Further, contractors or subcontractors that receive contracts in excess of **\$100,000** for Section 3 covered projects/activities are required to comply with the Section 3 regulations in the same manner as direct recipients.

If the recipient agency receives Section 3 covered projects/activities, but no individual contract exceeds \$100,000, the requirements of Section 3 only apply to the recipient. Accordingly, the recipient must attempt to meet the Section 3 minimum numerical goals found at 24 CFR Part 135.30 by awarding 10 percent of the total dollar amount of all covered construction contracts to Section 3 businesses.

**State and County agencies** that distribute covered funds to units of local government, nonprofit organizations, or other subrecipients, must attempt to reach the minimum numerical goals set forth at 24 CFR Part 135.30, regardless of the number of subrecipients that receive covered funding. The state or county must inform its subrecipients about the requirements of Section 3; assist them and their contractors with achieving compliance; and monitor their performance with respect to the objectives and requirements of Section 3.

## Some Types of Section 3 Covered Housing and Community Development Funding

- Community Development Block Grants (CDBG)
- Home Investment Partnership Assistance
- Housing Opportunities for Persons with Aids (HOPWA)
- Economic Development Initiative (EDI)
- Brownfield Economic Development Initiative (BEDI)
- Emergency Shelter Grants
- Homeless Assistance
- University Partnership Grants
- Neighborhood Stimulus Program (NSP)
- Certain Grants Awarded Under HUD Notices of Funding Availability (NOFAs)
- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for the Disabled
- Project Based Section 8 Vouchers

\*NOTE: The requirements of Section 3 only apply to the portion(s) of covered funding that were used for project/activities involving housing construction, rehabilitation, demolition, or other public construction.

Section 3 applies to the **entire** covered project or activity regardless of whether the activity was fully or partially funded with covered assistance.

## Section 3 Covered Recipient Agencies

“Recipient” refers to any entity that receives Section 3 covered financial assistance directly from HUD or from another recipient and includes, but is not limited to any of the following:

- States; Units of Local Government; Native American Tribes; or other Public Bodies
- Public or Private Nonprofit Organizations
- Private Agencies or Institutions
- Mortgagors; Developers; Limited Dividend Sponsors; Builders; Property Owners; Community Housing Development Organizations
- Successors, assignees or transferees of any such entity listed above
- Recipients do **NOT** include any ultimate beneficiary under the HUD program that Section 3 applies (i.e., residents or laborers); and does **NOT** refer to contractors.

## What Triggers the Requirements of Section 3?

Each recipient of \$200,000 of covered HUD funding is required to comply with Section 3. Section 3 applies to all projects and activities involving housing construction, rehabilitation, or other public construction that is funded with covered HUD funding.

Section 3 is triggered when the normal completion of construction and rehabilitation projects creates the need for **new** employment, contracting, or training opportunities.

The Section 3 regulations should not be construed to mean that recipients are required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete covered projects/activities.

If the expenditure of covered funding does not result in new employment, contracting, or training opportunities, the requirements have not been triggered.

### **Recipient Responsibilities Pursuant to Section 3**

Each recipient (and their covered contractors, subcontractors, or subrecipients) are required to comply with the requirements of Section 3 for **new** employment, training, or contracting opportunities resulting from the expenditure of covered funding. This responsibility includes:

1. Implementing procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;
2. Notifying potential contractors working on Section 3 covered projects of their responsibilities;
3. Incorporating the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38];
4. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;
5. Assisting and actively cooperating with the Department in making contractors and subcontractors comply;
6. Refraining from entering into contracts with contractors that are in violation of Section 3 regulations;
7. Documenting actions taken to comply with Section 3; and
8. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

### **Section 3 Residents and Business Concerns**

Section 3 Residents Are:

1. Residents of Public and Indian Housing; or
2. Individuals that reside in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended and whose income do not exceed the local income criteria of low- or very low-income.

Section 3 Business Concerns Are One of the Following:

1. Businesses that are 51 percent or more owned by Section 3 residents;
2. Businesses 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 with the firm were Section 3 residents; or
3. Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.

In accordance with the regulation, residents and businesses concerns seeking Section 3 preference shall certify, or submit evidence to the recipient, contractor, subcontractor or subrecipient (if requested) verifying that they meet the definitions provided above.

Recipients can use their discretion for determining the type of verification that is required by prospective Section 3 residents and business concerns. Some examples include: proof of residency in a public housing authority; proof of federal subsidies for housing, food stamps, or unemployment benefits; and payroll data or other relevant business information.

### **Section 3 Summary Reports (Form HUD-60002)**

Annually, each direct recipient of Housing and Community Development funding is required to submit form HUD-60002 to HUD's Economic Opportunity Division in Washington, DC.

Where the program providing Section 3 covered funding requires the submission of an annual performance report (e.g., CAPERs reports, etc.), form HUD-60002 shall be submitted at the time that the annual report is due.

The Section 3 Summary Report shall follow the same program, fiscal, or calendar year as the annual performance report and should correspond to the covered projects and activities that were administered during the reporting period.

If the recipient is not required to submit an annual performance report, the Section 3 report is due when other reports are submitted to HUD or at the end of each program, fiscal, or calendar year.

**NOTE: Section 3 reports must be submitted by all agencies that receive Housing and Community Development funding in excess of \$200,000 whether new employment, training, or contracting opportunities were created or not.**

### **Determining What Should Be Reported on Form HUD-60002**

Section 3 Annual Summary Reports are intended to measure each recipient's efforts to comply with the statutory and regulatory requirements of Section 3 in its own operations **AND** those of covered contractors, subcontractors, and subrecipients. Each submission of form HUD-60002 should indicate the following:

- The total dollar amount of HUD funding that was [spent] by the recipient for covered projects/activities during the specified reporting period.
- The total number of new employees that were hired by the recipient (or its covered contractors, subcontractors, and subrecipients) as a result of the completion of covered project/activities.
- The amount of new employees that were hired by the recipient (or its covered contractors, subcontractors, and subrecipients), as a result of the completion of covered projects/activities, that met the definition of a Section 3 resident.
- The total number of man hours worked on covered projects (optional).
- The aggregate number of hours worked by Section 3 residents on covered projects (optional).

- The total number of Section 3 residents that participated in training opportunities that were made available by the PHA, its contractors, subrecipients, or other local community resource agencies.
- The total dollar amount of construction and/or non-construction contracts (or subcontracts) that were awarded with covered funding.
- The dollar amount of the recipient's construction or non-construction contracts (or subcontracts) that were awarded to Section 3 business concerns.
- Detailed narrative descriptions of the specific actions that were taken by the recipient (or its covered contractors, subcontractors, subrecipients, or others) to comply with the requirements of Section 3 and/or meet the minimum numerical goals for employment and contracting opportunities.

### **Form HUD-60002 and Section 3 Compliance Determinations**

Absent evidence to the contrary, the Department considers recipients of covered funding to be in compliance with Section 3 if they meet the minimum numerical goals set forth at 24 CFR Part 135.30<sup>i</sup>. Specifically:

- a. 30 percent of the aggregate number of new hires shall be Section 3 residents;
- b. 10 percent of the total dollar amount of all covered construction contracts shall be awarded to Section 3 business concerns; and
- c. 3 percent of the total dollar amount of all covered non-construction contracts shall be awarded to Section 3 business concerns.

**Recipients that fail to meet the minimum numerical goals above bear the burden of demonstrating why it was not possible to do so.** Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will enable the Department to make a compliance determination.

Recipients that submit Section 3 reports containing **all zeros**, without a sufficient explanation to justify their submission, are in **noncompliance** with the requirements of Section 3.

Failure to comply with the requirements of Section 3 may result in sanctions, including: debarment, suspension, or limited denial of participation in HUD programs pursuant to 24 CFR Part 24.

Recipients that are subject to annual A-133 Audits may also receive an audit finding for failure to submit form HUD-60002 to HUD.



## Important Notes for Submitting Form HUD-60002

- Recipients must submit a separate form HUD-60002 for each type of covered funding (*e.g.*, separate reports must be submitted for CDBG and HOME funding).
- Use the online Section 3 Summary Reporting System at: [www.hud.gov/section3](http://www.hud.gov/section3) to ensure that form HUD- 60002 is received by the appropriate HUD office in a timely manner.
- If the recipient (or its covered contractors, subcontractors and subrecipients) did not hire any new employees during the reporting period, and/or if no covered construction or non-construction contracts were awarded, the recipient must indicate this in Part III of form HUD-60002 and certify that this information is true and accurate by penalty of law.

## Additional Section 3 Guidance and Technical Assistance

The Economic Opportunity Division is committed to providing recipient's guidance and technical assistance for compliance with the requirements of Section 3.

For additional information, please visit the Section 3 website at: [www.hud.gov/section3](http://www.hud.gov/section3). This webpage provides the following tools and information:

- Section 3 Statute—12 U.S.C. 1701u
- Section 3 Regulation—24 CFR Part 135
- Frequently Asked Questions
- Section 3 Model Programs
- Guidance on Section 3 and Economic Stimulus Funding
- Guidance on Section 3 and the Neighborhood Stimulus Program (NSP)
- Sample Section 3 Certification Forms (residents and business concerns)
- Link to HUD's Local Income Eligibility Calculator
- Link to Section 3 Annual Reporting System(form HUD-60002)
- Downloadable Forms
- Contact Information for Economic Opportunity Division staff
- Email inquiries on Section 3 can be sent to [section3@hud.gov](mailto:section3@hud.gov)

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<sup>1</sup> See Safe Harbor language at 24 CFR Part 135.30(d)

# GUIDANCE ON MBE/WBE OUTREACH

## I. Minimum Acceptable Outreach Standards

Section 281 of the National Affordable Housing Act requires each participating jurisdiction to prescribe procedures acceptable to the Secretary to establish and oversee a minority outreach program. The program shall include minority and woman-owned businesses in all contracting activities entered into by the participating jurisdiction to facilitate the provision of affordable housing authorized under this Act or any other federal housing law applicable to such jurisdiction. Therefore, minimum HUD standards require that each participating jurisdiction's outreach effort to minority and women-owned businesses be:

- A good faith, comprehensive and continuing endeavor;
- Supported by a statement of public policy and commitment published in the print media of widest local circulation;
- Supported by an office and/or a key, ranking staff person with oversight responsibilities and access to the chief elected official; and
- Designed to utilize all available and appropriate public and private sector local resources.

## II. Guidelines for a Minority/Women Business Outreach Program

Under the minimum HUD standards cited above, the following guidelines are provided for use by participating jurisdictions in implementing outreach programs to ensure the inclusion, to the maximum extent possible, of entities owned by minorities and women. Each participating jurisdiction should:

- Develop a systematic method for identifying and maintaining an inventory of certified minority and women's business enterprises (MBEs and WBEs), their capabilities, services, supplies and/or products;
- Utilize the local media, electronic and print, to market and promote contract and business opportunities for MBEs and WBEs;
- Develop informational and documentary materials (fact sheets, program guides, procurement forecasts, etc.) on contract/subcontract opportunities for MBEs and WBEs;
- Develop procurement procedures that facilitate opportunities for MBEs and WBEs to participate as vendors and suppliers of goods and services;
- Sponsor business opportunity-related meetings, conferences, seminars, etc., with minority and women business organizations; and
- Maintain centralized records with statistical data on the utilization and participation of MBEs and WBEs as contractors/subcontractors in all HUD-assisted program contracting activities.

Each participating jurisdiction, utilizing the standards and guidelines listed above, shall prescribe procedures and actions it will undertake in implementing a minority and women's business enterprise outreach program. The above items represent basic outreach-related activities and are not all-inclusive actions a participating jurisdiction may undertake.

## **GUIDANCE ON SECTION 3**

**(Refer to 24 CFR Part 135 for complete information)**

### **WHAT IS SECTION 3?**

Section 3 of the Housing and Urban Development Act of 1968 (Section 3), as amended by the Section 915 of the Housing and Community Development Act of 1992, requires that economic opportunities generated by HUD financial assistance for housing and community development programs be targeted toward low- and very low-income persons. In effect, this means:

- ❑ Whenever HUD assistance generates opportunities for employment or contracting, Public and Indian Housing Authorities, state and local grantees, and other recipients of HUD housing assistance funds must, to the greatest extent feasible, provide these opportunities to low- and very low-income persons and to businesses owned by or employing low- and very low-income persons.
- ❑ The Section 3 requirements apply to job training, employment, contracting and subcontracting and other economic opportunities arising from assistance provided for construction, reconstruction, conversion, or rehabilitation (including lead-based paint hazard reduction and abatement) of housing, other buildings, or improvements assisted with housing or community development assistance, including HOME.
- ❑ Section 3 applies to:
  - projects for which HUD's share of project costs exceeds \$200,000; and
  - contracts and subcontracts awarded on projects for which HUD's share or project costs exceeds \$200,000, and the contract or subcontract exceeds \$100,000.
- ❑ Recipients whose projects do not fall under Section 3 are nonetheless encouraged to comply with the Section 3 preference requirements.
- ❑ Recipients and their contractors and subcontractors must show preferences for giving training and employment opportunities to low-income persons, to the greatest extent feasible. They should show priority considerations for hiring low-income persons as follows:
  - (1) Low-income persons residing in the service area or neighborhood in which the project is located.
  - (2) Participants in HUD Youthbuild programs.
  - (3) If project is assisted under the McKinney Act, homeless persons in the project area of the project.
  - (4) Other Section 3 residents.

Again, the persons hired should be qualified to perform the work required.

- ❑ Recipients and their contractors and subcontractors must direct their efforts to award Section 3 business concerns, to the greatest extent feasible, to Section 3 business concerns in the following preference order:
  - (1) Section 3 businesses that operate in the project area.

(2) Entities that carry out Youthbuild programs.

(3) Other Section 3 business concerns.

The business must be able to demonstrate that it can successfully perform under the terms and conditions of the proposed contract. In addition, these requirements do not restrict competition to only businesses meeting one of the priorities, nor do they authorize set-asides.

## **COMPLIANCE AND RECORDKEEPING**

- Numerical goals for meeting the greatest extent feasible requirement:
  - For training and employment opportunities resulting from Section 3-covered housing assistance, a commitment to employ 10% of the aggregate number of new hires each year over the duration of the Section 3 project.
  - For training and employment opportunities resulting from Section 3-covered community development assistance, a commitment to employ 30% of the aggregate number of new hires for a one-year period.
  - For contracts awarded in connection with Section 3-covered projects, a commitment to award at least 10% of the total dollar amount of contracts for building trades work and at least 30% of the total dollar amount of all other Section 3-covered contracts.
- All recipients of assistance must:
  - Amend their employment and procurement policies to comply with Section 3.
  - Include the Section 3 clause in covered contracts and subcontracts.
  - Document their best efforts to comply with Section 3 and their success at hiring low-income persons.
  - Monitor their own compliance and the compliance of their contractors and subcontractors.
  - Provide annual reports to the Assistant Secretary for Fair Housing and Equal Opportunity as requested.
- Recipients must maintain the following records:
  - The good faith efforts made to make low-income persons aware of the positions, and to encourage and facilitate their application.
  - The number and dollar value of all contracts awarded to businesses and, in particular, Section 3 businesses during the fiscal year.
  - A description of the best efforts made to award contracts to Section 3 businesses.
  - The mechanisms by which they ensured that contractors and subcontractors complied with the Section 3 preferences for training, employment, and contract awarding.
- The Assistant Secretary for Fair Housing and Equal Opportunity will conduct periodic compliance reviews.

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**MBE/WBE /SECTION 3  
CONTACT/SOLICITATION AND COMMITMENT STATEMENT**

**Instructions and Explanation of Columns**

Project owners and all prime bidders will complete this form to document all businesses solicited and all businesses that provided solicited or unsolicited quotes for project-related contracts.

1. Provide your company name, address, telephone number.
2. Provide the Invitation for Bid (IFB) number, if available, bid opening date, and bidder's contact person.
3. Please provide the Employer Identification Number (EIN) or Social Security Number (SSN).
4. Indicate whether or not the firm is an MBE or WBE and/or Section 3 business. Place a check mark in only one of the appropriate MBE or WBE columns.
5. Indicate the type of work to be performed and/or material to be supplied.
6. Enter the total dollar amount of the quote received.
7. Enter the total dollar (\$) amount of the commitment which you have made to the MBE, WBE, and/or Section 3 business. If no amount is provided in this space, it will be presumed that your firm made no commitment to the MBE, WBE, and/or Section 3 Business.
8. NOTE: You must include information on both solicited and unsolicited quotes. Failure to include a firm providing solicited or unsolicited quotes may result in the rejection of the bid. Adequate time must be provided for subcontractors and suppliers to respond to bids. (Five days is a guide.)
9. NOTE: If the minimum participation levels for this project are not achieved, you must provide written explanation on this or a separate sheet explaining the failure to achieve the MPL for either MBE, WBE, or Section 3. Failure to provide this explanation will result in rejection of the bid as non-responsive.
10. Indicate the name and title of the person(s) who prepared the form.

\* KEY NOTE: Mandatory Items: Failure to provide mandatory items will result in rejection of the bid as non-responsive. These items appear in Columns 3, 4 and 7. Only the company name is a mandatory item in Column 3.

<b>MBE/WBE/SECTION 3 CONTACT/SOLICITATION AND COMMITMENT STATEMENT</b>						
(1)			(2)			
OWNER/PRIME BIDDER'S FIRM NAME				PROJECT NAME		
ADDRESS				BID OPENING DATE	CONTRACT AWARD DATE	
TELEPHONE NUMBER				CONTACT PERSON		
* (3)	(4)			(5)	(6)	* (7)
COMPANY NAME EIN/SSN TELEPHONE NUMBER	MBE (3)	WBE (3)	SECTION 3 (3)	TYPE OF WORK TO BE PERFORMED AND/OR MATERIAL TO BE SUPPLIED	TOTAL DOLLAR AMOUNT OF QUOTE RECEIVED	TOTAL COMMITMENT DOLLAR AMOUNT
<p><b>(8) NOTE:</b> List those certified minority and/or women owned businesses from whom you solicited quotes or who contacted you and gave you quotes in regard to this invitation for bid. Contact with subcontractors and suppliers should be at least (5) days prior to the bid opening date.</p>						
(10) PREPARED BY				TELEPHONE NUMBER		

\*\*Use additional sheets, if necessary.

# **PAYROLL & EMPLOYEE INTERVIEW FORMS**

# United States Department of Labor

## Wage and Hour Division

### Wage and Hour Division (WHD)

#### **Instructions For Completing Payroll Form, WH-347**

- [WH-347](#) (PDF)  
OMB Control No. 1235-0008, Expires 02/28/2018.

**General:** Form WH-347 has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls. Properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 C.F.R., Subtitle A), as to payrolls submitted in connection with contracts subject to the Davis-Bacon and related Acts.

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

Under the Davis-Bacon and related Acts, the contractor is required to pay not less than prevailing wage, including fringe benefits, as predetermined by the Department of Labor. The contractor's obligation to pay fringe benefits may be met either by payment of the fringe benefits to bona fide benefit plans, funds or programs or by making payments to the covered workers (laborers and mechanics) as cash in lieu of fringe benefits.

This payroll provides for the contractor to show on the face of the payroll all monies to each worker, whether as basic rates or as cash in lieu of fringe benefits, and provides for the contractor's representation in the statement of compliance on the payroll (as shown on page 2) that he/she is paying for fringe benefits required by the contract and not paid as cash in lieu of fringe benefits. Detailed instructions concerning the preparation of the payroll follow:

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

**Address:** Fill in your firm's address.



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

**For Week Ending:** List the workweek ending date.

**Project and Location:** Self-explanatory.

**Project or Contract No.:** Self-explanatory.

**Column 1 - Name and Individual Identifying Number of Worker:** Enter each worker's full name and an individual identifying number (e.g., last four digits of worker's social security number) on each weekly payroll submitted.

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

**Column 3 - Work Classifications:** List classification descriptive of work actually performed by each laborer or mechanic. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative. An individual may be shown as having worked in more than one classification provided an accurate breakdown or hours worked in each classification is maintained and shown on the submitted payroll by use of separate entries.

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

**Column 5 - Total:** Self-explanatory

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

**Column 7 - Gross Amount Earned:** Enter gross amount earned on this project. If part of a worker's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally assisted project and then the gross

amount earned during the week on all projects, thus "\$163.00/\$420.00" would reflect the earnings of a worker who earned \$163.00 on a Federally assisted construction project during a week in which \$420.00 was earned on all work.

**Column 8 - Deductions:** Five columns are provided for showing deductions made. If more than five deduction are involved, use the first four columns and show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll describe the deduction(s) contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 C.F.R., Part 3. If an individual worked on other jobs in addition to this project, show actual deductions from his/her weekly gross wage, and indicate that deductions are based on his gross wages.

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

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

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

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

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

**Contractors who pay no fringe benefits:** If not paying all fringe benefits to approved plans, funds, or programs in amounts of at least those that were determined in the applicable wage decision of the Secretary of Labor, pay any remaining fringe benefit amount to each laborer and mechanic and insert in the "straight time" of the "Rate of Pay" column of the payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the application wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringe benefits, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringe benefits at the straight time rate. In addition, check paragraph 4(b) of the statement on page 2 the payroll form to indicate the payment of fringe benefits in cash directly to the workers. Note any exceptions in section 4(c).

**Use of Section 4(c), Exceptions**

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

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

**Note:** In order to view, fill out, and print PDF forms, you need Adobe® Acrobat® Reader® version 5 or later, which you may download for free at [www.adobe.com/products/acrobat/readstep2.html](http://www.adobe.com/products/acrobat/readstep2.html).

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# Record of Employee Interview

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

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

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. **Sensitive Information.** The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. **The information collected herein is voluntary, and any information provided shall be kept confidential.**

1a. Project Name			2a. Employee Name		
1b. Project Number			2b. Employee Phone Number (including area code)		
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code		
			2d. Verification of identification? Yes <input type="checkbox"/> No <input type="checkbox"/>		
3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits?	4c. Pay stub?
				Vacation Yes <input type="checkbox"/> No <input type="checkbox"/> Medical Yes <input type="checkbox"/> No <input type="checkbox"/> Pension Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
5. Your job classification(s) (list all) --- continue on a separate sheet if necessary					
6. Your duties					
7. Tools or equipment used					
8. Are you an apprentice or trainee?		Y <input type="checkbox"/> N <input type="checkbox"/>	10. Are you paid at least time and ½ for all hours worked in excess of 40 in a week?		Y <input type="checkbox"/> N <input type="checkbox"/>
9. Are you paid for all hours worked?		Y <input type="checkbox"/> N <input type="checkbox"/>	11. Have you ever been threatened or coerced into giving up any part of your pay?		Y <input type="checkbox"/> N <input type="checkbox"/>
12a. Employee Signature			12b. Date		
13. Duties observed by the Interviewer (Please be specific.)					
14. Remarks					
15a. Interviewer name (please print)		15b. Signature of Interviewer		15c. Date of interview	

## Payroll Examination

16. Remarks	
17a. Signature of Payroll Examiner	17b. Date

<b>Record of Employee Interview Instructions</b>	<b>U.S. Department of Housing and Urban Development Office of Labor Relations</b>	OMB Approval No. 2501-0009 (exp. 10/31/2010)
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### Instructions

#### General:

This form is to be used by HUD and local agency staff for recording information gathered during on-site interviews with laborers and mechanics employed on projects subject to Federal prevailing wage requirements. Typically, the staff that will conduct on-site interviews and use this form are HUD staff and fee construction inspectors, HUD Labor Relations staff, and local agency labor standards contract monitors.

Information recorded on the form HUD-11 is evaluated for general compliance and compared to certified payroll reports submitted by the respective employer. The comparison tests the veracity of the payroll reports and may be critical to the successful conclusion of enforcement actions in the event of labor standards violations. The thoroughness and accuracy of the information gathered during interviews is crucial.

Note that the interview itself and the information collected on the form HUD-11 are considered confidential. Interviews should be conducted individually and privately. All laborers and mechanics employed on the job site must be made available for interview at the interviewer's request. The employee's participation, however, is voluntary. Interviews shall be conducted in a manner and place that are conducive to the purposes of the interview and that cause the least inconvenience to the employer(s) and the employee(s).

#### Completing the form HUD-11

Items 1a - 1c: Self-explanatory

Items 2a – 2d: Enter the employee's full name, a telephone number where the employee can be reached, and the employee's home address. Many construction workers use a temporary address in the locality of the project and have a more permanent address elsewhere from which mail may be forwarded to them. Obtain a more permanent address, if available. Ask the employee for a form of identification (e.g., driver's license) to verify their name.

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

Items 5 – 7: Be certain that the employee's responses are specific. For example, job classification (#5) must identify the trade involved (e.g., Carpenter, Electrician, Plumber) – responses such as "journeyman" or "mechanic" are not helpful for our purposes.

Items 8 – 12b: Self-explanatory

Items 13 – 15c: These items represent some of the most important information that can be gathered while conducting on-site interviews. Please be specific about the duties you observed the employee performing. It may be easiest to make these observations before initiating the interview. Please record any comments or remarks that may be helpful. For example, if the employee interviewed was working with a crew, how many workers were in the crew? Was the employee evasive?

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

Items 16 – 17b: The information on the form HUD-11 may be reviewed for general compliance, initially. For example, are the job classification and wage rate stated by the employee compatible with the classifications and wage rates on the applicable wage decision? Are the duties observed by the interviewer consistent with the job classification?

Once the corresponding certified payroll reports are received, the information on the HUD-11 shall be compared to the payroll reports. Any discrepancies noted between the HUD-11 information and that on the payroll report shall be noted in Item 16, Remarks. If discrepancies are noted, follow-up actions to resolve the discrepancies must be taken.

**Receipt of Confirmation  
Of  
Bidding and Contract Documents**

**For**

**MEETING PLACE GREENWAY PROJECT**

All prospective Bidders who obtained the Bidding Documents electronically must fax this "Receipt of Confirmation" form no later than September 9, 2024 at 9:00 a.m. EST to:

Jamia L. Wright, Borough Secretary, at (717) 264-0224.

**The undersigned confirms receipt of all 224 pages of the bidding and contract documents dated August 6, 2024 for the project referenced above as posted electronically at [www.borough.chambersburg.pa.us](http://www.borough.chambersburg.pa.us).**

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

Name of Recipient \_\_\_\_\_

Signature of Recipient \_\_\_\_\_

Title of Recipient \_\_\_\_\_

Phone No: \_\_\_\_\_

Fax No: \_\_\_\_\_

E-mail: \_\_\_\_\_

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