



JACKSON COUNTY  
BOARD OF COUNTY COMMISSIONERS  
ENGINEERING DEPARTMENT  
2828 Owens Street, Marianna Fl 32446  
Phone (850) 482-9677 – Fax (850) 482-9063

**LETTERS OF INTEREST  
AND STATEMENTS OF QUALIFICATIONS  
For  
Engineering Design Services  
CR 286 (Blueberry Road) HMGP Drainage Project  
RFQ # 1617 Eng D4**

Dear Vendor;

Thank you for your interest in doing business with the Jackson County Board of County Commissioners. Currently, we are requesting Letters of Interest and Statements of Qualifications from registered, qualified consultant firms in the State of Florida with experience in Roadway Engineering Design on paved roads for projects involving agreements with the State of Florida, Division of Emergency Managements, and Federal Emergency Management Agency (FEMA) reporting requirements, and involving design for reconstruction of paved roads to alleviate flooding. The consultant will provide all necessary design services in support of the Jackson County Engineering Department.

The selected firm shall serve as the Jackson County Engineering Design consultant for the project. Qualifications and letters of interest should be submitted as follows:

**Due Date: September 28, 2017 - 1:00 p.m. "Central Time",**  
**Attention: Judy Austin**  
**Jackson County Purchasing Department**  
**2864 Madison Street, Marianna, Fl 32446**

The consultant will be selected based on qualifications and experience for the type of Work and will strictly follow the Consultants Competitive Negotiations Act and the State of Florida rules and regulations.

Please direct any questions regarding these documents to **Larry Alvarez** at the Jackson County Engineering Department. Questions must be submitted in writing by email to Larry Alvarez at [lalvarez@jacksoncountyfl.com](mailto:lalvarez@jacksoncountyfl.com) or faxed to (850) 482-9063, with a copy emailed to Jeannie Bean at [jbean@jacksoncountyfl.com](mailto:jbean@jacksoncountyfl.com) or faxed to **Jeannie Bean** at (850) 482-9063, and copy to **Judy Austin** at [jaustin@jacksoncountyfl.com](mailto:jaustin@jacksoncountyfl.com). We look forward to working with you. A copy of the RFQ may also be found on our web page [WWW.jacksoncountyfl.net](http://WWW.jacksoncountyfl.net) then click on Purchasing Department then on bids/RFQ's.

Sincerely,

Larry Alvarez, County Engineer  
Jackson County Board of County Commissioners

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## **PART 1. INTENT AND GENERAL INFORMATION**

1.1 The Jackson County Engineering Department on behalf of the Board of County Commissioners is soliciting letters of interest and statements of qualifications from registered, qualified consulting firms in the State of Florida, pursuant to Section 287.055, Florida Statutes, known as the Consultant Competitive Negotiation Act (CCNA), to provide **design services** for the **Blueberry Road Hazard Grant Mitigation Project**.

1.2 Jackson County expects that interested individuals and firms will make every effort to assemble a team with the requisite expertise and qualifications to perform the required services. An **original** and **Six (6)** copies for a total of **Seven (7)** copies of each submission must be received in a sealed envelope (or package) prominently marked on the outside with the words **“RFQ#: 1617-Eng-D4, Design Services for CR 286 (Blueberry Road) Hazard Grant Mitigation Project**.

1.3 DEADLINE for receipt of submittals in response to this Request is **September 28, 2017** at 1:00 PM Central Time. Submittals should be mailed or hand delivered to: **Jackson County Purchasing Department, 2864 Madison Street, Marianna, Florida 32446**. Submissions by fax or other electronic media will not be accepted under any circumstances. Late submissions will not be accepted, but will be returned, unopened, to the sender at the sender’s expense.

1.4 All individuals and firms who are furnished a copy of this Solicitation but who decide not to offer a submittal to the County for consideration are requested to submit a negative reply clearly indicating such in their cover letter.

1.5 **PROHIBITION OF LOBBYING IN PROCUREMENT MATTERS.** Except as (if) expressly set forth in the Jackson County Procurement Ordinance during the blackout period, which is the period between the time the submittals for invitation for bid or the request for proposal, or qualifications, or information, or the invitation to negotiate, as applicable, are received at the Jackson County Purchasing Department, and the time the Board awards the contract. No proposer, no lobbyist, principal, or other person may lobby, on behalf of a competing party in a particular procurement matter, either any member of the Board, any county employee, or FDOT employee, other than questions which shall be directed to the County Engineer or County Purchasing Agent. Violation of this provision may result in disqualification of the violating party.

## PART 2. SCOPE OF SERVICES

- 2.1 The managing authority for this project shall be the County Engineer, Larry Alvarez or his authorized designee.
- 2.2 The Jackson County Board of County Commissioners reserves the right to accept or reject any and/or all submissions, to approve or reject any sub-consultants, and to waive any technicalities or informalities, as determined to be in the best interest of the County.
- 2.3 The Contract for Design Services will be determined based on budget and services to be performed.
- 2.4 Consultant Firms must submit resumes of engineers/designers proposed for the work and the firm and engineers must demonstrate expertise or substantial experience in the following areas:

*Design of roadways and appurtenances*

*Preparation of bid documents, drawing, and specifications*

*Knowledge of FDOT standards, plans and specifications*

*Coordination of the design and bidding processes*

*Knowledge of applicable State and Federal Laws*

*Permitting requirements and other applicable agency requirements*

*Timely and accurate reporting of invoicing*

*Knowledge of State of Florida Emergency Management requirements*

*Asphalt mix designs*

*Culvert and pipe design*

*Stormwater design, calculations, and analysis*

*Experience with federal regulations relating to the project*

The selected firm will not be allowed to change the design engineer without prior written approval of the County Engineer. There will be no payment for an engineer's time without prior written approval of the engineer.

- 2.5 Service to be performed will include, but not be limited to: prepare and submit weekly reports of consultants activities and time reports, verify and ensure that design packages or reports and records are submitted on schedule and are accurate, attend design meetings and coordinate with county, coordinate with utilities for design, coordinate with property owners for right of way design, review and approve submittals and shop drawings, verify and approve As-Built drawings, verify quantities, inspect, ensure, and verify that the quality of consultant and sub consultants work is in accordance with required Standards and Specifications, and other activities as needed to complete the engineering or as directed by the County Engineer or as needed to complete the various projects. This includes putting all documents into the E-Verify program as required. All work must be in accordance with the Hazard Mitigation Grant Program Agreement between Jackson County and the State of Florida Division of Emergency Management. The Scope of Work is in Attachment A.
- 2.6 Company/Firm shall be familiar with road work and be able to perform the services required under this contract and shall meet all requirements of Jackson County, the State

of Florida, Division of Emergency Management, and Federal Emergency Management Agency.

### **PART 3. EVALUATION CRITERIA**

- 3.1 Submittals will be evaluated on a **WEIGHTED BASIS**, (See attached **SAMPLE** Score Sheet). The following criteria will be used in the evaluation process to determine the successful respondent:

**A. COMPANY/FIRM QUALIFICATIONS AND CAPABILITIES**

The overall ability and capability of firm to perform the required design services, based on personnel, past work history, references, and other information that consultant submits including statements from references and letters of reference from previous clients. Also includes the firm's ability to follow directions included with the RFQ and the quality of the submittal. Maximum weight for this category is Twenty Five (25).

**B. QUALIFICATIONS AND ABILITIES OF PROFESSIONAL PERSONNEL**

To include organization profile and proposed project design; specific names and functions of personnel assigned to the project; resumes of personnel assigned to the project (to include years of experience and years with the submitting company). Also includes the ability to follow directions included with the RFQ and the quality of the submittal. Maximum weight for this category is Twenty Five (25).

**C. CLIENT REFERENCES FOR SIMILAR PROJECTS**

To include the number of references included from clients for work on similar projects and similar work. Maximum weight for this category is Twenty Five (25).

**D. CEI EXPERIENCE ON SIMILAR PROJECTS**

Each similar project description must include a list of the proposed team members who worked on the similar project. Maximum weight for this category is Twenty Five (25).

### **PART 4. TERMS AND CONDITIONS**

- 4.1 Conformity and adherence to the terms and conditions of this solicitation shall be a condition considered by the Selection Committee as part of its review process.
- 4.2 In addition to the Prohibition of Lobbying statement above, individuals or firms submitting Letter of Interest and Statements of Qualifications for this RFQ **shall not contact individual members of the Board of County Commissioners, nor the members of the Professional Services Selection Committee during the evaluation and interview process (excepting only if required regarding other work with the County, but shall not discuss this RFQ)**. **The Selection Committee will include all of the five County Commissioners (Chuck Lockey, Willie Spires (PHD), Jim Peacock, Clint Pate, and Eric Hill)**. Individual committee members will be removed from the committee if unable to participate in all reviews, and scoring will be based on scores by the remaining committee members. Any and all questions must be directed, in writing, to the Jackson County Engineer Department Director as indicated above.

- 4.3 In determining submission acceptance, any data submitted or related to the offeror's proposal, required or voluntary, shall be subject to evaluation as deemed appropriate and in the best interest of the County, including the conduct of the offeror or any representative of the offeror with regard to any county official or employee.
- 4.4 Submittals in response to this Solicitation will be reviewed against the criteria listed herein above, and award of contract(s) shall be made in accordance to state of Florida Purchasing Regulations and Procedures, the Jackson County Procurement Code, other applicable regulations of the State of Florida, and the FDOT Local Agency Program.
- 4.5 Submittals will be evaluated on the basis of submitted materials, references, and interviews as applicable.
- 4.6 A selection committee appointed and approved in accordance with the Jackson County Procurement Code and CCNA will review all Requests for Qualifications and make a recommendation to the Board of County Commissioners based on the established proposal evaluation criteria. A selected group of Consultants may be required to make an oral presentation to the Selection Committee. Such a presentation will provide an opportunity for the Consultants to clarify the information provided in their proposal. **If an oral presentation is required, the final decision of the Selection Committee will be based on the overall tabulation from the oral presentation.** The Professional Services Selection Committee will present its recommendations to the Board of County Commissioners, which has the authority to make the final determination and award contracts.
- 4.7 An original and Six (6) copies for a total of Seven (7) of each submission or alternate submission must be received in a sealed envelope (package) prominently marked on the outside with the words **"RFQ# 1617 Eng D4 Design Services for the CR 286 (Blueberry Road) HGMP"**.
- 4.8 Submissions shall be directed to the attention of the **JACKSON COUNTY PURCHASING AGENT**, only, by the date and time specified herein. The Jackson County Purchasing Agent shall not be responsible for any misdirected or mislabeled submissions, or those handled by delivery persons, couriers, or the U.S. Postal Service. Submissions shipped in express, overnight or courier envelopes, boxes or packages must be prominently marked on the outside of such envelopes, boxes or packages with the words, **"RFQ# 1617 Eng D4 Design Services for the CR 286 (Blueberry Road) HGMP,"** and the contents sealed as required.
- 4.9 Solicitation by Jackson County to consultants, firms and individuals is based on this advertisement (also on the Jackson County web site <http://www.jacksoncountyfl.net> and then go to Purchasing and click on Current bids and RFQs'). Firms or individuals submit responses on a voluntary basis, and therefore are not entitled to compensation of any kind. The County, its officers and agents, assume no liability or indebtedness for any cost or inconvenience incurred by any individuals or firms in the preparation, submission, presentation or documentation of any response or proposal.
- 4.10 The deadline for receipt of submittals or alternate submittals in response to this request is **September 28, 2017 at 1:00 PM Central Time.** Submission by FAX or other electronic

media will not be accepted under any circumstances. Late submissions will not be accepted, but will be returned unopened to the sender at the sender's expense. Final determination of closing time and acceptance or rejection of submittals will be determined by the Engineering Director.

- 4.11 A notarized Drug Free Work Place Certification must accompany each submission, in accordance with the Florida Administrative Code, Department of Management Services, and Division of Purchasing. Those responding to this Solicitation may submit certification by statement of their letterhead or elect to submit the State of Florida Certificate, showing compliance with the minimum State of Florida requirements.

By submitting a response to this solicitation, the responder acknowledges that any person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

- 4.12 The consultant selected may be required to demonstrate that the consultant has no vested, fiscal or financial interest in a business, firm or corporation which would directly or indirectly gain, profit or benefit from the activities, tasks, design work, reports, records or recommendations of such consultant.
- 4.13 Marianna Time (Central Time), is hereby established as the Official Time of Jackson County Board of County Commissioners, in accordance with the Jackson County Procurement Code.
- 4.14 Unlike the private sector, the public sector which is funded by public money requires complex procedures and systems by law. In order to ensure that the public funds are well spent, as well as to maintain credibility of the public entity, those systems and procedures are sealed and confidential until opened and evaluated, following which they are documented and audited periodically, being subject to public scrutiny and accountability.

By its very nature, a comprehensive evaluation process of many submissions by an approved Professional Services Selection Committee, including verification of performance records, references, and related issues, is a complex and lengthy process. As a result, telephone or fax request for "status reports" and ranking results cannot be honored during the evaluation process.

Upon request, ranking results will be faxed or emailed to all individuals and firms submitting a response to this Solicitation following conclusion and tabulation of the evaluation scores. Each Board-approved, short-listed firm will be notified by fax or email following the preliminary and final scoring and tabulation process.

- 4.15 No oral interpretations will be made to any Proposer as to the meaning of the Proposal/Contract Documents. Any inquiry or request for interpretation received by the Jackson County Purchasing Agent before **September 28, 2017 - 1:00 p.m. C.T.**, will be given consideration. All such changes or interpretations will be made in writing in the form of an addendum and, if issued, will be distributed by EMAIL or by FAX to all known prospective consultants prior to the established due date and will be posted on the Purchasing web site.
- 4.16 Evidence of registration and statement of professional liability insurance.  
Evidence of current professional registration (engineering) in the State of Florida

**A Certificate of Insurability** acceptable to the County shall accompany each proposal or alternate proposal in the amounts as prescribed by State and County.

**Professional Liability Insurance**: The Vendor shall purchase and maintain such insurance as will protect him or her from claims which may arise out of or result from the Vendor's operations under the terms and conditions of the RFQ. Liability insurance shall be obtained at the Vendors expense and in her or his name as the insured, which Certificate shall show Jackson County as an additional named insured. Liability insurance on a form approved by the County (M&D, CGL, etc.) and including endorsements for contractual liability and such other endorsements appropriate for the Work required by this RFQ as may be required by the County. The limit of liability for this coverage shall not be less than \$250,000.00 CSL per occurrence.

**General Liability**, with combined single limits of not less than \$200,000 per occurrence. The only aggregate limit acceptable is a "project aggregate" and the Certificate must show an appropriate endorsement (ISO CG2501) or equal.

**Business Auto Liability Insurance**, with combined single limits of not less than \$200,000 per occurrence and is to include bodily injury and property damage liability arising out of operation, maintenance or use of any auto, including owned, not-owned and hired automobiles and employee non-ownership use.

**Workers' Compensation Insurance**, as required by the State of Florida.  
\$100,000 each accident and \$100,000 each employee  
\$500,000 policy limit for disease

**Engineer Professional Liability** with an occurrence limit of not less than \$200,000.

**Note that these insurance requirements will change from time to time. Amounts of insurance will meet the minimum amounts and limits required by the State of Florida and Jackson County.**

- 4.17 The Proposer and all subcontractors must be licensed and registered as applicable in Jackson County and the State of Florida to perform the work required by this Project. The Proposer shall furnish the County with a list of all sub-contractors performing work



on this project. The successful vendor is required to have proper license as required by the State of Florida and Jackson County and present a copy of such license to the County Purchasing Department and County Engineer. It will be the vendor's responsibility to determine through these organizations, which type of licensing is required.

- 4.18 Statement of Qualifications shall be prepared utilizing the following format. Each of the required qualifications sections must begin on a new page and be separately tabbed or identified. One original and Six (6) copies shall be forwarded for evaluation.

The format is as follows:

1. Submittal Cover Sheet
2. Table of Contents
3. Cover Letter
4. Firm qualifications and capabilities
5. Qualifications, resumes, certifications, and licenses of proposed professional personnel to be assigned to the project including the proposed Engineer of Record for the project (the personnel submitted shall not be changed without written approval from the County Engineer)
6. Client references for similar projects
7. Experience on similar projects
8. Evidence of registration and statement of professional liability insurance and license(s)
9. Affidavits and Acknowledgements

## **Special Terms and Conditions**

The managing authority for this project shall be the County Engineer (Director), Larry Alvarez or his authorized designee.

### **1. SERVICES AND PERFORMANCE**

- A. Before making any additions or deletions to the work described in the Agreement, and before undertaking any changes or revisions to such work, the parties will negotiate any necessary cost changes and will enter into a Supplemental Agreement covering such work and compensation. Reference herein to the Agreement will be considered to include any Supplemental Agreement. No changes shall be made without prior written approval from the County Engineer.
- B. In the performance of professional services, the Consultant will use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. The Consultant will use due care in performing its services and will have due regard for acceptable engineering standards and principles. Consultant's standard of care shall not be altered by the application, interpretation, or construction of any other provision of this Agreement.
- C. The Consultant agrees to provide project schedule progress reports in a format acceptable to the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of work being done by the Consultant and of the details thereof. Coordination will be maintained by the Consultant with representatives of the Department, or of other agencies interested in the project on behalf of the Department. Either party to the Agreement may request and be granted a conference.
- D. All services will be performed by the Consultant to the satisfaction of the Director who will decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of the Agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount and value thereof; and the decision upon all claims, questions and disputes will be final and binding upon the parties hereto. Adjustments of compensation and contract time because of any major changes in the work that may become necessary or desirable as the work progresses will be subject to mutual agreement of the parties, and Supplemental Agreement(s) of such a nature as required will be entered into by the parties in accordance herewith.

In the event that the Consultant and the Department are not able to reach an agreement as to the amount of compensation to be paid to the Consultant for supplemental work desired by the Department, the Consultant will be obligated to proceed with the supplemental work in a timely manner for the amount determined by the Department to be reasonable. In such event, the Consultant will have the right to file a claim with the Department for such additional amounts as the consultant deems reasonable; however, in no event will the filing of the claim

or the resolution or litigation thereof through administrative procedures or the courts relieve the Consultant from the obligation to timely perform the supplemental work.

- E. In the event the work covered by this Agreement includes the preparation of construction plans, it is understood that the work may be divided into two or more construction projects by the Director and that, if this is done, the Consultant will supply construction plans for each project.
- F. Consultant shall submit names and resumes of proposed personnel and inspectors for the project with the submittal. Personnel assigned to the project shall not be changed for any time or any reason without written approval from the Director.
- G. All design work performed by the Consultant for projects where anticipated construction cost is one million dollars (\$1,000,000) or more will be subject to Value Engineering. The Department further reserves the right to subject projects of lesser construction cost to Value Engineering should the Department deem circumstances are present that warrant such a decision. Value Engineering may be performed at any stage of the design process. Unless specifically identified in the Agreement, the Consultant will not be required to perform the Value Engineering analysis.
- H. The Consultant will not be liable for use by the Department of plans, documents, studies or other data for any purpose other than intended by the terms of this Consultant Agreement.
- I. All tracings, plans, specifications, maps, computer files and/or reports prepared or obtained under this Agreement, as well as all data collected, together with summaries and charts derived therefrom, will be considered works made for hire and will become the property of the Department upon completion or termination without restriction or limitation on their use and will be made available, upon request, to the Department at any time during the performance of such services and/or upon completion or termination of this Agreement. Upon delivery to the Department of said document(s), the Department will become the custodian thereof in accordance with Chapter 119, Florida Statutes. The Consultant will not copyright any material and products or patent any invention developed under this agreement. The Department will have the right to visit the site for inspection of the work and the products of the Consultant at any time.

## 2. **TERM**

- A. Services required after completion of scheduled project services, including, but not limited to, design assistance, construction assistance, and litigation assistance, will be completed within the term of this Agreement at written direction of the department. Supplemental agreements may be negotiated for any post project schedule services needed by the Department after scheduled project services.

In the event it becomes impracticable or impossible for the Consultant to complete the expected services within the term of this Agreement due to delays

on the part of the Department or circumstances beyond the control of the Consultant, the Agreement may be extended. An extension of the Agreement must be in writing.

- B. In the event there are delays caused by the Department in approval of any of the materials submitted by the Consultant or if there are delays occasioned by circumstances beyond the control and without fault or negligence of the Consultant which delay the scheduled project completion date, the Department may grant an extension of time equal to the aforementioned project schedule delay, as a minimum and not to exceed the Agreement term, by issuance of a Time Extension Letter. This letter will be for time only and does not include any additional compensation.

It will be the responsibility of the Consultant to ensure at all times that sufficient time remains in the Project Schedule within which to complete the services on the project. In the event there have been delays which would affect the project completion date, the Consultant will submit a written request to the Department which identifies the reason(s) for the delay, the amount of time related to each reason and specific indication as to whether or not the delays were concurrent with one another. The Department will review the request and make a determination as to granting all or part of the requested extension.

In the event time for performance of the scheduled project services expires and the Consultant has not requested, or if the Department has denied, an extension of the Project Schedule completion date; partial progress payments will be stopped on the date time expires. No payment shall be made for work performed after the Project Schedule completion date until a time extension is granted or all work has been completed and accepted by the Department if the Agreement term has not expired.

### **3. COMPENSATION**

- A. Bills for fees or other compensation for services or expenses will be submitted to the Department in detail sufficient for a proper pre-audit and post-audit thereof. The Department will render approval or disapproval of services within five working days of the receipt of a written progress report unless otherwise stated in the Agreement. The progress report will be accompanied by an appropriate invoice.
- B. The bills for any travel expenses, when authorized by terms of this Agreement and by the Department's Project Manager, will be submitted in accordance with Section 112.061, Florida Statutes.
- C. Records of costs incurred under terms of this Agreement will be maintained and made available upon request to the Department at all times during the period of this Agreement and for three years after final payment for the work pursuant to this Agreement is made. Copies of these documents and records will be furnished to the Department upon request.

- D. Records of costs incurred will include the Consultant's general accounting records and the project records, together with supporting documents and records, of the Consultant and all subconsultants performing work on the project, and all other records of the Consultant and subconsultants considered necessary by the Department for a proper audit of project costs.
- E. The general cost principles and procedures for the negotiation and administration, and the determination or allowance of costs under this Agreement will be as set forth in the Code of Federal Regulations, Titles 23, 48, 49, Rule Chapter 14-75, Florida Administrative Code, and other pertinent Federal and State Regulations, as applicable, with the understanding that there is no conflict between State regulations and Federal regulations in that the more restrictive of the applicable regulations will govern.
- F. The Consultant should be aware of the following time frames. Upon receipt, the Department has five (5) working days to inspect and approve the goods and services, unless the Agreement specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Banking and Finance. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.
- G. If a payment is not available within 40 days, a separate interest penalty at a rate established pursuant to Section 215.422, Florida Statutes, will be due and payable, in addition to the invoice amount, to the Consultant. Interest penalties of less than one dollar will not be paid unless the Consultant requests payment. Invoices which have to be returned to a Consultant because of Consultant preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.
- H. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516 or by calling the Department of Financial Services Hotline at (877)693-5236.
- I. Except for issues arising from contract indemnification provisions, the Department will have the right to retain out of any payment due the Consultant under this Agreement an amount sufficient to satisfy any amount due and owing to the Department by the Consultant on any other Agreement between the Consultant and the Department. The Department may withhold payment on any invoice in the event that the Consultant is in default under any provision of this Agreement or any other Agreement between the Consultant and the Department as of the time of processing the invoice or as of the time payment is made available on the invoice. This right to withhold will continue until such time as the default has been cured, and, upon cure, the Department will have the right to retain an amount equal to the damages suffered as a result of the default.
- J. It is mutually agreed and understood that the following provision will be applicable to this Agreement if the compensation to be paid to the Consultant,

whether by hourly, lump sum or cost-plus-a-fixed-fee, will exceed the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY FOUR.

The Consultant hereby certifies, covenants, and warrants that wage rates and other factual unit costs provided to the Department to support the compensation are accurate, complete, and current as of the date of this Agreement. It is further agreed that the Agreement price will be adjusted to exclude any significant sums by which the Department determines the Agreement price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such Agreement adjustments must be made within one year following the end of the Agreement. For this purpose, the end of the Agreement is the date of final billing or acceptance of the work by the Department, whichever is later.

- K. The Department, during any fiscal year, will not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department will require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained will prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Accordingly, the Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

#### **4. INDEMNITY AND INSURANCE**

- A. The Consultant will indemnify, defend, and hold harmless the County and the Department and all of their officers, agents and employees from any claim, loss, damage, cost, charge or expense arising out of any act, error, omission or negligent act by the Consultant, its agents, employees, or subcontractors during the performance of the Agreement, except that neither the Consultant, its agents, employees nor any of its subconsultants will be liable under this paragraph for any claim, loss, damage, cost, charge or expense arising out of any act, error, omission or negligent act by the County or the Department or any of their officers, agents or employees during the performance of the Agreement.

When the Department receives a notice of claim for damages that may have been caused by the Consultant in the performance of services required by the Consultant under this agreement, the Department will immediately forward the claim to the Consultant. The Consultant and the Department will evaluate the claim and report their findings to each other within seven working days. The Department and the Consultant will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of the Consultant in the defense of the claim or to require that the Consultant defend the Department in such claim as described in this section. The Department's failure to notify the Consultant of a claim within seven days will not release the Consultant from any of the requirements of this section upon

subsequent notification by the Department to the Consultant of the claim. The Department and the Consultant will pay their own cost for the evaluation, settlement negotiations and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all costs, but if the verdict determines that there is joint responsibility, the costs and liability for damages will be shared in the same percentage as that judicially established.

The parties agree that 1% of the total compensation to the Consultant for performance of this Agreement is the specific consideration from the Department to the Consultant for the consultant's indemnity agreement.

- B. The Consultant will have and maintain during the term of this Agreement, a professional liability insurance policy or policies, or an irrevocable letter of credit established pursuant to Chapter 675 and Section 337.106, Florida Statutes, with a company or companies authorized to do business in the State of Florida, affording professional liability coverage for the professional services to be rendered in accordance with this Agreement in the amount specified in the Agreement.

## **5. COMPLIANCE WITH LAWS**

- A. All final plans, documents, reports, studies and other data prepared by the Consultant shall bear the professional's seal/signature, in accordance with the applicable Florida Statute that governs and Administrative Rules promulgated by the Department of Business and Professional Regulation, and guidelines published by the Department, in effect at the time of execution of this Agreement. In the event that changes in the Statute or Rules create a conflict with the requirements of the published guidelines, requirements of the Statute and/or Rules shall take precedence.
- B. Chapter 337.162 Florida Statutes applies as follows:
  - (1) If the Department has knowledge or reason to believe that any person has violated the provisions of state professional licensing laws or rules, it will submit a complaint about the violations to the Department of Business and Professional Regulation. The complaint will be confidential.
  - (2) Any person who is employed by the Department and who is licensed by the Department of Business and Professional Regulation and who, through the course of his employment, has knowledge to believe that any person has violated the provisions of state professional licensing laws or rules will submit a complaint about the violations to the Department of Business and Professional Regulation. Failure to submit a complaint about the violations may be grounds for disciplinary action pursuant to Chapter 455 and the state licensing law applicable to that licensee. The complaint will be confidential.
  - (3) Any confidential information submitted to the Department of Business and Professional Regulation will remain confidential pursuant to Chapter 455 and applicable state law.

- C. The Consultant will comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof, and will not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the performance of work under this Agreement.
- D. The Consultant warrants that the Consultant has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that he has not paid or agreed to pay any person, company, corporation, individual, or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted. For the breach or violation of this Paragraph, the Department shall have the right to terminate this Agreement without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.
- E. The Consultant shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Consultant in conjunction with this Agreement. Failure by the Consultant to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the Department.
- F. The Consultant agrees that it will make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying the Department and securing its consent in writing. The Consultant also agrees that it will not publish, copyright, or patent any of the data developed under this Agreement, it being understood that such data or information is the property of the Department.
- G. Consultant covenants and agrees that it and its employees will be bound by the standards of conduct provided in applicable Florida Statutes and applicable rules of the Department of Business and Professional Regulation as they relate to work performed under this Agreement. Consultant further covenants and agrees that when a former state employee is employed by the Consultant, the Consultant will require that strict adherence by the former state employee to Florida Statutes 112.313(9) and 112.3185 is a condition of employment of said former state employee. These statutes will by reference be made a part of this Agreement as though set forth in full. Consultant agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed pursuant to this Agreement.
- H. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work,



may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

- I. The Department will consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. Such violation will be cause for unilateral cancellation of this Agreement, by the Department, if the Consultant knowingly employs unauthorized aliens.
- J. **DISCRIMINATION:** An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.

## **6. TERMINATION AND DEFAULT**

- A. The Department may terminate this Agreement in whole or in part at any time the interest of the Department requires such termination, as follows:
  - (1) If the Department determines that the performance of the Consultant is not satisfactory, the Department may notify the Consultant of the deficiency with the requirement that the deficiency be corrected within a specified time; but not less than 10 days. Otherwise the Agreement will be terminated at the end of such time or thirty (30) days whichever is sooner.
  - (2) If the Department requires termination of the Agreement for reasons other than unsatisfactory performance of the Consultant, the Department will notify the Consultant of such termination, with instructions as to the effective date of work stoppage or specify the stage of work at which the Agreement is to be terminated.
  - (3) If the Agreement is terminated before performance is completed, the Consultant will be paid for the work satisfactorily performed. Payment is to be on the basis of substantiated costs, not to exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by the Agreement.
- B. The Department reserves the right to cancel and terminate this Agreement in the event the Consultant or any employee or agent of the Consultant is convicted for any crime arising out of or in conjunction with any work being performed by the consultant for or on behalf of the Department, without penalty. It is understood and agreed that in the event of such termination, all tracings, plans, specifications,

computer files, maps, and data prepared or obtained under this Agreement will immediately be turned over to the Department. The Department reserves the right to terminate or cancel this Agreement in the event the Consultant will be placed in either voluntary or involuntary bankruptcy or an assignment be made for the benefit of creditors. The Department further reserves the right to suspend the qualifications of the Consultant to do business with the Department upon any such conviction.

## **7. ASSIGNMENT AND SUBCONTRACTORS**

- A. The Consultant will maintain an adequate and competent professional staff so as to enable the Consultant to timely perform under this Agreement and must be authorized to do business within the State of Florida and may associate with it such subconsultants, for the purpose of its services hereunder, without additional cost to the Department, other than those costs negotiated within the limits and terms of this Agreement. The Consultant is fully responsible for satisfactory completion of all subcontracted work. The Consultant, however, will not sublet, assign or transfer any work under this Agreement to other than subconsultants specified in the Agreement without the written consent of the Department.
- B. The Consultant must state in all subcontracts that services performed by any such subconsultant will be subject to the Professional Consultant Work Performance Evaluation System as defined in Chapter 14-75, Florida Administrative Code.

## **8. MISCELLANEOUS**

- A. All words used herein in the singular form will extend to and include the plural. All words used in the plural form will extend to and include the singular. All words used in any gender will extend to and include all genders.
- B. In the event that a court of valid jurisdiction finally determines that any provision of this Agreement is illegal or unenforceable, this Agreement will be construed as not containing such provision, and all other provisions which are otherwise lawful will remain in full force and effect, and to this end the provisions of this Agreement are declared to be severable.
- C. There are no understandings or agreements except as herein expressly stated.
- D. This Agreement will be governed by and construed in accordance with the laws of the State of Florida.
- E. In any legal action related to this Agreement, instituted by either party, Consultant hereby waives any and all privileges and rights it may have under Chapter 47 and Section 337.19, Florida Statutes, relating to venue, as it now exists or may hereafter be amended, and any and all such privileges and rights it may have under any other statute, rule or case law, including, but not limited to those grounded on convenience. Any such legal action may be brought in the appropriate Court in any county chosen by the Department and in the event that

any such legal action is filed by Consultant, Consultant hereby consents to the transfer of venue to the county chosen by the Department upon the Department filing a motion requesting the same.

## **9. FEDERAL REQUIREMENTS**

The following terms apply to this Agreement which involves the expenditure of Federal funds:

- A. It is understood and agreed that all rights of the Department relating to inspection, review, approval, patents, copyrights, and audit of the work, tracing, plans, specifications, maps, data, and cost records relating to this Agreement shall also be reserved and held by authorized representatives of the United States of America.
- B. It is understood and agreed that, in order to permit federal participation, no supplemental agreement of any nature may be entered into by the parties hereto with regard to the work to be performed hereunder without the approval of the U.S. Department of Transportation, anything to the contrary in this Agreement notwithstanding.
- C. **Compliance with Regulations:** The Consultant shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- D. **Nondiscrimination:** The Consultant, with regard to the work performed during the contract, will not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subconsultants, including procurements of material and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- E. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations made by the Consultant, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this contract and the Regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.
- F. **Information and Reports:** The Consultant will provide all information and reports required by the Regulations, or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal

Aviation Administration, and/or the Federal Motor Carrier Safety Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall certify to the Florida Department of Transportation, Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

- G. Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the Florida Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to,
- (1) withholding of payments to the Consultant under the contract until the Consultant complies and/or
  - (2) cancellation, termination or suspension of the contract, in whole or in part.
- H. Incorporation of Provisions: The Consultant will include the provisions of Paragraphs C through H in every subcontract, including procurements of materials and leases of equipment unless exempt by the Regulations, or directives issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the Florida Department of Transportation, Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance. In the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the Florida Department of Transportation to enter into such litigation to protect the interests of the Florida Department of Transportation, and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.
- I. Interest of Members of Congress: No member of or delegate to the Congress of the United States will be admitted to any share or part of this contract or to any benefit arising therefrom.
- J. Interest of Public Officials: No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof. For purposes of this provision, public body shall include municipalities and other political subdivisions of States; and public corporations, boards, and commissions established under the laws of any State.
- K. Participation by Disadvantaged Business Enterprises: The Consultant shall agree to abide by the following statement from 49 CFR 26.13(b). This statement shall

be included in all subsequent agreements between the Consultant and any subconsultant or contractor.

The Consultant, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT- assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

- L. It is mutually understood and agreed that the willful falsification, distortion or misrepresentation with respect to any facts related to the project(s) described in this Agreement is a violation of the Federal Law. Accordingly, United States Code, Title 18, Section 1020, is hereby incorporated by reference and made a part of this Agreement.
- M. It is understood and agreed that if the Consultant at any time learns that the certification it provided the Department in compliance with 49 CFR, Section 26.51, was erroneous when submitted or has become erroneous by reason of changed circumstances, the Consultant shall provide immediate written notice to the Department. It is further agreed that the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" as set forth in 49 CFR, Section 29.510, shall be included by the Consultant in all lower tier covered transactions and in all aforementioned federal regulation.
- N. The Department hereby certifies that neither the consultant nor the consultant's representative has been required by the Department, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract, to
  - (1) employ or retain, or agree to employ or retain, any firm or person, or
  - (2) pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind;

The Department further acknowledges that this agreement will be furnished to a federal agency, in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

- O. The Consultant hereby certifies that it has not:
  - (1) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for the above Consultant) to solicit or secure this contract;

- (2) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this contract; or
- (3) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for the above Consultant any fee contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract.

The Consultant further acknowledges that this agreement will be furnished to the State of Florida Department of Transportation and a federal agency in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

- P. The consultant shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Agency during the term of the contract; and shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

**REQUIRED CONTRACT PROVISIONS  
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

**ATTACHMENTS**

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

**I. GENERAL**

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

**II. NONDISCRIMINATION**

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**1. Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: 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, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

**6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are



applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

**10. Assurance Required by 49 CFR 26.13(b):**

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor 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 49 CFR Part 26 in the award and administration of DOT-assisted contracts. 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 such other remedy as the contracting agency deems appropriate.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

#### 1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once 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 paragraph 1.d. of this section; 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 paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

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

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

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

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

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

d. If the contractor does not make 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.

## 2. Withholding

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

## 3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. 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/esa/whd/forms/wh347instr.htm> 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 the contracting agency for transmission to the State DOT, the FHWA 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 section 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 the contracting agency..

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

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

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

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, 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, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and trainees

##### a. Apprentices (programs of the USDOL).

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

##### b. Trainees (programs of the USDOL).

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 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 will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.



d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**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 Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 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 29 CFR 5.5.

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

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

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

**10. Certification of eligibility.**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm 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 5.12(a)(1).

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

**V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

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

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, 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 paragraph (1.) of this section, 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 hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

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

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section 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 paragraphs (1.) through (4.) of this section.

## VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

## VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

## VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

#### **IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

#### **X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

##### **1. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

\* \* \* \* \*

## **2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### **2. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the



department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

\* \* \* \* \*

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\* \* \* \* \*

**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS  
PREFERENCE FOR APPALACHIAN DEVELOPMENT  
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS  
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

# SAMPLE SCORE SHEET – TO BE USED BY SELECTION COMMITTEE

## RATING CRITERIA

All proposals received in accordance with this Request for Proposals will be evaluated using the following worksheet.

	<u>Score</u>	<u>x</u>	<u>Weight</u>	<u>=</u>	<u>Rating</u>
1. Firm's Qualifications and Capabilities _____ (includes ability to follow directions)			<u>25</u>		_____
2. Qualifications and Abilities of Professional Personnel _____			<u>25</u>		_____
3. Client References for Similar Projects _____			<u>25</u>		_____
4. Experience on Similar Projects _____			<u>25</u>		_____

### SCORE:

- 0 Non-Responsive – Included no information on subject criteria.
- 1 Poor
- 2 Fair
- 3 Average – Included only minimum of what was asked for on subject criteria.
- 4 Good
- 5 Excellent

Name of Consultant Being Scored: \_\_\_\_\_

Name of Scorer: \_\_\_\_\_

Signature of Scorer: \_\_\_\_\_

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

## **PART 5. AFFIDAVITS AND ACKNOWLEDGEMENTS**

The following forms and affidavits must be completed and included in the submittal:

- Drug Free Work Place Certificate
- Submittal Cover Sheet
- Anti-Kickback Affidavit
- Non-Collusive Affidavit
- 49 CFR Part 29 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions
- 49 CFR Part 20 Certification Regarding Lobbying
- Disclosure of Lobbying Activities
- Truth in Negotiation Certification
- DBE Participation Statement
- Bid Opportunity List for Professional Consultants
- Vendor Certification Regarding Scrutinized Companies List

**PART 5. DRUG FREE WORK PLACE CERTIFICATE**

"I, the undersigned, in accordance with Florida Statute 287.087, hereby certify that

\_\_\_\_\_  
NAME OF FIRM

- Publishes a written statement notifying that the unlawful manufacturer, distribution, dispensing possession, or use of a controlled substance is prohibited in the workplace given above, and specifying actions that will be taken against violations of such prohibition;
- Informs employees about the dangers of drug abuse in the work place, the firm's policy of maintaining a drug free working environment, and available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- Gives each employee, engaged in providing commodities or contractual services that are under bid or proposal, a copy of the statement specified above.
- Notifies the employees that as a condition of working on the commodities or contractual services that are under bid or proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, plea of guilty or nolo contendere to, any violation of Chapter 1893, or of any controlled substance law of the State of Florida or the United States, for a violation occurring in the workplace, no later than five (5) days after such conviction, and requires employees to sign copies of such written [\*] statement to acknowledge their receipt.
- Imposes a sanction on, or requires the satisfactory participation in, a drug abuse assistance or rehabilitation program, if such is available in the employee's community, by any employee who is so convicted.
- Makes a good faith effort to continue to maintain a drug free workplace through the implementation of the drug free workplace program.

"As a person authorized to sign this statement, I certify that the above named business, firm or corporation complies fully with the requirements set forth herein."

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

\_\_\_\_\_  
Date Signed

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Personally known \_\_\_\_\_ or produced Identification: \_\_\_\_\_

[Type of Identification]

Signature of Notary Public \_\_\_\_\_

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

My Commission Expires \_\_\_\_\_

## SUBMITTAL COVER SHEET

<b>Name of Firm, Entity or Organization:</b>
<b>Federal Employer Identification Number:</b>  <b>State of Florida General Contractors License Number -</b> <b>State of Florida Professional Engineer License Number -</b> <b>Name and Title of Contact Person</b>
<b>Name:</b> _____ <b>Title:</b> _____
<b>Mailing Address:</b>  <b>Street Address:</b>  <b>City, State, Zip:</b>  <b>Telephone:</b>  <b>Fax:</b>
<b>Organization Structure:</b>  Check one: Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/>  Joint Venture <input type="checkbox"/> Other (explain) <input type="checkbox"/>
<b>If Corporation:</b>  <b>Date of Incorporation:</b>  <b>State of Incorporation:</b>  <b>States registered in as foreign Corporation:</b>
<b>Authorized Signature</b>  <b>Print Name:</b>  <b>Signature:</b>  <b>Title:</b>  <b>Phone:</b>

**ANTI-KICKBACK AFFIDAVIT**

**STATE OF \_\_\_\_\_}**

COUNTY OF \_\_\_\_\_}

I, the undersigned, hereby duly sworn, depose and say that no portion of the sum negotiated will be paid to any employees of Jackson County, its elected officials and \_\_\_\_\_leave blank per the Purchasing Agent \_\_or its design consultants, as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

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

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

Sworn and subscribed before this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

---

Notary Public, State of Florida

---

(Printed Name)

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

# NON-COLLUSIVE AFFIDAVIT

STATE OF \_\_\_\_\_ }

COUNTY OF \_\_\_\_\_ }

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

1. He/she is the \_\_\_\_\_, (Owner, Partner, Officer, Representative or Agent) of \_\_\_\_\_ the firm that has submitted the attached submittal;
2. He/she is fully informed respecting the preparation and contents of the attached submittal and of all pertinent circumstances respecting such solicitation:
3. Such submittal is genuine and is not collusive or a sham;
4. Neither the said firm nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other firm or person to submit a collusive or sham submittal in connection with the Work for which the attached submittal has been submitted; or to refrain from submitting in connection with such work; or have in any manner, directly or indirectly, sought by person to fix the price or prices, or to fix any overhead, profit, or cost elements of the fees negotiated or of any other firm, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed work;

Signed, sealed and delivered  
In the presence of :

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

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

\_\_\_\_\_  
(Printed Name)

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



**CERTIFICATION REGARDING LOBBYING**

**Certification For Contracts, Grants, Loans, And Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
Signature/Authorized Certifying Official

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

\_\_\_\_\_  
Applicant/Organization

\_\_\_\_\_  
Date Signed



## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLLA Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLLA Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

**49 CFR Part 29 -**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION--LOWER TIER COVERED TRANSACTIONS**

**Instructions For Certification**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ``Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48
8. CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered

transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
11. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
12. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\_\_\_\_\_  
Signature/Authorized Certifying Official

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

\_\_\_\_\_  
Applicant/Organization

\_\_\_\_\_  
Date Signed

**Attachment A**  
**Budget and Scope of Work**

**STATEMENT OF PURPOSE:**

The purpose of this Scope of Work (SOW) is to improve drainage on County Road 286 in Jackson County, Florida; funded through the Hazard Mitigation Grant Program (HMGP) DR-4177-38-R, as approved by the Florida Division of Emergency Management (Division) and the Federal Emergency Management Agency (FEMA).

The Recipient, Jackson County, shall conduct Phase I of this project, which includes the preliminary engineering designs and calculations, surveys, permitting, and notices. No construction activities approved at this time. The recipient shall complete the Phase I work in accordance with all applicable federal, state and local laws, regulations and codes.

All Phase I activities and deliverables shall be completed and submitted to the Division 30 days prior to March 31, 2018.

**PROJECT OVERVIEW:**

As a Hazard Mitigation Grant Program project, the Recipient proposes to improve the drainage and elevate County Road 286 (Blueberry Road), starting approximately 4,000 feet North of Interstate 10, extending along CR-286 for 550 feet and ending approximately 1,400 feet south of State Farm Road, in Sneads, Florida, 32460.

The Phase I design shall implement measures to determine modifications needed to improve the drainage and alleviate flooding of County Road 286 (Blueberry Road). The recipient will provide engineering, designs, and hydrology and hydraulic study (H & H Study) of the work area for the Phase II review, including verification that there will not be any upstream or downstream impact.

Phase II of the proposed project is to elevate approximately 550-feet of County Road 286 (Blueberry Road) above base flood (100-year) elevation designated within the initial H & H Study. In addition, the Recipient will increase drainage capacities at the site by installing/upgrading a series of culverts with appropriate sized structures to handle flood volumes and flow rates associated with design storm.

No construction activities have been approved for this project.

The completed project shall provide protection against a 100-year storm event.

**TASKS & DELIVERABLES:**

**A) Tasks**

- 1) The Recipient shall procure the services of a qualified and licensed Florida contractor and execute a contract with the selected bidder to complete the Phase I scope of work as approved by the Division and FEMA. The Recipient shall select the qualified, licensed Florida contractor in accordance with the Recipient's procurement policy as well as all federal and state laws and regulations.

All procurement activities shall contain sufficient source documentation and be in accordance with all applicable regulations.

The Recipient and contractor shall be responsible for maintaining a safe and secure worksite for the duration of the work. The contractor shall maintain all work staging areas in a neat and presentable condition.

The Recipient shall ensure that no contractors or subcontractors are debarred or suspended from participating in federally funded projects.



The selected contractor shall have a current and valid occupational license/business tax receipt issued for the type of services being performed. The Recipient shall provide documentation demonstrating the results of the procurement process. This shall include a rationale for the method of procurement and selection of contract type, contractor selection and/or rejection and bid tabulation and listing, and the basis of contract price.

The Recipient shall provide an executed "Debarment, Suspension, Ineligibility, Voluntary Exclusion Form" for each contractor and/or subcontractor performing services under this agreement.

Executed contracts with contractors and/or subcontractors shall be provided to the Division by the Recipient.

The Recipient shall provide copies of professional licenses for contractors selected to perform services. The Recipient shall provide a copy of a current and valid occupational license or business tax receipt issued for the type of services to be performed by selected contractor.

- 2) The Recipient shall monitor and manage the Phase I portion of this project in accordance with the Hazard Mitigation Grant Program application and supporting documentation as submitted to the Division and subsequently approved by the Division and FEMA. The Division and FEMA shall render a Phase II determination upon completion of the review of Phase I deliverables. No construction activities approved at this time. The Recipient shall ensure that all applicable state, local and federal laws and regulations are followed and documented, as appropriate.

Phase I consists of fees; for conducting survey, drainage study, engineering, design, public notices, and/or permitting associated with the modification(s) needed to upgrade the drainage. Verification of upstream and downstream impacts shall be necessary for determining project eligibility.

All Phase I work shall be completed in accordance with all applicable state, local and federal laws and regulations and documented, as appropriate.

Notify the public of the intent to locate the proposed action in the floodplain or/and wetland. The notice shall be published at least once in a local newspaper of general circulation. The public shall be given at least thirty (30) days to comment. The recipient shall meet federal requirements of notification. Compliance shall be submitted with deliverables.

Upon completion of Task 2, the Recipient shall submit the following documents with sufficient supporting documentation, and provide a summary all scope of work changes, if any.

- a) Two sets of engineering Signed/Sealed final design and analysis, surveying, and Hydrologic and Hydraulic (H&H) Studies;
- b) Construction Plans and bid documents;
- c) Revised cost estimate for Phase II – construction (include Phase I costs), to implement the design project;
- d) Design documents shall provide a detailed description which includes specifics on project scope of work, depth and extent of ground disturbance at all construction locations of the project.
- e) Copy of all environmental permits including the Environmental Resource Permit (ERP) from the Northwest Florida Water Management District (NFWFMD) or confirmation from the NFWFMD that no permit is required.
- f) Copy of the U.S. Army Corps of Engineers (USACE) permit or confirmation that no permit is required (NPR) from the USACE Regulatory Division.
- g) Copy of all local, state or federal environmental permits. Any conditions for compliance shall be included in the final design plans, narrative and project implementation actions.
- h) Any other documentation requested by the Division, not limited to Project conditions and requirements herein.

- 3) During the course of this agreement, the Recipient shall submit requests for reimbursement. Adequate and complete source documentation shall be submitted to support all costs (federal share and local share) related to the project. In some cases, not all project activities may be fully complete prior to requesting reimbursement of costs incurred in completion of this scope of work; however, a partial reimbursement may be requested.

The Recipient shall submit an Affidavit signed by the Recipient's project personnel with each reimbursement request attesting to the completion of the work, disbursements or payments were made in accordance with all agreement and regulatory conditions, and that reimbursement is due and has not been previously requested.

The Recipient shall maintain accurate time records. The Recipient shall ensure invoices are accurate and any contracted services were rendered within the terms and timelines of this agreement. All supporting documentation shall agree with the requested billing period. All costs submitted for reimbursement shall contain adequate source documentation which may include but not be limited to: cancelled checks, bank statements, Electronic Funds Transfer, paid bills and invoices, payrolls, time and attendance records, contract and subcontract award documents.

**Direct Expenses:** The Recipient shall pre-audit bills, invoices, and/or charges submitted by the contractors and subcontractors and pay the contractors and subcontractors for approved bills, invoices, and/or charges. Recipient shall ensure that all contractor/subcontractor bills, invoices, and/or charges are legitimate and clearly identify the activities being performed and associated costs.

**Project Management Expenses:** The recipient shall pre-audit source documentation such as payroll records, project time sheets, attendance logs, etc. Documentation shall be detailed information describing tasks performed, hours devoted to each task, and the hourly rate charged for each hour including enough information to calculate the hourly rates based on payroll records. Employee benefits shall be clearly shown.

The Division shall review all submitted requests for reimbursement for basic accuracy of information. Further, the Division shall ensure that no unauthorized work was completed prior to the approved project start date by verifying vendor and contractor invoices. The Division shall verify that reported costs were incurred in the performance of eligible work, that the approved work was completed, and that the mitigation measures are in compliance with the approved scope of work prior to processing any requests for reimbursement.

Review and approval of any third party in-kind services, if applicable, shall be conducted by the Division in coordination with the Recipient.

Quarterly reports shall be submitted by the Recipient and received by the Division at the times provided in this agreement prior to the processing of any reimbursement.

The Recipient shall submit to the Division requests for reimbursement of actual Phase I costs related to the project as identified in the project application and this scope of work. The Requests for Reimbursement (RFR) shall include:

- a) Contractor, subcontractor, and/or vendor invoices which clearly display dates of services performed, description of services performed, location of services performed, cost of services performed, name of service provider and any other pertinent information;
- b) Proof of payment from the Recipient to the contractor, subcontractor, and/or vendor for invoiced services;
- c) Clear identification of amount of costs being requested for reimbursement as well as costs being applied against the local match amount;

The Recipient's Request for Reimbursement shall include the final Phase I project cost. Supporting documentation shall show that all contractors and subcontractors have been paid.



**B) Deliverables**

Mitigation activities consist of project design and calculations, which shall implement measures to determine modifications needed to improve the drainage and alleviate flooding of County Road 286 (Blueberry Road).

The completed project shall provide protection against a 100-year storm event.

Provided the Recipient performs in accordance with the Scope of Work outlined in this Agreement, the Division shall reimburse the Recipient based on the percentage of overall project completion.

**PROJECT CONDITIONS AND REQUIREMENTS:**

**C) Engineering:**

- 1) The Recipient shall submit Engineering plans that clearly shows the engineer's estimate of the pre and post-mitigation effects of the proposed project and the relationship of the damages to be mitigated (commensurate with the level of funding requested). This includes, but is not limited to, the existing and proposed hydrology and hydraulics for the level of event being mitigated.
- 2) Design documents shall provide a detailed description which includes specifics on project scope of work, depth and extent of ground disturbance at all construction locations of the project.
- 3) Demonstrate mitigation effectiveness, in part, by showing the physical location(s) and elevation(s) of the infrastructure/structures that is being damaged and FEMA Special Flood Hazard Areas on the same plan.
- 4) Submit a refined cost estimate, to include Phase I Fees and Phase II Construction materials and Labor.
- 5) The Recipient shall provide verification that there will not be any upstream or downstream impact.

**D) Environmental:**

- 1) The Recipient shall follow all applicable State, Local, and Federal Laws Regulations and requirements, and obtain (before starting project work) and comply with all required permits and approvals. Failure to obtain all appropriate Federal, State, and Local environmental permits and clearances may jeopardize federal funding. If project work is delayed for a year or more after the date of the categorical exclusion (CATEX), then coordination with and project review by regulatory agencies shall be redone.
- 2) Any change, addition or supplement to the approved Scope of Work that alters the project (including other work not funded by FEMA, but done substantially at the same time), regardless of the budget implications, re- will require submission of the application to FEMA through the Division for National Environmental Policy Act (NEPA) re-evaluation before starting project work. Phase II will require additional EHP compliance review.
- 3) The Recipient shall need to provide designs, studies, and calculations for Phase II review.
- 4) Copy of all environmental permits. Any conditions for compliance shall be included in the final design plans, narrative and project implementation actions.
- 5) Meet all required Environmental laws and policies, and all necessary Environmental and Historical Preservation compliance documents shall be obtained, as applicable.
  - a) An Environmental Resource Permit (ERP) or notification or no permit required from the Northwest Florida Water Management District (NFWFMD) shall be obtained.
  - b) A United States Army Corps of Engineers (USACE) permit or confirmation of no permit required (NPR) from the USACE Regulatory Agency shall be obtained.

- c) Division of Historical Resources (DHR), State Historic Preservation Office (SHPO): A SHPO review shall be required due to proposed ground disturbance activities in Phase II. Review documentation required:
  - A. Location Maps – marking project area
  - B. USGS Quadrangle with project site outlined
  - C. Color photographs of any proposed ground disturbance areas (electronic)
  - D. Indicate if project site is located within a designated historic district or historic neighborhood.
- 6) Tribal Consultation shall be required for proposed ground disturbing activities. The following information is required and must be submitted as part of Phase I deliverables:
  - a) Color map showing the full extent of the project footprint and depth of ground disturbance. Horizontal limits and vertical depths of ground disturbance in feet and square feet with locations of staging areas marked. Geographic latitude/longitude (decimal degrees) of the proposed construction area boundaries and staging areas shall be included.
  - b) Previous and current use of proposed project area;
  - c) Previous ground disturbances activities for the proposed location;
  - d) Any known site work or historic uses for the proposed location;
  - e) Proposed future use of project location;
  - f) Any available studies that may have taken place on the property.
- 7) Phase I of this project is approval with the condition that the above list of deliverables shall be submitted for review and approval by the Division and FEMA before Phase II is considered.
- 8) No construction work may begin until Phase II is approved by the Division and FEMA.

**E) Programmatic:**

- 1) A change in the scope of work *must* be approved by the Division and FEMA in advance regardless of the budget implications.
- 2) The Recipient must notify the Division as soon as significant developments becomes known, such as delays or adverse conditions that might raise costs or delay completion, or favorable conditions allowing lower costs or earlier completion.
- 3) The Recipient must "obtain prior written approval for any budget revision which would result in a need for additional funds" [44 CFR 13(c)], from the Division and FEMA.
- 4) Phase I – Design of this project is approved with the condition that the enclosed list of deliverables shall be submitted, 30-days prior to the Period of Performance date, for review and approval by the Division; for submittal to FEMA before Phase II – Construction is considered.
- 5) Any extension of the Period of Performance shall be submitted to FEMA, 60 days prior to the expiration date. Therefore, any request for a Period of Performance Extension shall be in writing and submitted along with substantiation of new expiration date, and a new schedule of work, to the Division a minimum of seventy (70) days prior to the expiration date, for Division processing to FEMA.
- 6) The Recipient must avoid duplication of benefits between the HMGP and any other form of assistance, as required by Section 312 of the Stafford Act, and further clarification in 44 CFR 206.191.

This is FEMA Project Number **4177-38-R**, and must adhere to all program guidelines established for the HMGP in accordance with the PAS Operational Agreement for Disaster 4177.

The project was awarded by FEMA on *March 10, 2017*; with a Pre-Award date of June 1, 2015; and the Period of Performance (POP) for this project shall end on *March 31, 2018*

**F) FINANCIAL CONSEQUENCES:**

If the Recipient fails to comply with any term of the award, the Division shall take one or more of the following actions, as appropriate in the circumstances:

- 1) Temporarily withhold cash payments pending correction of the deficiency by the Recipient;
- 2) Disallow all or part of the cost of the activity or action not in compliance;
- 3) Wholly or partly suspend or terminate the current award for the Recipient's program;
- 4) Withhold further awards for the program; or
- 5) Take other remedies that may be legally available.

**Schedule of Work**

**Phase I –**

<u>Design, Engineering, Permitting and Survey:</u>	<u>12 Months</u>
<b>Total Period of Performance:</b>	<b>12 Months</b>