

RECEIVED

NOV 16 2007

PUBLIC SERVICE  
COMMISSION

SPECIFICATIONS FOR  
CONTRACT 519-06-02  
WATER SYSTEM IMPROVEMENTS  
LITTLE COWAN  
LETCHER COUNTY WATER AND SEWER DISTRICT  
LETCHER COUNTY, KENTUCKY

August 2006

BELL ENGINEERING

354 Waller Avenue  
P.O. Box 546  
Lexington, KY 40588

107 Forbes Drive  
P.O. Box 661  
Hopkinsville, KY 42241

3983 Teays Valley Road  
Suite 202  
Hurricane, WV 25560



## INDEX

CONTRACT 519-06-02  
 WATER SYSTEM IMPROVEMENTS  
 LITTLE COWAN  
 LETCHER COUNTY WATER AND SEWER DISTRICT  
 LETCHER COUNTY, KENTUCKY

<u>SECTION NO.</u>	<u>TITLE</u>	<u>PAGE NO.</u>
<u>DIVISION 0</u>	<u>GENERAL SPECIFICATIONS, BIDDING REQUIREMENTS, CONTRACT FORMS AND CONDITIONS OF THE CONTRACT</u>	
00010	Advertisement for Bids	00010-1 Thru 00010-3
00100	Instructions to Bidders	00100-1 Thru 00100-7
00300	Form of Proposal	00300-1 Thru 00300-5
00420	Bidder's Qualification Statement	00420-1 Thru 00420-8
00500	Contract Agreement	00500-1 Thru 00500-5
00610	Performance Bond	00610-1 Thru 00610-3
00620	Labor and Material Payment Bond	00620-1 Thru 00620-3
00700	The General Conditions	00700-1 Thru 00700-31
	1. Definitions	00700-1
	2. Additional Instructions and Detail Drawings	00700-5
	3. Schedules, Reports and Records	00700-5
	4. Drawings	00700-6
	5. Shop Drawings and Operation and Maintenance Instructions	00700-7
	6. Materials, Services and Facilities	00700-9
	7. Inspection and Testing	00700-10
	8. Substitutions	00700-11
	9. Patents	00700-12
	10. Surveys, Permits, Regulations	00700-12
	11. Protection of Work Property and Persons	00700-13
	12. Supervision by Contractor	00700-14
	13. Changes in the Work	00700-14
	14. Changes in Contract Price	00700-15
	15. Time for Completion and Liquidated Damages	00700-15
	16. Correction of Work	00700-17
	17. Subsurface Conditions	00700-18
	18. Suspension of Work, Termination and Delay	00700-18
	19. Payments to Contractor	00700-20
	20. Acceptance of Final Payment as Release	00700-22

519-06-02 (08/06)

<u>SECTION NO.</u>	<u>TITLE</u>	<u>PAGE NO.</u>
21.	Insurance	00700-23
22.	Contract Security	00700-24
23.	Assignments	00700-25
24.	Indemnification	00700-25
25.	Separate Contracts	00700-26
26.	Subcontracting	00700-26
27.	Engineer's Authority	00700-27
28.	Land and Rights-of-Way	00700-29
29.	Guarantee	00700-29
30.	Arbitration	00700-30
31.	Taxes	00700-31
00810	Supplementary General Conditions	00810-1 Thru 00810-8
1.	Additional Instructions	00810-1
2.	Surveys	00810-1
3.	Protection of Property	00810-2
4.	Contract Costs and Payments	00810-4
5.	Work by Owner	00810-6
6.	Liability	00810-6
7.	Supervision by Contractor	00810-7
8.	Resident Project Representative	00810-7
9.	Claims for Extra Payment	00810-8
00815	Labor Regulations on Public Works	00815-1 Thru 00815-2
00820	Special Conditions	00820-1 Thru 00820-7
00835	Supplemental General Conditions	00835-1 Thru 00835-48
<u>DIVISION 1</u>	<u>GENERAL REQUIREMENTS</u>	
01010	Summary of Work	01010-1
01020	Allowances	01020-1
01300	Submittals	01300-1 Thru 01300-5
01500	Construction Facilities and Temporary Controls	01500-1 Thru 01500-4
01600	Special Provisions for Material and Equipment	01600-1 Thru 01600-5
<u>DIVISION 2</u>	<u>SITE WORK</u>	
02110	Site Clearing and Grubbing	02110-1 Thru 02110-2

519-06-02 (08/06)

<u>SECTION NO.</u>	<u>TITLE</u>	<u>PAGE NO.</u>
02140	Dewatering	02140-1
02200	Earth and Rock Work	02200-1 Thru 02200-13
02235	Crushed Stone and Dense Graded Aggregate (DGA)	02235-1 Thru 02235-4
02326	Steel Cover Pipe	02326-1 Thru 02326-4
02400	Streets, Roads and Parking Areas	02400-1 Thru 02400-3
02500	Bituminous Paving	02500-1 Thru 02500-7
02510	Concrete Paving	02510-1 Thru 02510-3
02610	Pressure Pipe	02610-1 Thru 02610-38
02830	Fencing	02830-1 Thru 02830-10
02930	Sodding and Seeding	02930-1 Thru 02930-7
<u>DIVISION 3</u>	<u>CONCRETE</u>	
03301	Cast-In-Place Concrete (Minor Structures)	03301-1 Thru 03301-5
<u>DIVISION 4</u>	<u>MASONRY</u>	
	Not Applicable	
<u>DIVISION 5</u>	<u>METALS</u>	
05520	Metal Fabrications	05520-1 Thru 05520-5
05540	Castings	05540-1 Thru 05540-2
<u>DIVISIONS 6 THRU 10</u>		
	Not Applicable	
<u>DIVISION 11</u>	<u>EQUIPMENT</u>	
11213	Prefabricated Water Booster Pumping Station	11213-1 Thru 11213-15
<u>DIVISION 12</u>	<u>FURNISHINGS</u>	
	Not Applicable	

519-06-02 (08/06)

<u>SECTION NO.</u>	<u>TITLE</u>	<u>PAGE NO.</u>
<u>DIVISION 13</u>	<u>SPECIAL CONSTRUCTION</u>	
13212	Welded Steel Tanks for Water Storage	13212-1 Thru 13212-12
13214	Factory-Coated Bolted Steel Tanks for Water Storage	13214-1 Thru 13214-8
<u>DIVISION 14</u>	<u>CONVEYING SYSTEMS</u>	
	Not Applicable	
<u>DIVISION 15</u>	<u>MECHANICAL</u>	
15100	Small Plumbing Valves, Plumbing Specialties and Service Accessories	15100-1 Thru 15100-6
15102	Valves (Water Related)	15102-1 Thru 15102-13
15104	Specialty Valves (Water)	15104-1 Thru 15104-7
<u>DIVISION 16</u>	<u>ELECTRICAL</u>	
16050	Electrical Work	16050-1 Thru 16050-10

END

519-06-02 (08/06)

SECTION 00010

ADVERTISEMENT FOR BIDS  
CONTRACT 519-06-02  
WATER SYSTEM IMPROVEMENTS  
LITTLE COWAN  
LETCHER COUNTY WATER AND SEWER DISTRICT  
LETCHER COUNTY, KENTUCKY

Sealed proposals for the following work will be received by the Letcher County Water and Sewer District, Letcher County, Kentucky at the Letcher County Courthouse, 156 Main Street, Suite 107, Whitesburg, Kentucky 41858, until 2:00 p.m., local time, \_\_\_\_\_, 2007, for furnishing labor and materials and performing all work as set forth by the Advertisement, General Conditions, Specifications and/or Drawings prepared by Bell Engineering. Immediately following the scheduled closing time for the reception of bids, all proposals which have been submitted in accordance with the above conditions will be publicly opened and read aloud.

The work to be bid is described as follows:

Contract 519-06-02, Water Line Improvements, Little Cowan - Approximately 6,545 L.F. of 3-inch and approximately 19,345 L.F. of 6-inch water main, a booster pump station, a 30,000 gallon ground storage tank, and related appurtenances.

Drawings, Specifications and Contract Documents may be examined at the following places:

Letcher County Water and Sewer District  
c/o Letcher County Courthouse  
156 Main Street, Suite 107  
Whitesburg, Kentucky 41858

McGraw-Hill Construction Dodge  
950 Contract Street  
Lexington, Kentucky 40505

Bell Engineering  
354 Waller Avenue  
Lexington, Kentucky 40504

Associated General Contractors  
2321 Fortune Drive, Suite 112  
Lexington, Kentucky 40509

Associated General Contractors  
311 Barbourville Street (2nd Floor)  
Corbin, Kentucky 40702

or may be obtained from **Lynn Imaging, Inc., 328 E. Vine Street, Lexington, Kentucky 40507, phone 859/255-1021**, upon receipt of non-refundable deposit of:

Contract 519-06-02 - \$150.00

519-06-02 (08/06)

Sealed proposals for this Contract shall be clearly marked on the outside of the envelope as follows:

"Sealed Proposal for Contract 519-06-02. Not to be opened until 2:00 p.m., local time, \_\_\_\_\_, 2007."

If forwarded by mail, the sealed envelope containing the proposal must be enclosed in another envelope and mailed to the Letcher County Water and Sewer District Office, allowing sufficient time for such mailing to reach this address prior to the scheduled closing time for receipt of proposals.

Bids shall be accompanied by a certified check or bid bond made payable to the Letcher County Water and Sewer District, Kentucky, in an amount not less than 5 percent of the base bid. No bidder may withdraw his bid for a period of 90 days after the date bids are opened. He may, however, withdraw his bid at any time prior to the time and date scheduled for opening of same or any authorized postponement thereof. Any bid received after the time and date specified shall not be considered and will be returned unopened to the bidder.

The OWNER's share will be provided from the Kentucky Infrastructure Authority (KIA) and local funds.

Work to be performed by contractors involved in this project is subject to the minimum wage rates established by the Kentucky Department of Labor, as set forth in Chapter 337 of the Kentucky Revised Statutes (per amendments adopted by the 1970 General Assembly).

State wage rate determinations will be incorporated into the Specifications by an addendum issued prior to the scheduled bidding date.

Bidders must comply with Title VI of the Civil Rights Act of 1964, the Anti-Kickback Act, and the Contract Work Hours Standard Act.

Bidders must comply with the President's Executive Order No. 11246 as amended, which prohibits discrimination in employment regarding race, creed, color, sex or national origin.

A certification of prior work under Executive Order 11246 (Equal Employment Opportunity) as amended must be supplied.

Contractor/Subcontractor will comply with 41 CFR 60-4, in regard to affirmative action, to insure equal opportunity to females and minorities and will apply the time tables and goal set forth in 41 CFR 60-4.

The bidder will make positive efforts to use small, minority, women owned and disadvantaged businesses.

The Contract is being funded in part with a KIA FADWSRF loan.

The award will be made to the lowest, responsive, responsible bidder.



519-06-02 (08/06)

The Letcher County Water and Sewer District may consider informal any bid not prepared and submitted in accordance with the provisions of this advertisement and/or the Specifications and may waive any informalities or reject any and all bids.

LETCHER COUNTY WATER AND SEWER DISTRICT

By \_\_\_\_\_  
Don Profitt, Chairman

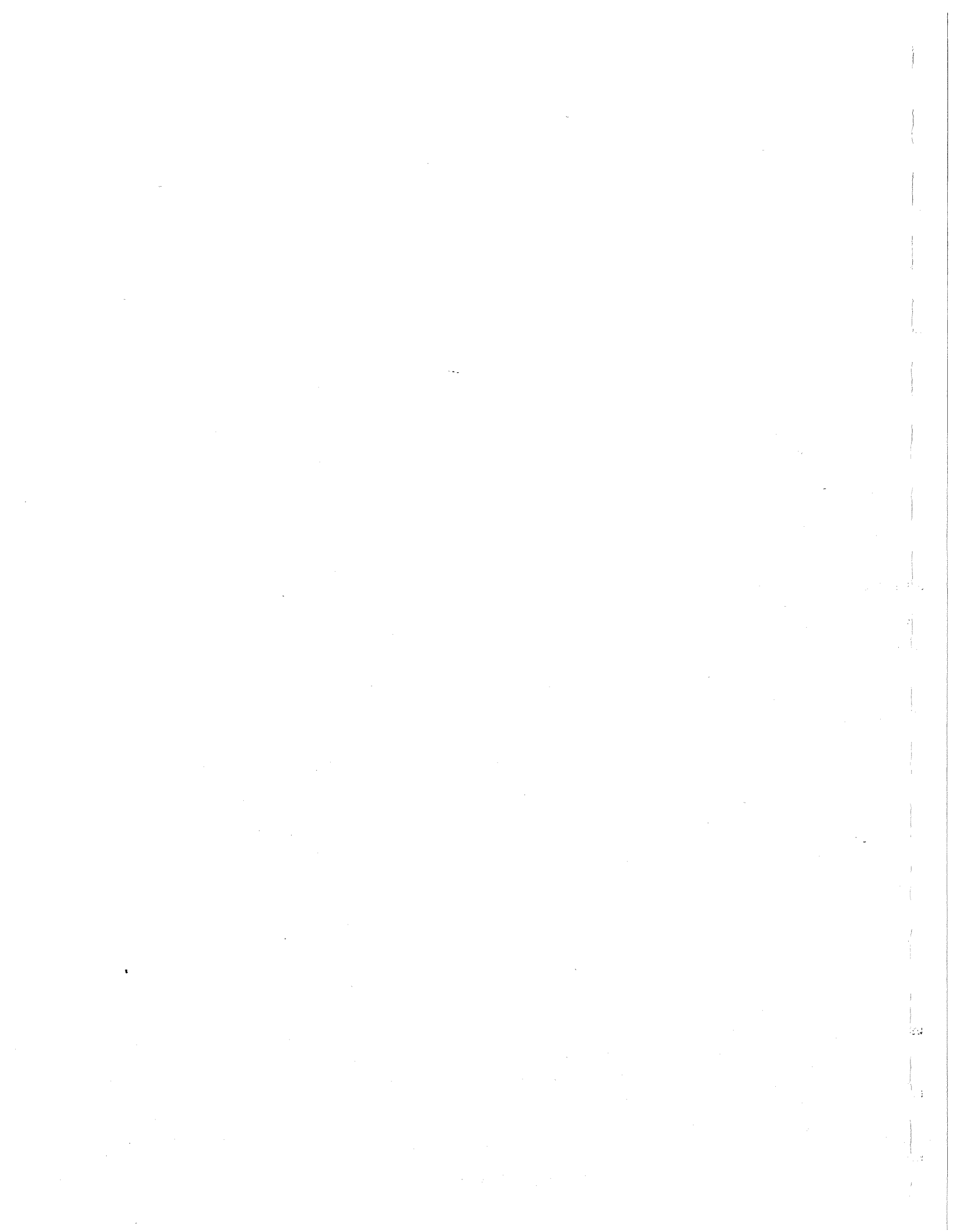
Bell Engineering  
354 Waller Avenue  
P. O. Box 546  
Lexington, Kentucky 40588

Phone: 859/278-5412

END OF SECTION

\*\*\*

00010-3



## SECTION 00100

### INSTRUCTIONS TO BIDDERS

#### 1. DEFINED TERMS

Terms used in Information for Bidders which are defined in the General Conditions of the Contract Documents have the meanings assigned to them in the General Conditions. The term "Bidder" means one who submits a Bid directly to the OWNER, as distinct from a sub-bidder, who submits a bid to a Bidder. The term "Successful Bidder" means the lowest, qualified, responsible and responsive Bidder to whom the OWNER (on the basis of the OWNER'S evaluation as hereinafter provided) makes an award. The term "Bidding Documents" includes the Advertisement or Invitation to Bid, Information for Bidders, the Bid Form, and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

#### 2. COPIES OF BIDDING DOCUMENTS

2.1 Complete sets of Bidding Documents may be obtained under the terms and conditions as stated in the Advertisement or the Invitation to Bid.

2.2 Complete sets of Bidding Documents must be used in preparing Bids; neither the OWNER nor the ENGINEER assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

2.3 The OWNER and the ENGINEER in making copies of Bidding Documents available on the terms stated herein do so only for the purpose of obtaining Bids on the Work and do not confer a license or grant for any other use.

#### 3. QUALIFICATIONS OF BIDDERS

To demonstrate qualifications to perform the Work, each Bidder must submit with the Bid written evidence, such as financial data, previous experience, present commitments and other such data as may be required by the OWNER. Each Bid must also be accompanied by a list of the Major Subcontractors which the Bidder proposes to use.

#### 4. EXAMINATION OF CONTRACT DOCUMENTS AND SITE

4.1 It is the responsibility of each Bidder before submitting a Bid, to (a) examine the Contract Documents thoroughly, (b) visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the Work, (c) consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work, (d) study and carefully correlate Bidder's observations with the Contract Documents, and (e) notify the ENGINEER of all conflicts, errors or discrepancies in the Contract Documents.

4.2 For the purpose of bidding or construction, the bidder may rely upon the accuracy of the technical data (factual information) contained in the reports of explorations and tests of subsurface conditions at the site which have been utilized by the ENGINEER in the preparation of the Contract Documents, but the bidder shall not rely upon non-technical data, or any interpretations or opinions contained therein, or upon the completeness thereof.

4.3 For the purposes of bidding or construction, the bidder may rely upon the accuracy of the technical data (factual information) contained in the Drawings as to the physical conditions in or relating to existing surface and subsurface conditions (except Underground Facilities) which are located at or contiguous to the site, and which have been utilized by the ENGINEER in the preparation of the Contract Documents, but the bidder shall not rely upon the completeness thereof.

Copies of such reports and drawings will be made available by the OWNER to any Bidder on request. Those reports and drawings are not part of the Contract Documents, but the technical data (factual information) contained therein upon which Bidder is entitled to rely as provided in Paragraphs 4.2 and 4.3 are incorporated therein by reference. Such technical data (factual information) has been identified and established in the Special Conditions.

4.4 Information and data reflected in the Contract Documents with respect to Underground Facilities located at or contiguous to the site are based upon information and data furnished to the OWNER and the ENGINEER by owners of such Underground Facilities or others, and the OWNER does not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in the Special Conditions.

4.5 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders on subsurface conditions, Underground Facilities and other physical conditions, and possible changes in the Contract Documents due to differing conditions appear in Article 17 of the General Conditions.

4.6 Before submitting a Bid, each Bidder will be responsible, at the Bidder's own expense to make or obtain any additional examinations, investigations, explorations, tests and studies and obtain any additional information and data which pertain to the physical conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.

4.7 On request in advance, the OWNER will provide each Bidder access to the site to conduct such explorations and tests as each Bidder deems necessary for submission of a Bid. The Bidder shall fill all holes, clean up and restore the site to its former condition upon completion of such explorations.

4.8 The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by the CONTRACTOR in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by the CONTRACTOR. Easements for permanent structures or permanent changes in existing structures are to be obtained and paid for by the OWNER unless otherwise provided in the Contract Documents.

4.9 The submission of a Bid will constitute an incontrovertible representation by the Bidder that the Bidder has complied with every requirement of this Article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

## 5. INTERPRETATIONS AND ADDENDA

5.1 All questions about the meaning or intent of the Contract Documents are to be directed to the ENGINEER. Interpretations or clarifications considered necessary by the ENGINEER in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by the ENGINEER as having received the Bidding Documents. Questions received less than ten days prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

5.2 Addenda may also be issued to modify the Bidding Documents as deemed advisable by the OWNER or the ENGINEER.

## 6. BID SECURITY

6.1 Each Bid must be accompanied by Bid security made payable to the OWNER in the amount indicated in the Bidder's proposal and the Advertisement for Bids and in the form of a certified or bank check or a Bid Bond issued by a surety meeting the requirements of Article 22 of the General Conditions.

6.2 The Bid security of the Successful Bidder will be retained until such Bidder has executed the Agreement and furnished the required Contract security, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish the required Contract security within 10 days after the Notice of Award, the OWNER may annul the Notice of Award and the Bid security of that Bidder will be forfeited. The Bid security of other Bidders whom the OWNER believes to have a reasonable chance of receiving the award may be retained by the OWNER until the Agreement has been fully executed and is effective, whereupon the Bid security furnished by such Bidders will be returned. Bid security with Bids which are not competitive will be returned after the Bid opening as soon as the Bid prices have been compared.

519-06-02 (08/06)

7. CONTRACT TIME

The numbers of days within which, or the dates by which, the Work is to be completed and ready for final payment (the Contract Time) are set forth in the Bid Form and the Agreement.

8. LIQUIDATED DAMAGES

Provisions for liquidated damages are set forth in the Agreement and in the Special Conditions.

9. SUBSTITUTE OR "OR-EQUAL" ITEMS

The Contract, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or "or-equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "or-equal" item of material or equipment may be furnished or used by the CONTRACTOR if acceptable to the ENGINEER, application for such acceptance will not be considered by the ENGINEER until after the effective date of the Agreement. The procedure for submission of any such application by the CONTRACTOR and consideration by the ENGINEER is set forth in Article 8 of the General Conditions.

10. SUBCONTRACTORS, SUPPLIERS AND OTHERS

10.1 If the General Conditions require the identity of certain Subcontractors, Suppliers and other persons and organizations (including those who are to furnish the principal items of material and equipment) to be submitted to the OWNER in advance of the specified date prior to the effective date of the Agreement, the apparent Successful Bidder, and any other Bidder so requested, shall within seven days after the Bid opening submit to the OWNER a list of all such Subcontractors, Suppliers and other persons and organizations proposed for those portions of the Work for which such identification is required. Such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, person or organization if requested by the OWNER. If the OWNER or the ENGINEER after due investigation has reasonable objection to any proposed Subcontractor, Supplier, other person or organization, either the OWNER or the ENGINEER may, before the Notice of Award is given, request the apparent Successful Bidder to submit an acceptable substitute without an increase in Bid price.

10.2 No CONTRACTOR shall be required to employ any Subcontractor, Supplier, other person or organization against whom the CONTRACTOR has reasonable objection.

11. BID FORM

11.1 The Bid Form is included with the Bidding Documents; additional copies may be obtained from the ENGINEER.

11.2 All blanks on the Bid Form must be completed in ink or by typewriter.

519-06-02 (08/06)

11.3 Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation must be shown below the signature.

11.4 Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

11.5 All names must be typed or printed below the signature.

11.6 The Bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which must be filled in on the Bid Form).

11.7 The address and telephone number for communications regarding the Bid must be shown.

11.8 Bids on lump sum contracts must be priced on a lump sum basis for the base Contract and include a separate price for each alternative described in the Specifications as provided for in the Bid Form. The price of the Bid for each alternative will be the amount to be added to or deducted from the price of the base Bid if the OWNER selects the alternative. The OWNER reserves the right to reject any or all of the unit prices for extra work set forth in the Form of Proposal for lump sum contracts, in the event that such prices are considered excessive or unreasonable.

11.9 Quantities listed on bid forms for unit price contracts are to be considered as approximate only, but those given will be used in comparing bids unless scope of the project to be awarded is changed. In actual construction, these quantities may be reduced or increased without incurring obligation for increase or reduction in final costs to the CONTRACTOR other than the amounts produced by the actual quantities installed at the unit price bid. The OWNER reserves the right to reject any or all of the unit prices set forth in the Form of Proposal for unit price contracts, in the event that such prices are considered excessive or unreasonable.

11.10 The Bid price shall include such amounts as the Bidder deems proper for overhead and profit on account of cash allowances named in the Contract Documents as provided in the Special Conditions.

11.11 The OWNER reserves the right to use any alternates or substitute items included on the bid form in the award of contracts.

## 12. SUBMISSION OF BIDS

Bids shall be submitted at the time and place indicated in the Advertisement or Invitation to Bid and shall be enclosed in an opaque sealed envelope, marked with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted) and name and address of the Bidder and accompanied by the Bid security and other required documents. If the Bid is sent through the mail or other delivery

system the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it.

13. MODIFICATION AND WITHDRAWAL OF BIDS

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

14. OPENING OF BIDS

Bids will be opened and read aloud publicly. An abstract of the amounts of the base Bids and major alternates (if any) will be made available to Bidders after the opening of Bids.

15. BIDS TO REMAIN SUBJECT TO ACCEPTANCE

All bids will remain subject to acceptance for the number of days shown in the Advertisement for Bids after the day of the Bid opening, but the OWNER may, in its sole discretion, release any Bid and return the Bid security prior to that date in accordance with the provisions of Article 6 of this part of the Specifications.

16. AWARD OF CONTRACT

16.1 The OWNER reserves the right to reject any and all Bids, to waive any and all informalities not involving price, time or changes in the Work and to negotiate Contract terms with the Successful Bidder, and the right to disregard all nonconforming, nonresponsive, unbalanced or conditional Bids. Also, the OWNER reserves the right to reject the Bid of any Bidder if the OWNER believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by the OWNER. In case of discrepancy between the bid price in words and in figures in the bids, the price in words will control. In case of unit price bids, the unit price will control instead of the extension.

16.2 In evaluating Bids, the OWNER will consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.

16.3 The OWNER may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for those portions of the Work as to which the identity of Subcontractors, Suppliers, and other persons and organizations must be submitted as provided in the General Conditions. The OWNER also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.



16.4 The OWNER may conduct such investigations as the OWNER deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to the OWNER'S satisfaction within the prescribed time.

16.5 If the Contract is to be awarded, it will be awarded to the lowest responsive, responsible Bidder whose evaluation by the OWNER indicates to the OWNER that the award will be in the best interests of the Project.

17. CONTRACT SECURITY

17.1 Article 22 of the General Conditions sets forth the OWNER'S requirements as to performance and payment Bonds. When the Successful Bidder delivers the executed Agreement to the OWNER, it must be accompanied by the required performance and payment Bonds.

18. SIGNING OF AGREEMENT

18.1 When the OWNER gives a Notice of Award to the Successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. Within 10 days thereafter the CONTRACTOR shall sign and deliver the required number of counterparts of the Agreement and attached documents to the OWNER with the required Bonds. Within 10 days thereafter the OWNER shall deliver one fully signed counterpart to the CONTRACTOR.

19. SRF REQUIREMENTS

19.1 Reasonable care shall be taken during construction to avoid damage to vegetation. Ornamental shrubbery and tree branches shall be temporarily tied back, where appropriate, to minimize damage. Trees that receive damage to branches shall be trimmed of those branches to improve the appearance of the tree. Tree trunks receiving damage from equipment shall be treated with a tree dressing.

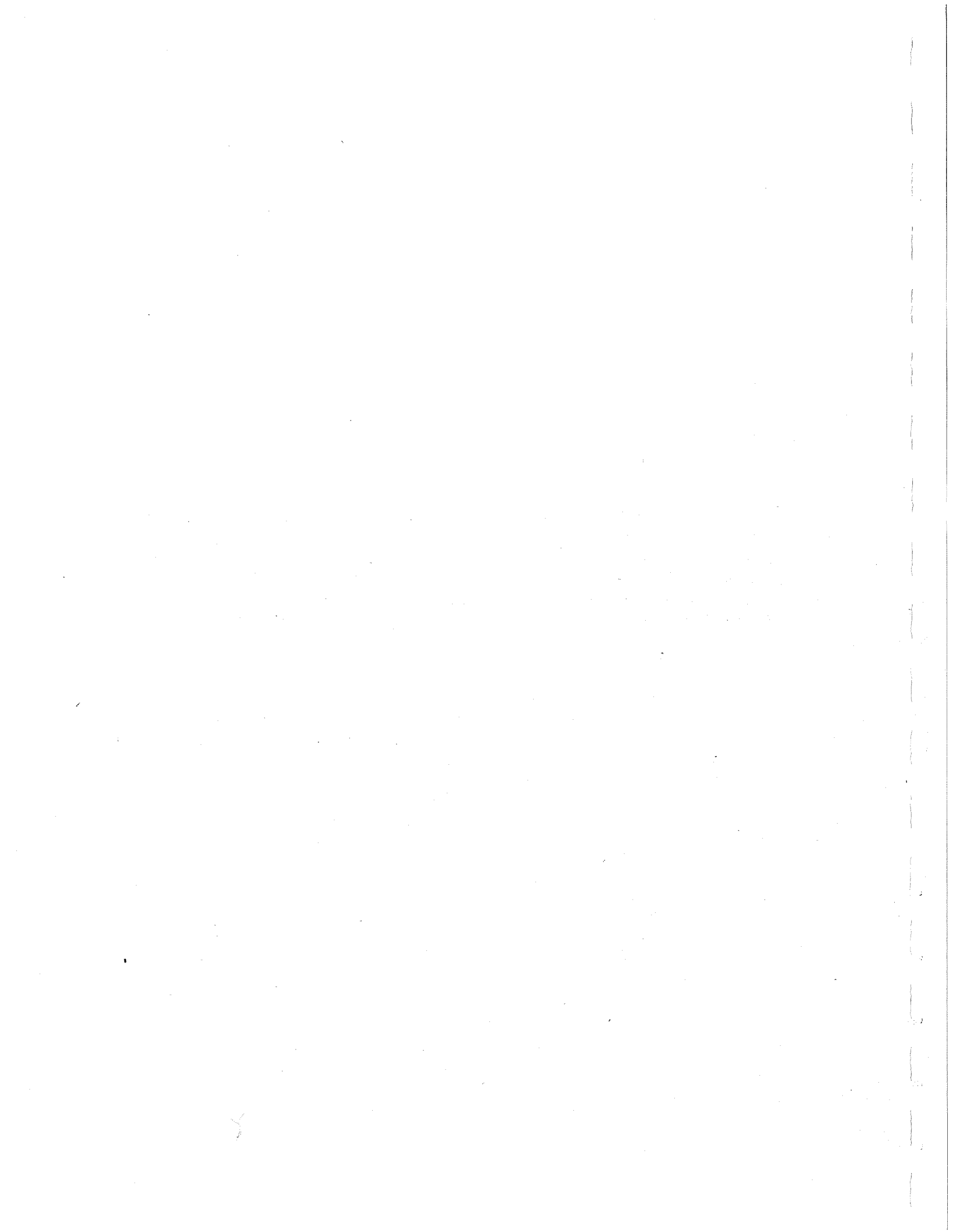
19.2 Compliance with OSHA (O.L. 91-596) and the Contract Work Hours and Safety Standards Act (P.L. 91-54).

19.3 Change orders to the construction contract must comply with DOW Procurement Guidance for Construction and Equipment Contracts.

19.4 Cost, pricing, and certification must be utilized for change orders exceeding \$25,000 as required by DOW Procurement Guidance for Construction and Equipment Contracts.

END OF SECTION

\*\*\*



519-06-02 (08/06)

SECTION 00300  
FORM OF PROPOSAL  
CONTRACT NO. 519-06-02  
WATER SYSTEM IMPROVEMENTS  
LITTLE COWAN  
LETCHER COUNTY WATER AND SEWER DISTRICT  
LETCHER COUNTY, KENTUCKY

Note: The following Form of Proposal shall be followed exactly in submitting a proposal for this work. This copy, properly filled in, shall be used in submitting a proposal.

This proposal is submitted by \_\_\_\_\_

(Name and Address of Bidding Contractor)    Zip Code

Date: \_\_\_\_\_ Phone No.: \_\_\_\_\_  
Area Code

To: Mr. Don Profitt  
Letcher County Water and Sewer District  
P.O. Box 827  
Whitesburg, Kentucky 41858

Having carefully examined the complete contract documents, including all general and technical specifications and drawings, special requirements, as well as the project site, the undersigned, hereinafter known as the CONTRACTOR, proposes to furnish all labor, materials, tools, machinery, appliances, supplies, equipment, and services as called for by the applicable contract documents, as well as by all Addenda heretofore issued. We agree to enter into a contract and to complete all work required by and under the terms and conditions of the contract documents for the amounts shown in this proposal form.

We acknowledge receipt of the following Addenda:

No. _____, dated _____.	No. _____, dated _____.
No. _____, dated _____.	No. _____, dated _____.
No. _____, dated _____.	No. _____, dated _____.
No. _____, dated _____.	No. _____, dated _____.

If none received, write "none" here: \_\_\_\_\_.



WATER SYSTEM IMPROVEMENTS  
 LITTLE COWAN  
 LETCHER COUNTY WATER AND SEWER DISTRICT  
 LETCHER COUNTY, KENTUCKY

Item No.	Item	Quantity	Unit	Unit Price	Total
<b>DIVISION "A" - WATER LINE</b>					
1.	6-Inch Class 250 (SDR 17) PVC pipe, Including Compact Ductile Iron m.j. Fittings, Furnishing, Trenching, Bedding, Laying and Backfilling, or Installed in Steel Cover Pipe, Detectable Tape, Concrete Blocking, Unclassified Excavation, Complete.	12,915	L.F.	\$ _____	\$ _____
2.	6-Inch Ductile Iron CL 350 pipe, Including Compact Ductile Iron m.j. Fittings, Furnishing, Trenching, Bedding, Laying and Backfilling, or Installed in Steel Cover Pipe, Detectable Tape, Concrete Blocking, Unclassified Excavation, Complete.	6,430	L.F.	\$ _____	\$ _____
3.	6-Inch Ductile Iron Restrained Joint pipe, Including Compact Ductile Iron m.j. Fittings, Furnishing, Trenching, Bedding, Laying and Backfilling, or Installed in Steel Cover Pipe, Detectable Tape, Concrete Blocking, Unclassified Excavation, Complete.	1,115	L.F.	\$ _____	\$ _____
4.	4-Inch Ductile Iron Restrained Joint pipe, Including Compact Ductile Iron m.j. Fittings, Furnishing, Trenching, Bedding, Laying and Backfilling, or Installed in Steel Cover Pipe, Detectable Tape, Concrete Blocking, Unclassified Excavation, Complete.	70	L.F.	\$ _____	\$ _____
5.	3-Inch Class 250 (SDR 17) PVC pipe, Including Compact Ductile Iron m.j. Fittings, Furnishing, Trenching, Bedding, Laying and Backfilling, or Installed in Steel Cover Pipe, Detectable Tape, Concrete Blocking, Unclassified Excavation, Complete.	5,145	Each	\$ _____	\$ _____
6.	3-Inch Ductile Iron CL 350 pipe, Including Compact Ductile Iron m.j. Fittings, Furnishing, Trenching, Bedding, Laying and Backfilling, or Installed in Steel Cover Pipe, Detectable Tape, Concrete Blocking, Unclassified Excavation, Complete.	1,400	Each	\$ _____	\$ _____
7.	6-Inch M.J. Resilient Seat Gate Valve, Box Including Concrete Valve Box Collar, Complete.	19	Each	\$ _____	\$ _____
8.	3-Inch M.J. Resilient Seat Gate Valve, Box Including Concrete Valve Box Collar, Complete.	9	Each	\$ _____	\$ _____
9.	5/8-Inch x 3/4-Inch Meter Setting, Including PRV Meter Box, Cover, Corporation Stop, Saddle, Tap and Touch Read Assembly, Furnish and Install, Complete.	103	Each	\$ _____	\$ _____
10.	3/4-Inch Polyethylene Service Pipe, Furnishing, Trenching, Bedding, Laying and Backfilling, or by Jacking, Detectable Tape, Unclassified Excavation, Complete.	1,220	L.F.	\$ _____	\$ _____



CONTRACT 519-06-02      WATER SYSTEM IMPROVEMENTS  
LITTLE COWAN  
LETCHER COUNTY WATER AND SEWER DISTRICT  
LETCHER COUNTY, KENTUCKY

Item No.	Item	Quantity	Unit	Unit Price	Total
11.	3/4-Inch Copper Service Pipe, Furnishing, Trenching, Bedding, Laying and Backfilling, or by Jacking, Detectable Tape, Unclassified Excavation, Complete.	1,200	L.F.	\$_____	\$_____
12.	10-Inch x 0.250-Inch Steel Cover Pipe, Including Carrier Pipe, Casing Spacers and End Seals, Furnish and Install, Open Cut or Boring, Complete.	218	L.F.	\$_____	\$_____
13.	Boring or jacking for 10-Inch Steel Cover Pipe, Unclassified Excavation, Complete.	218	L.F.	\$_____	\$_____
14.	8-Inch x 0.188-Inch Steel Cover Pipe, Including Carrier Pipe, Casing Spacers and End Seals, Furnish and Install, Open Cut or Boring, Complete.	43	L.F.	\$_____	\$_____
15.	Boring or jacking for 8-Inch Steel Cover Pipe, Unclassified Excavation, Complete.	43	L.F.	\$_____	\$_____
16.	Fiberglass or Concrete Line Marker, Furnish and Install, Complete.	25	Each	\$_____	\$_____
17.	Flushing Hydrant Assembly, Furnish and Install, Complete.	6	Each	\$_____	\$_____
18.	Yard Hydrant Assembly, Furnish and Install, Complete.	1	Each	\$_____	\$_____
19.	Blow-Off Assembly, Per Detail, Furnish and Install, Complete.	9	Each	\$_____	\$_____
20.	1-Inch Automatic Air Release Valve Assembly, Furnish and Install, Complete.	2	Each	\$_____	\$_____
21.	Crushed Rock on Trench Surface, In Place.	150	Ton	\$_____	\$_____
22.	Trench Width Bituminous Pavement Replacement, Complete.	475	L.F.	\$_____	\$_____
23.	Allowance for Telemetry	1	L.S.	\$20,000.00	\$20,000.00
24.	Master Meter and Appurtenances, Complete	1	Each	\$_____	\$_____
25.	Extra for Mechanical Removal of Solid Rock, Only on Order of the Engineer.	5	C.Y.	\$_____	\$_____
26.	Extra for Mechanical Tamping of Trench Backfill, When Not Required by Plans or Specifications, Only on Order of the Engineer.	10	C.Y.	\$_____	\$_____
27.	Extra for Crushed Rock for Pipe Bedding, Only on Order of the Engineer.	10	Ton	\$_____	\$_____





**CONTRACT 519-06-02      WATER SYSTEM IMPROVEMENTS**  
**LITTLE COWAN**  
**LETCHER COUNTY WATER AND SEWER DISTRICT**  
**LETCHER COUNTY, KENTUCKY**

Item No.	Item	Quantity	Unit	Unit Price	Total
28.	Extra for Crushed Rock for Trench Stabilization, Only on Order of the Engineer.	10	Ton	\$_____	\$_____
29.	Extra for Furnishing and Installing DIMJ Compact Fittings, when not Required by Plans and /or Specifications, Only on Order of the Engineer, Complete with Accessories, and Concrete Blocking.	120	Lbs	\$_____	\$_____
Subtotal - Division "A"					\$_____
<b>DIVISION "B" - BOOSTER PUMP STATION</b>					
30.	For the furnishing and installation of a factory built, duplex, underground 53 gpm booster pump station, complete with all pumps, piping, valves, electrical components, excavation, regrade, security fencing and all other related work, as planned and specified, complete.	1	L.S.	\$_____	\$_____
Subtotal - Division "B"					\$_____
<b>DIVISION "C" - 30,000 GALLON GROUND STORAGE TANK</b>					
31.	For the construction of the foundation and accessories for a 30,000 gallon ground storage tank, furnishing laying connecting pipelines, construction of the access road and site work, new security fencing and for furnishing, erecting and sterilizing a 30,000 gallon ground storage tank with accessories as planned, complete.	1	L.S.	\$_____	\$_____
Subtotal - Division "C"					\$_____
<b>TOTAL - CONTRACT 519-06-01</b>					<b>\$_____</b>



TIME OF COMPLETION

The following time of completion has been established for this Contract:

Contract 519-06-02 - 120 Calendar Days

The time of completion is defined in the General Conditions. In submitting this Bid, the Bidder acknowledges that this time of completion is reasonable and acceptable, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the Work.

The following interests exist between the OWNER and the CONTRACTOR:

---

(Here state fully any business, family or other relation or interest that exists between the OWNER and the CONTRACTOR. If none exists, so state.)

The following item(s) are included herewith:

1. Bid bond or certified check, in an amount not less than 5 percent of the total base bid.
2. Bidder's qualifications.
3. Major Subcontractor Listing.

The following is a list of names and addresses for all persons, firms, and corporations, other than the CONTRACTOR, subcontractors and suppliers who have a financial interest in the above bid: \_\_\_\_\_

---

If Bidder is a corporation, give name of state of incorporation:

---

If Bidder is a partnership, give names of all partners:

Respectfully submitted:

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

By \_\_\_\_\_  
(Signature and Title)

By \_\_\_\_\_  
(Signature and Title)

By \_\_\_\_\_  
(Signature and Title)

**END OF SECTION**

\*\*\*



SECTION 00420

**BIDDER'S QUALIFICATION STATEMENT**  
**(TO BE ATTACHED TO THE BID)**

**Submitted by:**

Name of Organization \_\_\_\_\_

Name of Individual \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_

**Submitted to:**

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_

Project Name and Description (if applicable)

\_\_\_\_\_

\_\_\_\_\_

**Contractor's General Business Information**

Check if:  
 Corporation     Partnership     Joint Venture     Sole Proprietorship

**If Corporation:**

a.    Date and State of Incorporation

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



b. List of Executive Officers

Name

Title

---

---

---

**If Partnership:**

a. Date and State of Organization

---

---

b. Names of Current General Partners

---

---

c. Type of Partnership

General

Publicly Traded

Limited

Other (describe):

---

**If Joint Venture:**

a. Date and State of Organization

---

---

b. Name, Address and Form of Organization of Joint Venture Partners:  
(Indicate managing partner by an asterisk\*)

---

---

---

**If Sole Proprietorship:**

a. Date and State of Organization

---

---





b. Name and Address of Owner or Owners

---

---

---

---

1. On Schedule A, attached, list major engineered construction projects completed by this organization in the past five (5) years. (If joint venture list each participant's project separately.)
2. On Schedule B, attached, list current projects under construction by this organization. (If joint venture, list each participant's projects separately.)
3. Name of surety company and name, address, and telephone number of agent.

---

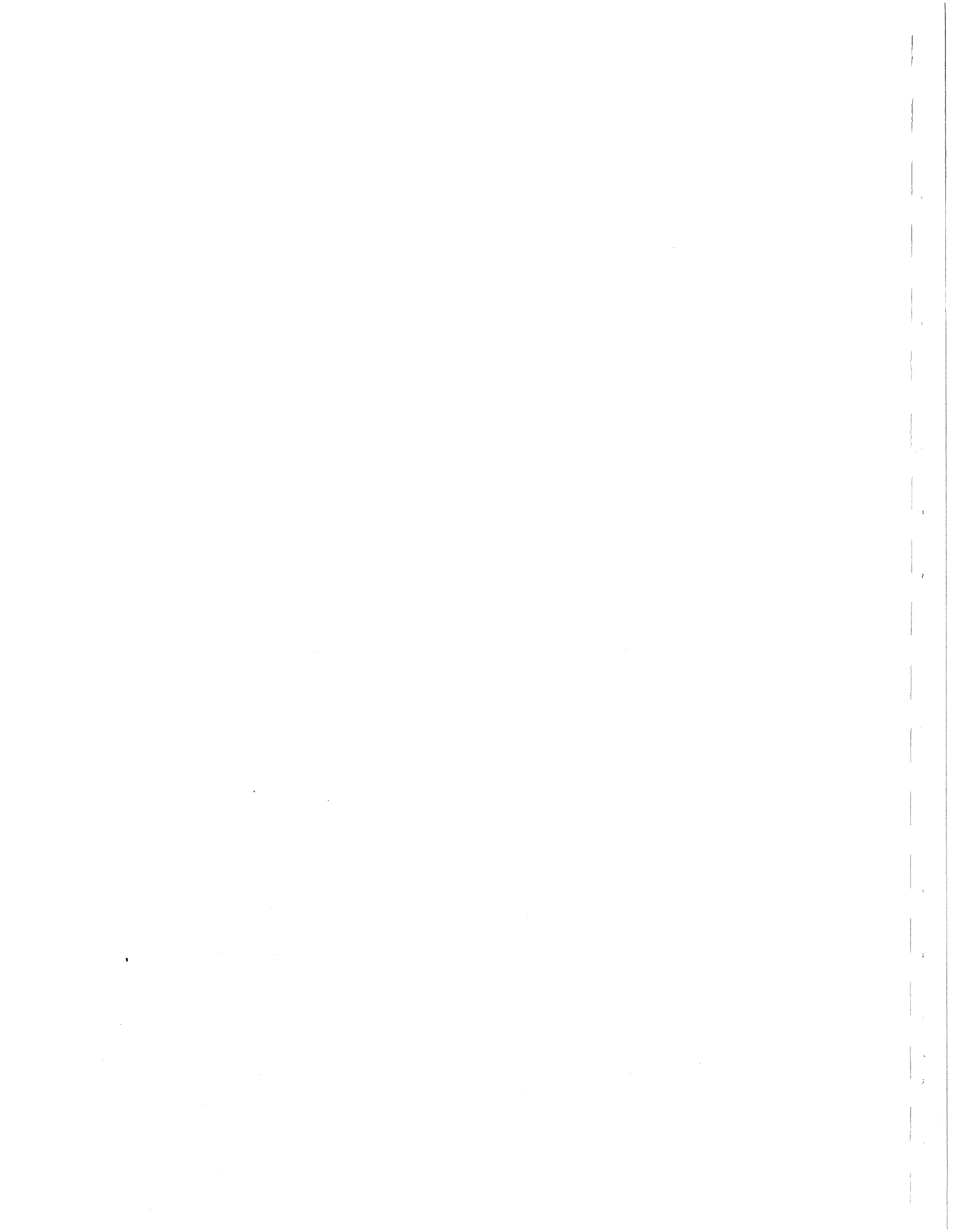
---

---

4. Is your organization a member of a controlled group of corporations as defined in I.R.C. Sect. 1563?  Yes  No
5. Furnish on Schedule C, attached, details of the construction experience of the principal individuals of your organization directly involved in construction operations.
6. Has your organization ever failed to complete any construction contract awarded to it?  Yes  No  
If yes, describe circumstances on attachment.
7. Has a Corporate officer, partner, joint venture participant, or proprietor ever failed to complete a construction contract awarded to him or her in their own name or when acting as a principal of another organization?  Yes  No
8. In the last five years, has your organization ever failed to substantially complete a project in a timely manner?  Yes  No  
If yes, describe circumstances on attachment.
9. Indicate general types of work performed with your own work force.

---

---



10. Furnish the following information with respect to an accredited institution familiar with your organization

Name of Bank \_\_\_\_\_

Address \_\_\_\_\_

Account Manager \_\_\_\_\_

Telephone \_\_\_\_\_

I hereby certify that the information submitted herewith, including any attachment is true to the best of my knowledge and belief.

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

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

Dated: \_\_\_\_\_



HKB GO-30 (7-92)00420-5

# SCHEDULE A - PREVIOUS 5 YEARS PROJECTS

Name, Location and  
Description of Project

Owner

Reference/Contact

Include Address and Phone

Design Engineer   Date Complete   Contract Price



HKB GO-30 (7-92)00420-6

# SCHEDULE B - CURRENT PROJECTS

Name, Location and  
Description of Project

Owner

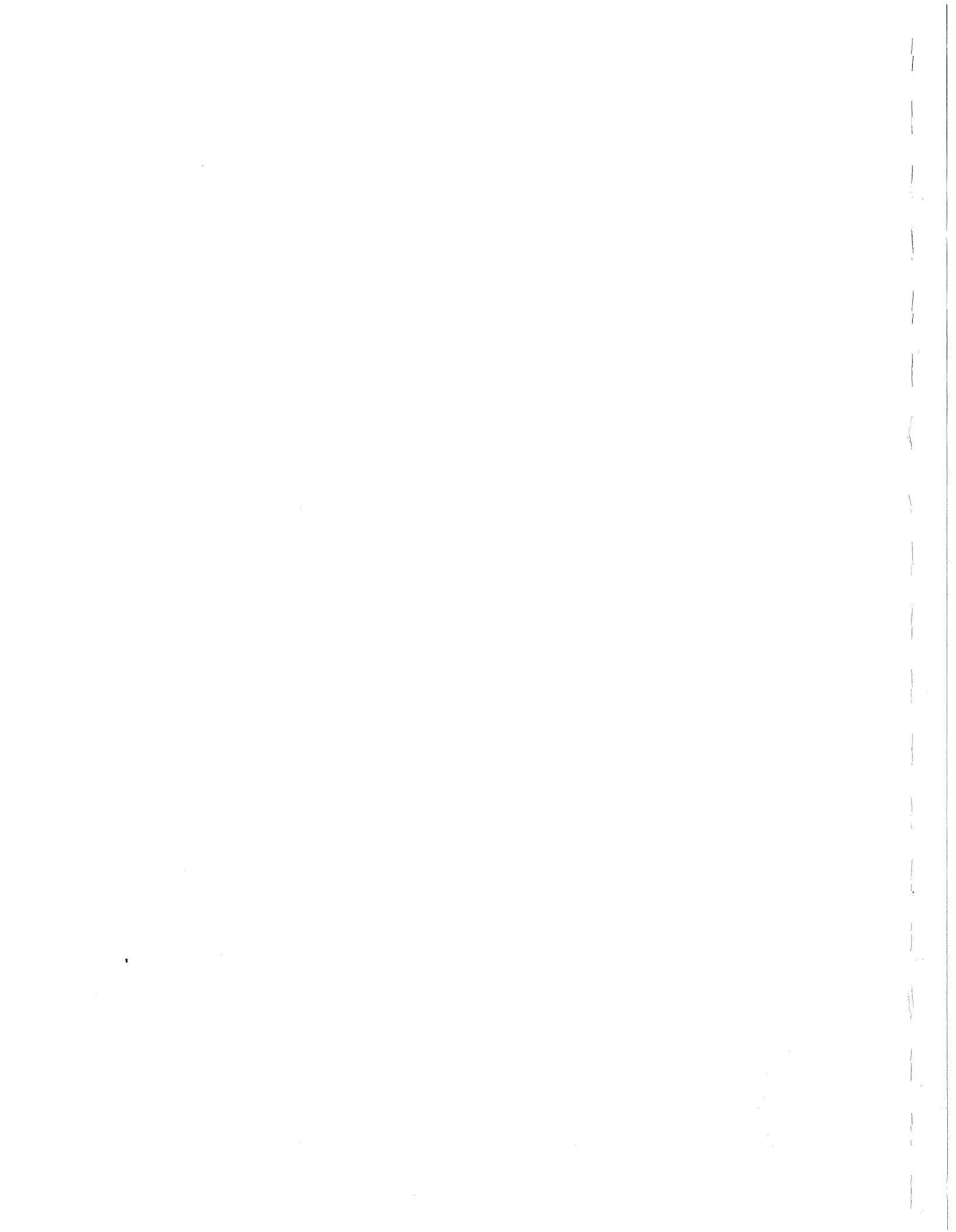
Reference/Contact

Include Address and Phone

Design Engineer

Date Complete

Contract Price





HKB GO-30 (7-92)00420-7

# SCHEDULE C - PERSONNEL

<u>Name</u>	<u>Position</u>	<u>Date started with this organization</u>	<u>Date started in construction</u>	<u>Prior positions and experience in construction</u>
-------------	-----------------	--	-------------------------------------	---



HKB GO-30 (7-92)00420-8

# SCHEDULE D - EQUIPMENT TO BE UTILIZED FOR THE CONSTRUCTION OF CONTRACT 519-06-02

<u>Type of Equipment</u>	<u>Make</u>	<u>Model</u>	<u>Year</u>	<u>Hours/Miles on Equipment</u>
--------------------------	-------------	--------------	-------------	---------------------------------

Note 1: Contractors shall list all equipment they own that will be utilized for the Construction of Contract 519-06-02. This schedule is to be attached to the Bidder's Qualification Statement and submitted with the Contractor's bid.



**SECTION 00500  
CONTRACT AGREEMENT**

THIS AGREEMENT is dated as of the \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_ in the year 2006 by and between Letcher County Water and Sewer  
District, P.O. Box 827, 156 Main Street, Whitesburg, Kentucky 41858  
(hereinafter called the OWNER) and \_\_\_\_\_  
\_\_\_\_\_  
(hereinafter called the CONTRACTOR).

The OWNER and the CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

1. WORK

The CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Water System Improvements - Little Cowan  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

<u>Contract 519-06-02</u>	<u>Water System Improvements</u>
	<u>Little Cowan</u>
	<u>Letcher County Water and Sewer District</u>
	<u>Letcher County, Kentucky</u>
	_____

2. ENGINEER

The Project has been designed by Bell Engineering, 354 Waller Avenue, Lexington, Kentucky 40504, who is hereinafter called the ENGINEER and who is to act as the OWNER'S representative, assume all duties and responsibilities and have the rights and authority assigned to the ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.



519-06-02 (08/06)

5.2 Final Payment. Upon final completion and acceptance of the Work in accordance with paragraph 19.4 of the General Conditions the OWNER shall pay the remainder of the Contract Price as recommended by the ENGINEER as provided in said paragraph 19.4.

6. EXTRA WORK

The OWNER, without invalidating the Contract, may order extra work or make changes by altering, adding to, or deducting from the Work, as provided in the Contract Documents. If the change requires an adjustment in the Contract Price then all such work shall be executed and paid for in accordance with the article entitled "Changes in the Work" of the General Conditions, which is a part of this Contract with the Contract sum being adjusted accordingly.

7. SPECIAL NOTICE

Bidders having been required to inform themselves fully of the conditions relating to construction and labor under which the work will be or is now being performed, this CONTRACTOR shall employ, as far as possible, such methods and means in carrying out his work as will not cause any interference or interruption with any other CONTRACTOR.

8. THE CONTRACT DOCUMENTS

The Advertisement for Bids, Information for Bidders, General Conditions, Supplemental General Conditions, Labor Regulations, Performance Bond and Labor and Material Payment Bond, Special Conditions, Specifications, Contractor's Bid, Drawings, Addenda, and all written amendments delivered or issued after the effective date of the Agreement (not attached hereto) which amend, modify, or supplement the Contract Documents pursuant to paragraphs 13.1 and 13.2 of the General Conditions, together with the Contract Agreement, form the Contract and they are as fully a part of the Contract as if hereto attached or herein repeated.

The following is an enumeration of the Specifications and Drawings:

SPECIFICATIONS





SECTION 00610  
PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

\_\_\_\_\_  
(Name of CONTRACTOR)

\_\_\_\_\_  
(Address of CONTRACTOR)

a \_\_\_\_\_, as Principal,  
(Corporation, Partnership or Individual)

hereinafter called Principal, and \_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Address of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto \_\_\_\_\_

Letcher County Water and Sewer District  
(Name of OWNER)

P.O. Box 827, 156 Main Street, Whitesburg, Kentucky 41858  
(Address of OWNER)

as Obligee, hereinafter called OWNER, in the amount of \_\_\_\_\_  
Dollars (\$ \_\_\_\_\_)

for the payment whereof Principal and Surety bind themselves, their heirs, executors,  
administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated \_\_\_\_\_ 2006  
entered into a Contract with OWNER for \_\_\_\_\_

\_\_\_\_\_

in accordance with Drawings and Specifications prepared by Bell Engineering,  
354 Waller Avenue, Lexington, Kentucky 40504  
(Here insert full name, title and address)

which Contract is by reference made a part hereof, and is hereinafter referred to as the  
Contract.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

519-06-02 (08/06)

IN WITNESS WHEREOF, this instrument is executed in 7 counterparts,  
(number)  
each one of which shall be deemed an original, this the \_\_\_\_\_ day of  
\_\_\_\_\_, 2006.

ATTEST:

\_\_\_\_\_  
Principal

(Principal) Secretary

(SEAL)

By \_\_\_\_\_ (s)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
Witness as to Principal

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
Surety

ATTEST:

By \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_  
(Surety) Secretary

\_\_\_\_\_  
(Address)

(SEAL)

\_\_\_\_\_  
Witness as to Surety

\_\_\_\_\_  
(Address)

NOTE: Date of Bond must not be prior to date of Contract. If CONTRACTOR is Partnership, all partners should execute bond.

IMPORTANT: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the project is located.

END OF SECTION

\*\*\*



SECTION 00620

LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

\_\_\_\_\_  
(Name of CONTRACTOR)

\_\_\_\_\_  
(Address of CONTRACTOR)

a \_\_\_\_\_, as Principal, (Corporation, Partnership or Individual)  
hereinafter called the Principal, and \_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Address of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto \_\_\_\_\_

\_\_\_\_\_  
(Name of OWNER)

\_\_\_\_\_  
(Address of OWNER) as,

Obligee, hereinafter called OWNER, for the use and benefit of claimants as hereinafter  
defined, in the amount of \_\_\_\_\_  
Dollars, (\$ \_\_\_\_\_)

for the payment whereof Principal and Surety bind themselves, their heirs, executors,  
administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated \_\_\_\_\_ 2006  
entered into a Contract with OWNER for \_\_\_\_\_

\_\_\_\_\_

in accordance with Drawings and Specifications prepared by Bell Engineering,  
354 Waller Avenue, Lexington, Kentucky 40504  
(Here insert full name, title and address)

which Contract is by reference made a part hereof, and is hereinafter referred to as the  
Contract.



IN WITNESS WHEREOF, this instrument is executed in 7 counterparts,  
(number)  
each one of which shall be deemed an original, this the \_\_\_\_\_ day of  
\_\_\_\_\_, 2006.

ATTEST:

\_\_\_\_\_  
(Principal) Secretary

\_\_\_\_\_  
Principal

(SEAL)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
Witness as to Principal  
(Address)

\_\_\_\_\_  
Surety

ATTEST:

By \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_  
(Surety) Secretary

(SEAL)

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

\_\_\_\_\_  
Witness as to Surety

\_\_\_\_\_  
(Address)

NOTE: Date of Bond must not be prior to date of Contract. If CONTRACTOR is Partnership, all partners should execute bond.

IMPORTANT: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the project is located.

END OF SECTION

\*\*\*





SECTION 00700

THE GENERAL CONDITIONS

1. DEFINITIONS

1.1 Whenever used in these General Conditions or in the Contract Documents the following terms have the meanings indicated which are applicable to both the singular and plural thereof.

1.2 Addenda

Written or graphic instruments issued prior to the opening of bids which clarify, correct or change the bidding documents or the Contract Documents.

1.3 Agreement

The written Agreement between the OWNER and the CONTRACTOR covering the Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof as provided therein.

1.4 Application for Payment

The form accepted by the ENGINEER which is to be used by the CONTRACTOR in requesting progress or final payments and which is to include such supporting documentation as is required by the Contract Documents.

1.5 Bid

The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

1.6 Bidder

Any person, firm or corporation submitting a bid for the Work.

1.7 Bonds

Bid, Performance and Payment Bonds, and other instruments of security.

1.8 Change Order

A document recommended by the ENGINEER, which is signed by the CONTRACTOR and the OWNER and authorizes an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Time, issued on or after the Effective Date of the Agreement.

1.9 Contract Documents

The Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR'S Bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Bonds, these General Conditions, the Supplemental General Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all amendments, modifications and supplements issued on or after the Effective Date of the Agreement.

1.10 Contract Price

The moneys payable by the OWNER to the CONTRACTOR under the Contract Documents as stated in the Agreement.

1.11 Contract Time

The number of calendar days or the date stated in the Agreement for the full completion of the Work.

1.12 CONTRACTOR

The person, firm or corporation with whom the OWNER has entered into the Agreement.

1.13 Defective

An adjective which when modifying the word "Work" refers to Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to the ENGINEER'S recommendation of final payment.

1.14 Drawings

The Drawings which show the character and scope of the Work to be performed and which have been prepared or accepted by the ENGINEER and are referred to in the Contract Documents.

1.15 Effective Date of Agreement

The date indicated in the Agreement on which it becomes effective, but if no such date is indicated it means the date on which the Agreement is signed and delivered by the last of the 2 parties to sign and deliver.

1.16 ENGINEER

The person, firm or corporation named as such in the Agreement.

519-06-02 (08/06)

1.17 Field Order

A written order issued by the ENGINEER which orders minor changes in the Work in accordance with paragraph 13.2 but which does not involve a change in the Contract Price or the Contract Time.

1.18 Laws and Regulations; Laws or Regulations

Laws, rules, regulations, ordinances, codes, and/or orders.

1.19 Notice of Award

The written notice by the OWNER to the apparent successful bidder stating that upon compliance by the apparent successful Bidder with the conditions precedent enumerated herein, within the time specified, the OWNER will sign and deliver the Agreement.

1.20 Notice to Proceed

A written notice given by the OWNER to the CONTRACTOR (with a copy to the ENGINEER) fixing the date on which the Contract Time will commence to run and on which the CONTRACTOR shall start to perform the CONTRACTOR'S obligations under the Contract Documents.

1.21 OWNER

The public body or authority, corporation, association, firm or person with whom the CONTRACTOR has entered into the Agreement and for whom the Work is to be provided.

1.22 Partial Utilization

Placing a portion of the Work in service for the purpose for which it is intended (or a related purpose) before reaching Completion for all the Work.

1.23 Project

The total construction of which the Work to be provided under the Contract Documents may be the whole, or a part as indicated elsewhere in the Contract Documents.

1.24 Resident Project Representative

The authorized representative of the ENGINEER who is assigned to the site or any part thereof.

1.25 Shop Drawings

All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for the CONTRACTOR to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a Supplier and submitted by the CONTRACTOR to illustrate material or equipment for some portion of the Work.

1.26 Special Conditions

Additional instructions to the Bidder and special construction requirements.

1.27 Specifications

Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

1.28 Subcontractor

An individual, firm or corporation having a direct contract with the CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the site.

1.29 Substantial Completion

The Work (or a specified part thereof) has progressed to the point where, in the opinion of the ENGINEER, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to any Work refers to Substantial Completion thereof.

1.30 Supplemental General Conditions

The part of the Contract Documents which amends or supplements these General Conditions as considered appropriate by the ENGINEER or as required by a Federal agency for participation in the Project and approved by the agency in writing prior to inclusion in the Contract Documents.

1.31 Supplier

A manufacturer, fabricator, supplier, distributor, materialman or vendor.

1.32 Underground Facilities

All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials; electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

1.33 Unit Price Work

Work to be paid for on the basis of unit prices.

1.34 Work

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

1.35 Written Notice

Any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at his last given address, or delivered in person to said party or his authorized representative on the Work.

2. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

2.1 The CONTRACTOR may be furnished additional instructions and detail drawings, by the ENGINEER, as necessary to carry out the work required by the Contract Documents.

2.2 The additional drawings and instructions thus supplied will become a part of the Contract Documents. The CONTRACTOR shall carry out the work in accordance with the additional detail drawings and instructions.

3: SCHEDULES, REPORTS AND RECORDS

3.1 The CONTRACTOR shall, within 5 days after the Work commences on the Contract or another period of time determined by the OWNER/ENGINEER, prepare and submit to the OWNER/ENGINEER:

3.1.1 Three copies of a practicable schedule showing the order in which the CONTRACTOR proposes to perform the Work, and the dates on which the CONTRACTOR contemplates starting and completing the several salient features of the Work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of Work scheduled for completion by any given date during the period. If the CON-

519-06-02 (08/06)

TRACTOR fails to submit a schedule within the time prescribed, the OWNER/ENGINEER may withhold approval of progress payments until the CONTRACTOR submits the required schedule.

The CONTRACTOR shall enter the actual progress on the chart at the end of each month during the construction period and upon doing so shall immediately deliver 3 copies of the annotated schedule to the OWNER/ENGINEER.

If the CONTRACTOR falls behind the progress schedule, the CONTRACTOR shall take such steps as may be necessary to improve the progress. Such steps may include increasing the number of shifts, overtime operations, days of work, amount of construction plant, or all of them, and to submit for review any supplementary schedule or schedules in chart form necessary to demonstrate the manner in which the agreed rate of progress will be regained, all without additional cost to the OWNER.

Failure of the CONTRACTOR to prosecute the Work with sufficient diligence to ensure completion within the time specified in the Contract, or failure of the CONTRACTOR to take necessary steps to improve the CONTRACTOR'S progress should it fall behind the CONTRACTOR's schedule shall be grounds for the OWNER to terminate the CONTRACTOR'S right to proceed with the Work, or any separate part of it, in accordance with the terms of the Contract.

3.1.2 A schedule of Shop Drawing submissions acceptable to the ENGINEER as providing a workable arrangement for processing the submissions, and

3.1.3 A schedule of values for all of the Work which will include quantities and prices of items aggregating the Contract Price and will subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. The schedule of values must be acceptable to the ENGINEER as to form and substance.

3.2 The CONTRACTOR shall also submit a schedule of payments that the CONTRACTOR anticipates the CONTRACTOR will earn during the course of the Work.

#### 4. DRAWINGS

4.1 The Contract Documents comprise the entire Agreement between the OWNER and the CONTRACTOR concerning the Work. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the law of the Commonwealth of Kentucky.

4.2 It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any Work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe Work, materials or equipment such words shall be interpreted in accordance with that meaning. Reference to Standard

Specifications, manuals or codes of any technical society, organization or association, or to the Laws or Regulations of any governmental authority, whether such reference be specific or by implication, shall mean the specific referenced standard specification, manual, code or Laws or Regulations or the latest standard specification, manual, code or law or Regulations in effect at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of the OWNER, CONTRACTOR or ENGINEER, or any of their consultants, agents or employees from those set forth in the Contract Documents, nor shall it be effective to assign to the ENGINEER, or any of the ENGINEER'S consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to any of the provisions of the Contract Documents. Clarifications and interpretations of the Contract Documents shall be issued by the ENGINEER as provided in paragraph 27.4.

4.3 In case of conflict between the Drawings and Specifications, the Specifications shall govern unless specifically noted to the contrary in the Drawings. Figure dimensions on Drawings shall govern over scale dimensions, and detailed drawings shall govern over general drawings.

4.4 If, during the performance of the Work, the CONTRACTOR finds any discrepancy, conflict, or ambiguity in the Contract Documents, the CONTRACTOR shall immediately report to the ENGINEER in writing and before proceeding with the work affected thereby shall obtain a written interpretation or clarification from the ENGINEER. Work done by the CONTRACTOR after his discovery of such discrepancy, conflict, or ambiguity shall be done at the CONTRACTOR'S risk.

## 5. SHOP DRAWINGS AND OPERATION AND MAINTENANCE INSTRUCTIONS

5.1 After checking and verifying all field measurements and after complying with applicable procedures specified in the Contract Documents, the CONTRACTOR shall submit to the ENGINEER for review in accordance with the accepted schedule of Shop Drawing submissions (see paragraph 3.1.2), Shop Drawings which will bear the stamp or specific written indication that the CONTRACTOR has satisfied the CONTRACTOR'S responsibilities under the Contract Documents with respect to the review of the submission. All submissions will be identified as the ENGINEER may require. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable the ENGINEER to review the information as required. Partial Shop Drawing submittals for an equipment package will not be reviewed by the ENGINEER until the submittal is complete. For a Shop Drawing submittal to be considered complete, it must contain information for the specified equipment, all accessories and electric motors.

5.2 Electric motors are specified in Division 16 - Electrical. The minimum acceptable information to be submitted on electric motors includes brand, voltage ratings, insulation class, rpm, horsepower, enclosure, phase, temperature rise above 40 degrees Celsius ambient and performance data (efficiency and power factor at various loadings).

5.3 The CONTRACTOR shall also submit to the ENGINEER for review with such promptness as to cause no delay in the Work, all samples required by the Contract Documents. All samples will have been checked by and accompanied by a specific written indication that the CONTRACTOR has satisfied the CONTRACTOR'S responsibilities under the Contract Documents with respect to the review of the submission and will be identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which intended.

5.4 Before submission of each Shop Drawing or sample, the CONTRACTOR shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed or coordinated each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the Work and the Contract Documents.

5.5 At the time of each submission, the CONTRACTOR shall give the ENGINEER specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract Documents, and in addition, shall cause a specific notation to be made on each Shop Drawing submitted to the ENGINEER for review of each such variation.

5.6 The ENGINEER will review with reasonable promptness Shop Drawings and samples, but the ENGINEER'S review will be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents, and shall not extend to means, methods, techniques, sequences or procedures of construction. The review of a separate item as such will not indicate approval of the assembly in which the item functions. The CONTRACTOR shall make corrections required by the ENGINEER, and shall return the required number of corrected copies of Shop Drawings and submit as required new samples for review. The CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by the ENGINEER on previous submittals.

5.7 The ENGINEER'S review of Shop Drawings or samples shall not relieve the CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless the CONTRACTOR has in writing called the ENGINEER'S attention to each such variation at the time of submission as required by paragraph 5.5 and the ENGINEER has given written permission of each such variation by a specific written notation thereof incorporated in or accompanying the Shop Drawing or sample review. The review of Shop Drawings by the ENGINEER shall not relieve the CONTRACTOR from the CONTRACTOR'S responsibility with regard to the fulfillment of the terms of the Contract. All risks of error and omission are assumed by the CONTRACTOR and the ENGINEER will have no responsibility therefore.



5.8 Where a Shop Drawing or sample is required by the Specifications, any related Work performed prior to the ENGINEER'S review of the pertinent submission will be the sole expense and responsibility of the CONTRACTOR. A copy of each reviewed Shop Drawing and each reviewed sample shall be kept in good order by the CONTRACTOR at the site and shall be available to the ENGINEER.

5.9 The Manufacturer's operation and maintenance instructions shall be submitted for all equipment requested in the various specification groups. The instructions shall be complete for each equipment item including instructions for all accessories and electric motors. O&M instructions shall be submitted with Shop Drawings if possible; otherwise they shall be submitted as soon as possible after the ENGINEER'S review of Shop Drawings. At the 50 percent completion point of the Project, the OWNER'S decision whether to reduce the retainage will be based in part on the completeness of the O&M instruction submittals.

5.10 The number of copies of Shop Drawings and operation and maintenance instructions required is listed in groups in the Section 01300 article titled Submittals.

## 6. MATERIALS, SERVICES AND FACILITIES

6.1 Unless otherwise specified in the Contract Documents, the CONTRACTOR shall furnish and assume full responsibility for all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, testing, startup and completion of the Work within the specified time.

6.2 Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the Work. Stored materials and equipment to be incorporated in the Work shall be located so as to facilitate prompt inspection.

6.3 All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents; but no provision of any such instructions will be effective to assign to the ENGINEER, or any of the ENGINEER'S consultants, agents, or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 27.15 or 27.16.

6.4 Materials, supplies and equipment shall be in accordance with samples submitted by the CONTRACTOR and accepted by the ENGINEER.

6.5 Materials, supplies or equipment to be incorporated into the Work shall not be purchased by the CONTRACTOR or the Subcontractor subject to a chattel mortgage or under a conditional sale Contract or other Agreement by which an interest is retained by the seller.

7. INSPECTION AND TESTING

7.1 The ENGINEER and the ENGINEER'S representatives, other representatives of the OWNER, testing agencies and governmental agencies with jurisdictional interests will have access to the Work at reasonable times for their observation, inspecting and testing. The CONTRACTOR shall provide proper and safe conditions for such access.

7.2 The CONTRACTOR shall give the ENGINEER timely notice of readiness of the Work for all required inspections, tests, approvals or observations.

7.3 If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) to specifically be inspected, tested or approved, the CONTRACTOR shall assume full responsibility therefore, pay all costs in connection therewith and furnish the ENGINEER the required certificates of inspection, testing or approval. The CONTRACTOR shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with the OWNER'S or the ENGINEER'S acceptance of a Supplier of materials or equipment proposed to be incorporated in the Work, or of materials or equipment submitted for review prior to the CONTRACTOR'S purchase thereof for incorporation in the Work. The cost of all inspections, tests and approvals in addition to the above which are required by the Contract Documents shall be paid by the OWNER (unless otherwise specified).

7.4 All inspections, tests or approvals other than those required by Laws or Regulations of any public body having jurisdiction shall be performed by organizations acceptable to the OWNER and the CONTRACTOR (or by the ENGINEER if so specified).

7.5 Neither observations by the ENGINEER nor inspections, tests or approvals by others shall relieve the CONTRACTOR from the CONTRACTOR'S obligations to perform the Work in accordance with the Contract Documents.

7.6 If any Work is covered contrary to the ENGINEER'S request or to requirements specifically expressed in the Contract Documents, the work must, if requested by the ENGINEER be uncovered for the ENGINEER'S observation and be replaced at the Contractor's expense without change in the Contract Time.

7.7 If the ENGINEER considers it necessary or advisable that covered Work be observed by the ENGINEER or inspected or tested by others, the CONTRACTOR, at the ENGINEER'S request, shall uncover, expose or otherwise make available for observation, inspection or testing as the ENGINEER may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, the CONTRACTOR shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction. If, however, such Work is not found to be defective, the CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction and an appropriate Change Order shall be issued.

## 8. SUBSTITUTIONS

8.1 Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other Suppliers may be accepted by the ENGINEER if sufficient information is submitted by the CONTRACTOR to allow the ENGINEER to determine that the material or equipment proposed is equivalent or equal to that named. The procedure for review by the ENGINEER will include the following as supplemented in the detailed Specifications. Requests for review of substitute items of material and equipment will not be accepted by the ENGINEER from anyone other than the CONTRACTOR. If the CONTRACTOR wishes to furnish or use a substitute item of material or equipment, the CONTRACTOR shall make written application to the ENGINEER for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application will state that the evaluation and acceptance of the proposed substitute will not prejudice the CONTRACTOR'S achievement of Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with the OWNER for work on the Project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which shall be considered by the ENGINEER in evaluating the proposed substitute. The ENGINEER may require the CONTRACTOR to furnish, at the CONTRACTOR'S expense, additional data about the proposed substitute.

8.2 The ENGINEER will be allowed a reasonable time within which to evaluate each proposed substitute. The ENGINEER will be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without the ENGINEER'S prior written acceptance which will be evidenced by either a Change Order or an acceptable Shop Drawing. The OWNER may require the CONTRACTOR to furnish at the CONTRACTOR'S expense a special performance guarantee or other surety with respect to any substitute. The ENGINEER will record time required by the ENGINEER and the ENGINEER'S consultants in evaluating substitutions proposed by the CONTRACTOR and in making changes in the Contract Documents occasioned thereby. Whether or not the ENGINEER accepts a proposed substitute, the CONTRACTOR shall reimburse the OWNER for the charges of the ENGINEER and the ENGINEER'S consultants for evaluating each proposed substitute.

9. PATENTS

9.1 The CONTRACTOR shall pay all license fees and royalties and assume all costs incidental to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of the OWNER or the ENGINEER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by the OWNER in the Contract Documents. The CONTRACTOR shall indemnify and hold harmless the OWNER and the ENGINEER and anyone directly or indirectly employed by either of them from and against all claims, damages, losses and expenses (including attorneys' fees and court and arbitration costs) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product or device not specified in the Contract Documents, and shall defend all such claims in connection with any alleged infringement of such rights.

10. SURVEYS, PERMITS AND REGULATIONS

10.1 The OWNER shall provide engineering surveys to establish reference points for construction which in the ENGINEER'S judgment are necessary to enable the CONTRACTOR to proceed with the Work. The CONTRACTOR shall be responsible for laying out the Work (unless otherwise specified in the Contract Documents), shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of the OWNER. The CONTRACTOR shall report to the ENGINEER whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points by professionally qualified personnel.

10.2 Unless otherwise provided in the Supplemental General Conditions, the CONTRACTOR shall obtain and pay for all construction permits and licenses. The OWNER shall assist the CONTRACTOR, when necessary, in obtaining such permits and licenses. The CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or if there are no Bids on the Effective Date of the Agreement. The CONTRACTOR shall pay all charges of utility owners for connections to the Work, and the OWNER shall pay all charges of such utility owners for capital costs related thereto such as plant investment fees.

10.3 The CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to furnishing and performance of the Work. Neither the OWNER nor the ENGINEER shall be responsible for monitoring the CONTRACTOR'S compliance with any Laws or Regulations.

10.4 If the CONTRACTOR observes that the Specifications or Drawings are at variance with any Laws or Regulations, the CONTRACTOR shall give the ENGINEER prompt written notice thereof, and any necessary changes will be authorized by one of

the methods indicated in paragraphs 13.1 and 13.2. If the CONTRACTOR performs any Work knowing or having reason to know that it is contrary to such Laws or Regulations, and without such notice to the ENGINEER, the CONTRACTOR shall bear all costs arising therefrom.

11. PROTECTION OF WORK PROPERTY AND PERSONS

11.1 The CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees on the Work and other persons who may be affected thereby, all the work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and underground facilities not designated for removal, relocation or replacement in the course of construction.

11.2 The CONTRACTOR shall comply with all applicable Laws and Regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. The CONTRACTOR shall notify owners of adjacent property and of Underground Facilities and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property. All damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the CONTRACTOR, any Subcontractor, Supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by the CONTRACTOR. The CONTRACTOR'S duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed.

11.3 The CONTRACTOR shall designate a responsible representative at the site whose duty shall be the prevention of accidents. This person shall be the CONTRACTOR'S superintendent unless otherwise designated in writing by the CONTRACTOR to the OWNER.

11.4 In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the ENGINEER or OWNER, is obligated to act to prevent threatened damage, injury or loss. The CONTRACTOR shall give the ENGINEER prompt written notice if the CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If the ENGINEER determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order will be issued to document the consequences of the changes or variations.

12. SUPERVISION BY CONTRACTOR

12.1 The CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. The CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. The CONTRACTOR shall be responsible to see that the finished Work complies accurately with the Contract Documents.

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

13. CHANGES IN THE WORK

13.1 Without invalidating the Agreement and without notice to any surety, the OWNER may, at any time or from time to time, order additions, deletions or revisions in the Work. If such changes increase or decrease the amount due under the Contract Documents, or in the time required for performance of the Work, an equitable adjustment shall be authorized by Change Order.

13.2 The ENGINEER, also, may at any time, by issuing a field order, make changes in the details of the Work. The CONTRACTOR shall proceed with the performance of any change in the Work so ordered by the ENGINEER unless the CONTRACTOR believes that such field order entitles him to a change in Contract Price or Time, or both, in which event he shall give the ENGINEER written notice thereof within 15 days after the receipt of the ordered change, and the CONTRACTOR shall not execute such changes pending the receipt of an executed Change Order or further instruction from the OWNER.

13.3 The OWNER and CONTRACTOR shall execute appropriate Change Orders covering:

13.3.1 Changes in the Work which are ordered by the OWNER;

13.3.2 Changes in the Contract Price or Contract Time which are agreed to by the OWNER and CONTRACTOR; and

13.3.3 Changes in the Contract Price or Contract Time resulting from a field order issued by the ENGINEER which is subsequently determined to entitle the CONTRACTOR to a change in the Contract Price or Contract Time.

13.4 If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Time) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be the CONTRACTOR'S responsibility, and the amount of each applicable Bond will be adjusted accordingly.

14. CHANGES IN CONTRACT PRICE

14.1 The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to the CONTRACTOR for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by CONTRACTOR shall be at his expense without change in the Contract Price.

14.2 The Contract Price may only be changed by a Change Order. Any claim for an increase or decrease in the Contract Price shall be based on written notice delivered by the party making the claim to the other party and to the ENGINEER promptly (but in no event later than 15 days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within 30 days after such occurrence (unless the ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the amount claimed covers all known amounts (direct, indirect and consequential) to which the claimant is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Price shall be determined by the ENGINEER if the OWNER and CONTRACTOR cannot otherwise agree on the amount involved. No claim for an adjustment in the Contract Price including specifically any claim for delay damages will be valid unless submitted in accordance with this paragraph 14.2.

14.3 The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

14.3.1 Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.

14.3.2 By mutual acceptance of a lump sum.

14.3.3 On the basis of the Cost of the Work plus a CONTRACTOR'S Fee for overhead and profit (determined as provided in paragraph 14.4).

14.4 The term Cost of the Work means the sum of the actual cost for labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the work. In addition, there shall be added an amount to be agreed upon but not to exceed 15 percent of the actual cost of the Work to cover the cost of general overhead and profit. In the case of a change involving a subcontract the total add for general overhead and profit for both the Subcontractor and the CONTRACTOR shall not exceed 20 percent of the actual cost of the Work.

15. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

15.1 The date of beginning and the time for full completion of the Work are essential conditions of the Contract Documents and the Work embraced shall be commenced on a date specified in the Notice to Proceed.

15.2 The CONTRACTOR shall proceed with the Work at such rate of progress to insure full completion within the Contract Time. It is expressly understood and agreed, by and between the CONTRACTOR and the OWNER, that the Contract Time for completion of the Work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the Work.

15.3 The Contract Time may only be changed by a Change Order. Any claim for an adjustment of the Contract Time shall be based on written notice delivered by the party making the claim to the other party and to the ENGINEER promptly (but in no event later than 15 days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within 30 days after such occurrence (unless the ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Time shall be determined by the ENGINEER if the OWNER and CONTRACTOR cannot otherwise agree. No claim for an adjustment in the Contract Time will be valid if not submitted in accordance with the requirements of this paragraph 15.3.

15.4 Where the CONTRACTOR is prevented from completing any part of the Work within the Contract Time due to delay beyond the control of the CONTRACTOR, the Contract Time will be extended in an amount equal to the time lost due to such delay if a claim is made therefore as provided in paragraph 15.3. Delays beyond the control of the CONTRACTOR shall include, but not be limited to, acts or neglect by the OWNER, acts or neglect by utility owners or other contractors performing other work as contemplated by Article 25, fires, floods, epidemics, abnormal weather conditions or unforeseeable forces of nature. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of the CONTRACTOR.

15.5 Where the CONTRACTOR is prevented from completing any part of the Work within the Contract Time due to delay beyond the control of both the OWNER and the CONTRACTOR, an extension of the Contract Time in an amount equal to the time lost due to such delay shall be the CONTRACTOR's sole and exclusive remedy for such delay. In no event shall the OWNER be liable to the CONTRACTOR, any Subcontractor, any Supplier, any other person or organization, or to any surety for or employee or agent of any of them, for damages arising out of or resulting from (1) delays caused by or within the control of the CONTRACTOR, or (2) delays beyond the control of both parties including but not limited to fires, floods, epidemics, abnormal weather conditions, unforeseeable forces of nature, or acts or neglect by utility owners or other contractors performing other work as contemplated by Article 25.

15.6 If the CONTRACTOR shall fail to fully complete the Work or achieve Substantial Completion of the Work within the Contract time, or extension of time granted by the OWNER, then the CONTRACTOR will pay to the OWNER the amount for Liquidated Damages as specified in the Special Conditions for each calendar day that the CONTRACTOR shall be in default after the time stipulated in the Contract Docu-



ments. However, it is further agreed that even though the CONTRACTOR achieves Substantial Completion by the date established by the Agreement the OWNER will suffer financial loss due to the Work not being fully completed; therefore, the CONTRACTOR shall bear all additional costs for which the OWNER is responsible (including but not limited to, fees and charges of engineers, architects, attorneys and other professionals) but such charges shall not exceed the amount per calendar day for Liquidated Damages established by the Agreement until the Contract has been fully completed and final acceptance by the OWNER.

## 16. CORRECTION OF WORK

16.1 If required by the ENGINEER, the CONTRACTOR shall promptly, as directed, either correct all defective Work, whether or not fabricated, installed or completed, or if the Work has been rejected by the ENGINEER, remove it from the site and replace it with Work that is not defective. The CONTRACTOR shall bear all costs of correcting such defective Work, including additional testing and inspections and compensation for the ENGINEER's services and expenses made necessary thereby.

16.2 If the CONTRACTOR fails within a reasonable time after written notice of the ENGINEER to proceed to correct defective Work or to remove and replace rejected Work as required by the ENGINEER in accordance with paragraph 16.1, or if the CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if the CONTRACTOR fails to comply with any other provision of the Contract Documents, the OWNER may, after 10 days' written notice to the CONTRACTOR, correct and remedy any such deficiency. In exercising the rights and remedies under this paragraph the OWNER shall proceed expeditiously, to the extent necessary to complete corrective and remedial action. The OWNER may exclude the CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend the CONTRACTOR'S services related thereto, take possession of the CONTRACTOR'S tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or for which the OWNER has paid the CONTRACTOR but which are stored elsewhere. The CONTRACTOR shall allow the OWNER, the OWNER'S representatives, agents and employees such access to the site as may be necessary to enable the OWNER to exercise the rights and remedies under this paragraph. All direct, indirect and consequential costs of the OWNER in exercising such rights and remedies will be charged against the CONTRACTOR in an amount approved as to reasonableness by the ENGINEER, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and the OWNER shall be entitled to an appropriate decrease in the Contract Price. Such direct, indirect and consequential costs will include, but not be limited to, fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of the CONTRACTOR'S defective Work. The CONTRACTOR shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by the OWNER of the OWNER'S rights and remedies hereunder.

17. SUBSURFACE CONDITIONS

17.1 The CONTRACTOR shall promptly, and before such conditions are disturbed, except in the event of an emergency, notify the OWNER by written notice of:

17.1.1 Subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents; or

17.1.2 Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the Contract Documents.

17.2 The OWNER shall promptly investigate the conditions, and if the OWNER finds that such conditions do so materially differ and cause an increase or decrease in the cost of, or in the time required for, performance of the work, an equitable adjustment shall be made and the Contract Documents shall be modified by a Change Order. Any claim of the CONTRACTOR for adjustment hereunder shall not be allowed unless the CONTRACTOR has given the required written notice.

18. SUSPENSION OF WORK, TERMINATION AND DELAY

18.1 The OWNER may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than 90 days or such further time as agreed upon by the CONTRACTOR, by written notice to the CONTRACTOR and the ENGINEER which notice shall fix the date on which Work shall be resumed. The CONTRACTOR will resume that Work on the date so fixed. The CONTRACTOR will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension for which the CONTRACTOR makes an approved claim as provided in the Contract Documents.

18.2 The OWNER may terminate the Contract upon the occurrence of any one or more of the following events:

18.2.1 If the CONTRACTOR commences a voluntary case under any chapter of the Bankruptcy Code (Title 11, United States Code), as now or hereafter in effect, or if the CONTRACTOR takes any equivalent or similar action by filing a petition or otherwise under any other Federal or State law in effect at such time relating to the bankruptcy or insolvency;

18.2.2 If a petition is filed against the CONTRACTOR under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against the CONTRACTOR under any other Federal or State law in effect at the time relating to bankruptcy or insolvency;

18.2.3 If the CONTRACTOR makes a general assignment for the benefit of creditors;

519-06-02 (08/06)

18.2.4 If a trustee, receiver, custodian or agent of the CONTRACTOR is appointed under applicable law or under contract, whose appointment or authority to take charge of the property of the CONTRACTOR is for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of the CONTRACTOR'S creditors;

18.2.5 If the CONTRACTOR admits in writing an inability to pay its debts generally as they become due;

18.2.6 If the CONTRACTOR persistently fails to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 3.1 as revised from time to time);

18.2.7 If the CONTRACTOR repeatedly fails to make prompt payments to Subcontractors for labor, materials, or equipment;

18.2.8 If the CONTRACTOR repeatedly fails to make prompt payments to Suppliers for materials or equipment;

18.2.9 If the CONTRACTOR disregards Laws or Regulations of any public body having jurisdiction;

18.2.10 If the CONTRACTOR disregards the authority of the ENGINEER; or

18.2.11 If the CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents; the OWNER may, without prejudice to any other right or remedy, after giving the CONTRACTOR and Surety 10 days' written notice, terminate the services of the CONTRACTOR, exclude the CONTRACTOR from the site and take possession of the Work and of all the CONTRACTOR'S tools, appliances, construction equipment and machinery at the site and use the same to the full extent they could be used by the CONTRACTOR (without liability to the CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which the OWNER has paid the CONTRACTOR but which are stored elsewhere, and finish the Work as the OWNER may deem expedient. In such case, the CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct, indirect and consequential costs of completing the Work (including but not limited to, fees and charges of engineers, architects, attorneys and other professionals and court arbitration costs) such excess will be paid to the CONTRACTOR. If such costs exceed such unpaid balance, the CONTRACTOR shall pay the difference to the OWNER. Such costs incurred by the OWNER will be approved as to reasonableness by the ENGINEER and incorporated in a Change Order, but when exercising any rights or remedies under this paragraph the OWNER shall not be required to obtain the lowest price for the Work performed.

18.3 Where the CONTRACTOR'S services have been so terminated by the OWNER, the termination will not affect any rights or remedies of the OWNER against the CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due the CONTRACTOR by the OWNER shall not release the CONTRACTOR from liability.

18.4 Upon 10 days' written notice to the CONTRACTOR and the ENGINEER, the OWNER may, without cause and without prejudice to any other right or remedy, elect to abandon the Work and terminate the Agreement. In such case, the CONTRACTOR shall be paid for all Work executed and any expense sustained plus reasonable termination expenses, which will include, but not be limited to, direct, indirect and consequential costs (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals and court and arbitration costs).

18.5 If, through no act or fault of the CONTRACTOR, the Work is suspended for a period of more than 90 days by the OWNER or under an order of court or other public authority, or the ENGINEER fails to act on any Application for Payment within 30 days after it is submitted, or the OWNER fails for 30 days to pay the CONTRACTOR any sum finally determined to be due, then the CONTRACTOR may, upon 7 days' written notice to the OWNER and ENGINEER, terminate the Agreement and recover from the OWNER payment for all Work executed and any expense sustained plus reasonable termination expenses. In addition and in lieu of terminating the Agreement, if the ENGINEER has failed to act on an Application for Payment or the OWNER has failed to make any payment as aforesaid, the CONTRACTOR may upon 10 days' written notice to the OWNER and ENGINEER stop the Work until payment of all amounts then due. The provisions of this paragraph shall not relieve the CONTRACTOR of the obligations to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with the OWNER.

## 19. PAYMENTS TO CONTRACTOR

19.1 At least 20 days before each progress payment falls due (but not more often than once a month), the CONTRACTOR will submit to the ENGINEER for review a partial payment estimate filled out and signed by the CONTRACTOR covering the Work performed during the period covered by the partial payment estimate and accompanied by such supporting documentation as the ENGINEER may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the partial payment estimate shall also be accompanied by a bill of sale, invoice or other documentation warranting that the OWNER has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances (which are hereinafter in these General Conditions referred to as "Liens") and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect the OWNER'S interest therein, all of which will be satisfactory to the OWNER.

The ENGINEER will, within 10 days after receipt of each partial payment estimate, either indicate in writing his recommendation of payment and present the partial payment estimate to the OWNER, or return the partial payment estimate to the CONTRACTOR indicating in writing his reasons for refusing to recommend payment. In

the latter case, the CONTRACTOR may make the necessary corrections and resubmit the partial payment estimate. Ten days after presentation of the partial payment estimate with the ENGINEER'S recommendation, the amount recommended will become due and will be paid by the OWNER to the CONTRACTOR. The OWNER shall retain 10 percent of the amount of each payment until final completion and acceptance of all Work covered by the Contract Documents. The OWNER at any time, however, after 50 percent of the Work has been completed, if the OWNER finds that satisfactory progress is being made, may reduce retainage to 5 percent of the current and remaining estimates. On completion and acceptance of a part of the Work on which the price is stated separately in the Contract Documents, payment may be made in full, including retained percentages, less authorized deductions.

19.2 The request for payment may also include an allowance for the cost of such major materials and equipment which are suitably stored either at the site or at another location agreed to in writing.

19.3 The CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to the OWNER no later than the time of payment free and clear of all Liens. This provision shall not be construed as relieving the CONTRACTOR of the sole responsibility for the care and protection of the Work upon which payments have been made or the restoration of any damaged Work, or as a waiver of the right of the OWNER to require the fulfillment of all terms of the Contract Documents.

19.4 After the CONTRACTOR has fully completed the Work to the satisfaction of the ENGINEER and delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, marked-up record documents (if required) and other documents (all as required by the Contract Documents) and after the ENGINEER has indicated that the Work is acceptable, the CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents, together with complete and legally effective releases or waivers (satisfactory to the OWNER) of all Liens arising out of or filed in connection with the Work. In lieu thereof and as approved by the OWNER, the CONTRACTOR may furnish receipts or releases in full; an affidavit of the CONTRACTOR that the releases and receipts include all labor, services, material and equipment for which a Lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which the OWNER or the OWNER'S property might in any way be responsible, have been paid or otherwise satisfied; and consent of the Surety, if any, to final payment. If any Subcontractor or Supplier fails to furnish a release or receipt in full, the CONTRACTOR may furnish a Bond or other collateral satisfactory to the OWNER to indemnify the OWNER against any Lien.

19.5 If, on the basis of the ENGINEER'S observation of the Work during construction and final inspection, and the ENGINEER'S review of the final Application for Payment and accompanying documentation (all as required by the Contract Documents) the ENGINEER is satisfied that the Work has been completed and the CONTRACTOR'S other obligations under the Contract Documents have been fulfilled, the ENGINEER will, within 15 days after receipt of the final Application for Payment, indicate in writing the

ENGINEER'S recommendation of payment and present the Application to the OWNER for payment. Otherwise, the ENGINEER will return the Application to the CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case the CONTRACTOR shall make the necessary corrections and resubmit the Application. Thirty days after presentation to the OWNER of the Application and accompanying documentation, in appropriate form and substance, and with the ENGINEER'S recommendation and notice of acceptability, the amount recommended by the ENGINEER will become due and will be paid by the OWNER to the CONTRACTOR.

19.6 The CONTRACTOR shall indemnify and save the OWNER or the OWNER'S agents harmless from all claims growing out of the lawful demands of Subcontractors, laborers, workmen, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the Work. The CONTRACTOR shall, at the OWNER'S request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the CONTRACTOR fails to do so the OWNER may, after having notified the CONTRACTOR, either pay unpaid bills or withhold from the CONTRACTOR'S unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the CONTRACTOR shall be resumed, in accordance with the terms of the Contract Documents, but in no event shall the provisions of this sentence be construed to impose any obligations upon the OWNER to either the CONTRACTOR, his Surety, or any third party. In paying any unpaid bills of the CONTRACTOR, any payment so made by the OWNER shall be considered as a payment made under the Contract Documents by the OWNER to the CONTRACTOR and the OWNER shall not be liable to the CONTRACTOR for any such payments made in good faith.

19.7 The CONTRACTOR'S obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by the ENGINEER, nor the issuance of a certificate of Substantial Completion, nor any payment by the OWNER to the CONTRACTOR under the Contract Documents, nor any uses or occupancy of the Work or any part thereof by the OWNER, nor any act of acceptance by the OWNER nor any failure to do so, nor any review and approval of a Shop Drawing or sample submission, nor the issuance of a notice of acceptability by the ENGINEER, nor any correction of defective Work by the OWNER will constitute an acceptance of Work not in accordance with the Contract Documents or a release of the CONTRACTOR'S obligation to perform the Work in accordance with the Contract Documents (except as provided in paragraph 20.1).

## 20. ACCEPTANCE OF FINAL PAYMENT AS RELEASE

20.1 The acceptance by the CONTRACTOR of final payment shall be and shall operate as a release to the OWNER of all claims and all liability to the CONTRACTOR other than claims in stated amounts as may be specifically excepted by the CONTRACTOR for all things done or furnished in connection with this work and for every act and neglect of the OWNER and others relating to or arising out of the Work. Any payment, however, final or otherwise, shall not release the CONTRACTOR or his Sureties from any obligations under the Contract Documents or the Performance Bond and Payment Bond.

21. INSURANCE

21.1 The CONTRACTOR shall purchase and maintain at the CONTRACTOR'S expense for the full Contract Period such insurance as is appropriate for the Work being performed and furnished and as will provide protection from claims set forth below which may arise out of or result from the CONTRACTOR'S performance and furnishing of the Work and the CONTRACTOR'S other obligations under the Contract Documents, whether it is to be performed or furnished by the CONTRACTOR, by any Subcontractor, by anyone directly or indirectly employed by any of them to perform or furnish any of the Work, or by anyone for whose acts any of them may be liable.

21.1.1 Claims under worker's or workmen's compensation, disability benefits and other similar employee benefit acts;

21.1.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the CONTRACTOR'S employees;

21.1.3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the CONTRACTOR'S employees;

21.1.4 Claims for damages insured by customary personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the CONTRACTOR, or (2) by any other person for any other reason;

21.1.5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom;

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

21.2 The CONTRACTOR shall purchase and maintain at the CONTRACTOR'S expense for the full Contract Period separate bodily injury, personal injury and property damage insurance as will protect the OWNER against claims which may arise from operations under this Contract. The OWNER shall be named insured under such separate insurance.

21.3 The CONTRACTOR shall purchase and maintain at the CONTRACTOR'S expense for the full Contract Period Builder's Risk (or Installation Floater) Insurance providing "All Risk" physical damage type coverage for the Work to be performed at the site in an amount equal to the Contract Price. This insurance shall include the interests of the OWNER, CONTRACTOR, Subcontractors, ENGINEER and ENGINEER'S consultants in the Work, all of whom shall be listed as insureds or additional insured parties, shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss and damage including theft, vandalism and malicious mischief, collapse and water damage, and such other perils as may be provided for by the Insurance Services Office form MLB-103 (ed. 2-71), and shall include damages, losses

and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property. If not covered under the "all risk" insurance or otherwise provided in the Special Conditions, the CONTRACTOR shall purchase and maintain similar property insurance on portions of the Work stored on and off the site or in transit when such portions of the Work are to be included in an Application for Payment. Such insurance may have a deductible not to exceed \$1,000.00 per loss.

21.4 Where work involves railroad rights-of-way, the CONTRACTOR shall purchase and maintain at the CONTRACTOR'S expense for the full Contract Period or as required, Railroad Protective Insurance in an amount acceptable to the railroad company.

21.5 On Federally funded projects, the CONTRACTOR shall purchase and maintain at the CONTRACTOR'S expense for the full Contract Period or as required, flood insurance where the project is in a designated flood hazard area in which Federal flood insurance is available.

21.6 The Comprehensive General Liability insurance shall include completed operations insurance. The CONTRACTOR shall maintain such completed operations insurance for at least 2 years after final payment and furnish the OWNER with evidence of continuation of such insurance at final payment and one year thereafter.

21.7 The insurance required by this Contract shall include the specific coverages and be written for not less than the limits of liability and coverages provided in the Special Conditions. All of the policies of insurances required to be purchased and maintained (or the certificates or other evidence thereof) shall contain a provision or endorsement that the coverage afforded shall not be canceled, materially changed or renewal refused until at least 30 days' prior written notice has been given to the OWNER and the ENGINEER by certified mail. All such insurance shall remain in effect until final payment and at all times thereafter when the CONTRACTOR may be correcting, removing or replacing defective Work in accordance with paragraph 29.1.

21.8 Certificates of Insurance shall be filed with the OWNER prior to commencement of the Work.

## 22. CONTRACT SECURITY

22.1 The CONTRACTOR shall furnish Performance and Payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all the CONTRACTOR's obligations under the Contract Documents. These bonds shall remain in effect at least until one year after the date when final payment becomes due, except as otherwise provided by law or regulation or by the Contract Documents. The CONTRACTOR shall also furnish such other Bonds as are required by the Supplementary Conditions. All Bonds shall be in the forms prescribed by law or regulation or by the Contract Documents and be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department. All Bonds signed by an agent must be accompanied by a certified copy of the authority to act.



22.2 If the surety on any Bond furnished by the CONTRACTOR is declared a bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of paragraph 22.1, the CONTRACTOR shall within five days thereafter substitute another Bond and Surety, both of which must be acceptable to the OWNER.

23. ASSIGNMENTS

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

24. INDEMNIFICATION

24.1 The CONTRACTOR shall indemnify and hold harmless the OWNER and the ENGINEER and their consultants, agents and employees from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court and arbitration costs) arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, and (b) is caused in whole or in part by any negligent or willful act or omission of the CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is imposed by Law and Regulations regardless of the negligence of any such party.

24.2 In any and all claims against the OWNER or the ENGINEER, or any of their consultants, agents or employees, by any employee of the CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 24.1 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or any such Subcontractor or other person or organization under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

24.3 The obligations of the CONTRACTOR under paragraph 24.1 shall not extend to the liability of the ENGINEER, the ENGINEER'S consultants, agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, Designs or Specifications.

25. SEPARATE CONTRACTS

25.1 The OWNER may perform other work related to the Project at the site by the OWNER'S own forces, have other work performed by utility owners or let other direct contracts therefore which shall contain General Conditions similar to these. If the fact that such other work is to be performed was not noted in the Contract Documents, written notice thereof will be given to the CONTRACTOR prior to starting any such other work; and, if the CONTRACTOR believes that such performance will involve additional expense to the CONTRACTOR or requires additional time and the parties are unable to agree as to the extent thereof, the CONTRACTOR may make a claim therefore as provided in Articles 14 and 15.

25.2 The CONTRACTOR shall afford each utility owner and other contractor who is a party to such a direct contract (or the OWNER, if the OWNER is performing the additional work with the OWNER'S employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such Work, and shall properly connect and coordinate the Work with theirs. The CONTRACTOR shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. The CONTRACTOR shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of the ENGINEER and the others whose work will be affected. The duties and responsibilities of the CONTRACTOR under this paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of the CONTRACTOR in said direct contracts between the OWNER and such utility owners and other contractors.

25.3 If any part of the CONTRACTOR'S Work depends for proper execution or results upon the work of any such other contractor or utility owner (or OWNER), the CONTRACTOR shall inspect and promptly report to the ENGINEER in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. The CONTRACTOR'S failure so to report will constitute an acceptance of the other work as fit and proper for integration with the CONTRACTOR'S Work.

26. SUBCONTRACTING

26.1 The CONTRACTOR may utilize the services of specialty Subcontractors on those parts of the Work which, under normal contracting practices, are performed by specialty Subcontractors.

26.2 The CONTRACTOR shall not award work to Subcontractors in excess of 50 percent of the Contract Price, without prior written approval of the OWNER.

26.3 The CONTRACTOR shall not award any work to any Subcontractor without prior written approval of the OWNER, which approval will not be given until the CONTRACTOR submits to the OWNER a written statement concerning the proposed award to the Subcontractor, which statement will contain such information as the OWNER may require.

26.4 The CONTRACTOR shall be fully responsible to the OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with the CONTRACTOR just as the CONTRACTOR is responsible for the CONTRACTOR'S own acts and omissions. Nothing in the Contract Documents shall create any obligation on the part of the OWNER or ENGINEER to pay or to see to the payment of any moneys due any such Subcontractor, Supplier or other person or organization except as may otherwise be required by Laws and Regulations.

26.5 All Work performed for the CONTRACTOR by a Subcontractor shall be pursuant to an appropriate agreement between the CONTRACTOR and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the OWNER and ENGINEER.

## 27. ENGINEER'S AUTHORITY

27.1 The ENGINEER will be the OWNER'S representative during the construction period. The duties and responsibilities and the limitations of authority of the ENGINEER as the OWNER'S representative during construction are set forth in the Contract Documents and shall not be extended without written consent of the OWNER and ENGINEER.

27.2 The ENGINEER will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. The ENGINEER will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The ENGINEER'S efforts will be directed toward providing for the OWNER a greater degree of confidence that the completed Work will conform to the Contract Documents. On the basis of such visits and on-site observations as an experienced and qualified design professional, the ENGINEER will keep the OWNER informed of the progress of the Work and will endeavor to guard the OWNER against defects and deficiencies in the Work.

27.3 The ENGINEER will furnish a Resident Project Representative to assist the ENGINEER in observing the performance of the Work. The duties, responsibilities and limitations of authority of the Resident Project Representative and assistants will be as provided in the Supplemental General Conditions.

27.4 The ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as the ENGINEER may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents.

27.5 The ENGINEER may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract price or the Contract Time and are consistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order and will be binding on the OWNER, and also on the CONTRACTOR who shall perform the Work involved promptly. If the CONTRACTOR believes that a Field Order justifies an increase in the

519-06-02 (08/06)

Contract Price or an extension of the Contract Time and the parties are unable to agree as to the amount or extent thereof, the CONTRACTOR may make a claim therefore as provided in Article 14 or 15.

27.6 The ENGINEER will have authority to disapprove or reject Work which the ENGINEER believes to be defective, and will also have authority to require special inspection or testing of the Work as provided in paragraph 7.8, whether or not the Work is fabricated, installed or completed.

27.7 In connection with the ENGINEER'S responsibility for Shop Drawings and samples, see Article 5.

27.8 In connection with the ENGINEER's responsibilities as to Change Orders, see Articles 13, 14 and 15.

27.9 In connection with the ENGINEER'S responsibilities in respect to Applications for Payment, etc., see Article 19.

27.10 The ENGINEER will determine the actual quantities and classifications of Unit Price Work performed by the CONTRACTOR. The ENGINEER will review with the CONTRACTOR the ENGINEER'S preliminary determinations on such matters before rendering a decision thereon (by recommendation of an Application for Payment or otherwise). The ENGINEER'S decisions thereon will be final and binding upon the OWNER and CONTRACTOR, unless, within 10 days after the date of any such decision, either the OWNER or the CONTRACTOR delivers to the other party to the Agreement and to the ENGINEER written notice of intention to appeal from such a decision.

27.11 The ENGINEER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the Work and claims under Articles 14 and 15 in respect of changes in the Contract Price or Contract Time will be referred initially to the ENGINEER in writing with a request for a formal decision in accordance with this paragraph, which the ENGINEER will render in writing within a reasonable time. Written notice of each such claim, dispute and other matter will be delivered by the claimant to the ENGINEER and the other party to the Agreement promptly (but in no event later than 15 days) after the occurrence of the event giving rise thereto, and written supporting data will be submitted to the ENGINEER and the other party within 30 days after such occurrence unless the ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim.

27.12 When functioning as interpreter and judge under paragraphs 27.10 and 27.11, the ENGINEER will not show partiality to the OWNER or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by the ENGINEER pursuant to paragraphs 27.10 and 27.11 with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 20.1) will be a condition precedent to any exercise by the OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the

519-06-02 (08/06)

Contract Documents or by Laws or Regulations in respect of any such claim, dispute or other matter.

27.13 Neither the ENGINEER'S authority to act under this Article 27 or elsewhere in the Contract Documents nor any decision made by the ENGINEER in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of the ENGINEER to the CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization performing any of the Work, or to any Surety for any of them.

27.14 Whenever in the Contract Documents the terms "as ordered," "as directed," "as required," "as allowed," "as approved" or terms of like effect or import are used, or the adjectives "reasonable," "suitable," "acceptable," "proper" or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of the ENGINEER as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to the ENGINEER any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 27.15 or 27.16.

27.15 The ENGINEER will not be responsible for the CONTRACTOR'S means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and the ENGINEER will not be responsible for the CONTRACTOR'S failure to perform or furnish the Work in accordance with the Contract Documents.

27.16 The ENGINEER will not be responsible for the acts or omissions of the CONTRACTOR or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work.

## 28. LAND AND RIGHTS-OF-WAY

28.1 All land required for this project is presently owned by the OWNER or is under condemnation. The limits of ownership are shown on the Drawings.

28.2 Easements for pipelines have been obtained by the OWNER or are under condemnation. Easement widths are shown on the Drawings.

28.3 The CONTRACTOR shall provide at his own expense and without liability to the OWNER any additional land and access thereto that the CONTRACTOR may desire for temporary construction facilities, or for storage of materials.

## 29. GUARANTEE

29.1 The CONTRACTOR warrants and guarantees to the OWNER and the ENGINEER that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents.

Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The CONTRACTOR's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the CONTRACTOR, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the ENGINEER, the CONTRACTOR shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

29.2 If, within one year after the date of acceptance of the Work or designated portion thereof, or after the date for commencement of warranties established under Article 5.2 of the Supplementary General Conditions, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the CONTRACTOR shall correct it promptly after receipt of written notice from the OWNER to do so unless the OWNER has previously given the CONTRACTOR a written acceptance of such condition. This obligation under this Article 29.2 shall survive acceptance of the Work under the Contract and termination of the Contract. The OWNER shall give such notice promptly after discovery of the condition. In the event that the CONTRACTOR should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the OWNER may do so and charge the CONTRACTOR the cost thereby incurred. The Performance Bond shall remain in full force and effect through the guarantee period.

29.3 Nothing contained in this Article 29 shall be construed to establish a period of limitation with respect to other obligations which the CONTRACTOR might have under the Contract Documents. Establishment of the time period of one year as described in Article 29.2 relates only to the specific obligation of the CONTRACTOR to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the CONTRACTOR's liability with respect to the CONTRACTOR's obligations other than specifically to correct the Work.

### 30. ARBITRATION

30.1 All claims, disputes and other matters in question arising out of, or relating to, the Contract Documents or the breach thereof, except for claims which have been waived by the making and acceptance of final payment as provided by Section 20, may be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association and the State laws governing arbitration. This provision as to arbitration shall not be construed as irrevocable within the meaning of KRS 417.050 and the parties hereby specifically understand and agree that they are not bound to submit claims, disputes or other matters in question arising out of or related to the Contract Documents or the breach thereof as herein provided, to arbitration, and further specifically provide that both parties must, after such claim, dispute or other matter in question arises, mutually agree to arbitration. In the event the parties herein do agree to arbitration, the provisions of Kentucky Revised Statutes, Chapter 417, shall be applicable.

519-06-02 (08/06)

30.2 Notice of the request for arbitration shall be filed in writing with the other party to the Agreement and with the American Arbitration Association, and a copy shall be filed with the ENGINEER for information. Demand for arbitration shall in no event be made after institution of legal proceedings based on any claim, dispute or other matter in question or on any claim, dispute or other matter in question which would be barred by the applicable statute of limitations.

30.3 Any arbitration-based settlement or award shall include findings of fact, allocation of award to each issue arbitrated, applicable conclusions of law, basis of award, and the rationale applied.

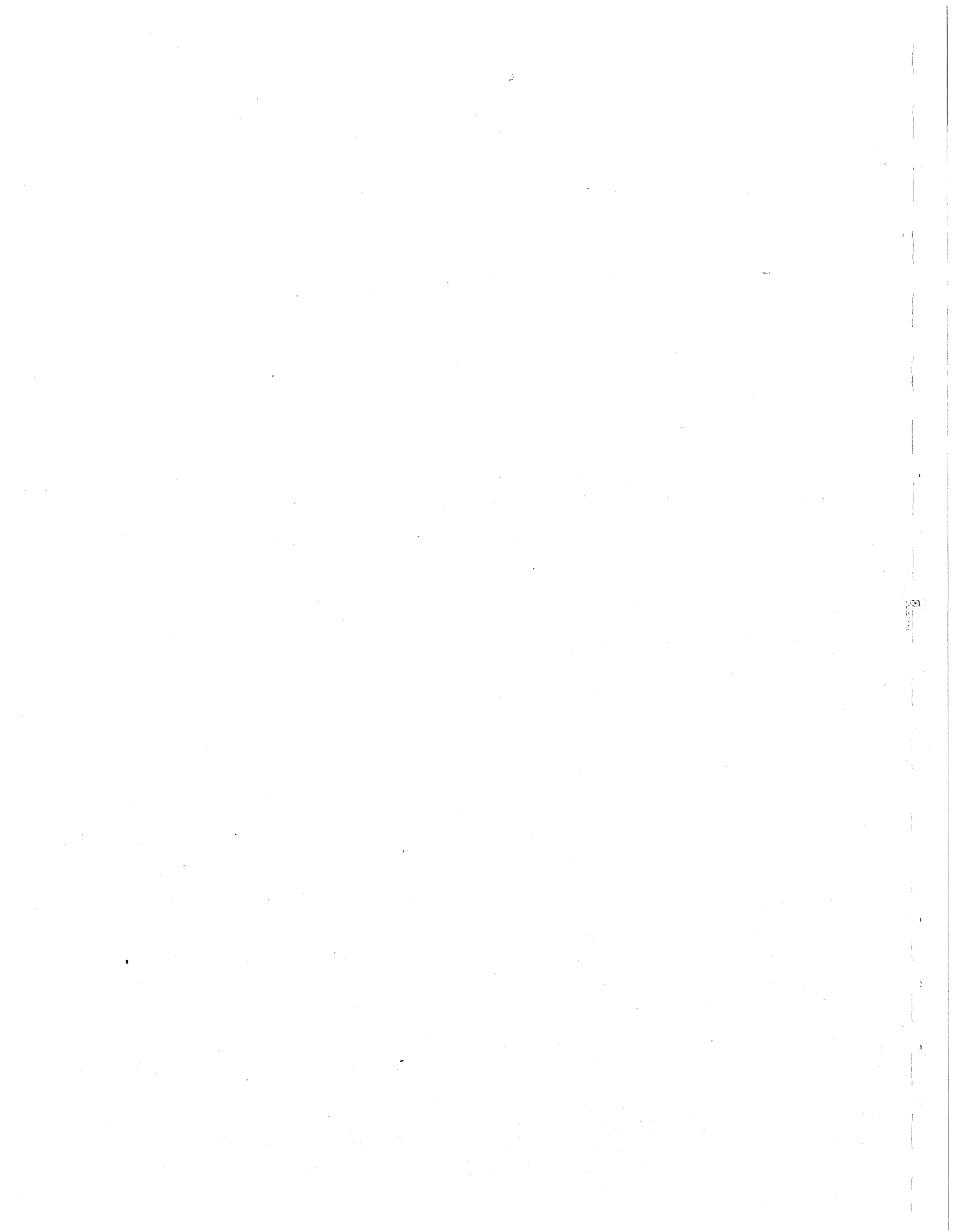
30.4 The CONTRACTOR will carry on the Work and maintain the progress schedule during any arbitration proceedings, unless otherwise mutually agreed by the OWNER and CONTRACTOR in writing.

31. TAXES

31.1 The CONTRACTOR shall pay all sales, consumer, use and other similar taxes required by the law of the place where the Work is performed.

END OF SECTION

\*\*\*





SECTION 00810

SUPPLEMENTARY GENERAL CONDITIONS

1. ADDITIONAL INSTRUCTIONS

1.1 Second Hand or Salvaged Materials

The use of second hand and/or salvaged materials will not be permitted unless specifically provided for in the detailed Specifications. Materials and equipment shall be new when turned over to the OWNER.

All materials and/or equipment to be removed from existing structures and not specifically specified to be re-used shall remain the property of the OWNER. Such materials and/or equipment shall be stored by the CONTRACTOR on sites as directed by the OWNER.

1.2 Equipment Rental

Equipment rental charges by the CONTRACTOR for rented equipment units used on "Extra Work" or "Changes in Work" as may be ordered and authorized by the OWNER shall not exceed those charges listed in the latest edition of the "Green Book," compiled and distributed by Associated Equipment Distributors, 615 West 22nd Street, Oak Brook, Illinois 60523.

1.3 Ownership of Plans and Models

All Drawings, Specifications and copies thereof furnished by the ENGINEER are the property of the ENGINEER. They are not to be used on other work and, with the exception of the signed contract set, are to be returned to the ENGINEER upon request at the completion of the work. All models are the property of the OWNER.

2. SURVEYS

2.1 Layout of Work

2.1.1 General

The layout of the Work shall be the responsibility of the CONTRACTOR and shall be subject to checking by the ENGINEER. The ENGINEER shall establish base lines and a system of bench levels for the CONTRACTOR'S use as required. All instruments, stakes, batter boards, barricades, traffic signs, flags, and other materials necessary, and personnel needed for establishing and marking lines, grades, and structure location during construction, shall be the responsibility of the CONTRACTOR.

The CONTRACTOR'S personnel engaged in the layout work described herein and the aides furnished to the ENGINEER shall be fully capable of performing the duties set out herein and shall be fully qualified chiefs of party, instrumentmen, chainmen, rodmen and/or axmen as required.

### 2.1.2 Sewer Lines

The ENGINEER will mark the locations of all manholes on the ground. The CONTRACTOR shall set line and grade stakes for all gravity sewers, offset from the center line of the trench or the axes of the pipelines. The CONTRACTOR shall also prepare "cut sheets" showing the elevation of the offset stake, depth of cut from the top of the offset stake to the invert of the sewer, elevation of invert of the sewer, the offset distance of the stake from the center line of the pipe, elevation of the existing ground over the sewer, the depth of cut from the surface of the existing ground to the invert of the pipe, grade of the sewer, and length of sewer between manholes.

The "cut sheets" shall be prepared in at least 3 copies on forms provided by the ENGINEER. The CONTRACTOR shall submit the "cut sheets" to the ENGINEER for his approval prior to trenching and laying of pipe. When approved, the ENGINEER will retain the original and 1 copy of the "cut sheet" for his file.

Where gravity sewer lines are being constructed, the CONTRACTOR shall be required to obtain the original ground elevation along the centerline at each 25 foot station or break in grade of ground surface for the purpose of calculation of the average trench depth.

Where paving or curbs and gutters are existing or where line and grade stakes have been established for same, the CONTRACTOR shall determine the elevation of and construct the manholes to the height of the adjacent facilities either existing or proposed. Where paving curbs and gutters or stakes are not existing, the CONTRACTOR shall construct the manholes to the height determined by the ENGINEER.

The CONTRACTOR shall furnish all materials, stakes and grade boards that are required for layout either by the ENGINEER or by the CONTRACTOR'S forces. The CONTRACTOR shall furnish all labor and equipment for clearing underbrush, weeds, etc., prior to staking of the sewers. The CONTRACTOR shall also furnish any aides required by the ENGINEER in marking the location of the various facilities on the ground and establishing bench levels.

### 2.1.3 Water, Gas and Sewage Force Mains

Trench line stations will be set by the CONTRACTOR ahead of trenching. These will be set at least each 100 feet of pipeline and at the locations of all pipeline accessories.

## 3. PROTECTION OF PROPERTY.

### 3.1 Use Of Premises

The CONTRACTOR shall confine his apparatus, the storage of materials and the operations of his workmen to limits indicated by Laws and Regulations, permits or directions of the ENGINEER and shall not unreasonably encumber the premises with his materials.

The CONTRACTOR shall not load or permit any part of the Work to be loaded with a weight that will endanger its safety.

The CONTRACTOR shall enforce the Laws and Regulations regarding signs, advertisements, fires and smoking.

### 3.2 Damage to Equipment Stored

Any equipment damaged or which has been subjected to possible damage by reason of inundation, improper storage and/or protection during the construction period of a project, shall be handled only as follows:

Be replaced with new equipment.

With approval of the ENGINEER, be returned to the manufacturer of the equipment, or his authorized repair agency, for inspection and repair provided, however, that such repair after inspection will place the equipment in new condition, and restore the manufacturer's guarantee the same as for new equipment.

This is particularly applicable to, but not limited to, electric motors, motor controls, meters and gauges, and equipment with bearings.

### 3.3 Conflict With or Damage To Underground Facilities

The information and data shown or indicated in the Contract Documents with respect to existing underground facilities at or contiguous to the site is based on information and data furnished to the OWNER or the ENGINEER by the OWNERS of such underground facilities or by others.

The OWNER and the ENGINEER shall not be responsible for the accuracy or completeness of any such information or data.

The CONTRACTOR shall have full responsibility for reviewing and checking all such information and data, for locating all underground facilities shown or indicated in the Contract Documents, for coordination of the Work with the owners of such underground facilities during construction for the safety and protection thereof as provided in the Contract Documents and repairing any damage thereto resulting from the Work, the cost of all of which will be considered as having been included in the Contract Price.

If an underground facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents and which the CONTRACTOR could not reasonably have been expected to be aware of, the CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency as permitted by paragraph 11.4 of the General Conditions), identify the owner of such underground facility and give written notice thereof to that owner and to the OWNER and the ENGINEER. The ENGINEER will promptly review the underground facility to determine the extent to which the Contract

Where Work on unit price items is substantially complete but lack clean up and/or corrections ordered by the ENGINEER, amounts shall be deducted from unit prices in payment certificates to amply cover such clean up and corrections.

When the above grounds are removed, payment shall be made for amounts withheld because of them.

#### 4.3 Liens

Neither the final payment nor any part of the retained percentage shall become due until the CONTRACTOR shall deliver to the OWNER effective releases or waivers, receipts, and affidavits as required by paragraph 19.4 of the General Conditions.

### 5. WORK BY OWNER

#### 5.1 OWNER'S Right to Do Work

If the CONTRACTOR should neglect to prosecute the work properly or fail to perform any provision of this Contract, the OWNER, in accordance with paragraph 16.2 of the General Conditions after 10 days written notice to the CONTRACTOR may, without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the CONTRACTOR.

#### 5.2 Use of Completed Portions of Work

The OWNER shall have the right to take possession of and use any completed or partially completed portions that constitute separately functioning and useable parts of the Work, notwithstanding that the time for completing the entire Work, or such portions, may not have expired; but such taking possession and use shall not be deemed an acceptance of any Work not completed in accordance with the Contract Documents. If such prior use increases the cost of, or delays the Work, the CONTRACTOR shall be entitled to such extra compensation, or extension of time, or both, as the ENGINEER may determine.

Insurance carrier shall be informed by the CONTRACTOR of occupancy and adjustments made so that insurance coverage of construction operations will not be invalidated.

### 6. LIABILITY

#### 6.1 Limit of Liability of Public Officials and OWNER'S Agents

In carrying out any of the provisions of the Contract or in exercising any power or authority to him thereby, there shall be no personal liability upon the ENGINEER or the OWNER'S other authorized assistants or employees, it being understood that in such matters they act as the agents and representatives of the OWNER.

519-06-02 (08/06)

## 7. SUPERVISION BY CONTRACTOR

### 7.1 Character of Workmen

The CONTRACTOR shall at all times be responsible for the conduct and discipline of his employees and/or any Subcontractor or persons employed by the Subcontractor. All workmen must have sufficient knowledge and skill and experience to perform properly the work assigned to them. Any superintendent, foreman or workman employed by the CONTRACTOR or Subcontractor who does not perform his work in a skillful manner or acts in an incompetent, disorderly or intemperate manner shall, at the written request of the OWNER, be discharged immediately.

## 8. RESIDENT PROJECT REPRESENTATIVE

The Resident Project Representative assigned to the construction project is a representative of the ENGINEER whose function is to assist the ENGINEER in observing performance of the Work of the CONTRACTOR.

Through more extensive on-site observations of the Work in progress and field checks of materials and equipment by the Resident Project Representative, the ENGINEER shall endeavor to provide further protection for the OWNER against defects and deficiencies in the Work; but, the furnishing of such services will not make the ENGINEER responsible for or give the ENGINEER control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or responsibility for the CONTRACTOR'S failure to perform the Work in accordance with the Contract Documents.

The Resident Project Representative is the ENGINEER'S agent at the site, will act as directed by and under the supervision of the ENGINEER, and will confer with the ENGINEER regarding the Resident Project Representative's actions. The Resident Project Representative's dealings in matters pertaining to the on-site work shall in general be with the ENGINEER and the CONTRACTOR keeping the OWNER advised as necessary. The Resident Project Representative's dealings with Subcontractors shall only be through or with the full knowledge and approval of the CONTRACTOR. The Resident Project Representative shall generally communicate with the OWNER with the knowledge of and under the direction of the ENGINEER.

The duties and responsibilities of the Resident Project Representative are limited to those of the ENGINEER as described in the ENGINEER'S agreement with the OWNER and in the construction Contract Documents, and are further limited and described as follows:

Conduct on-site observations of the Work in progress to assist the ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents.

Report to the ENGINEER whenever the Resident Project Representative believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise the ENGI-

519-06-02 (08/06)

NEER of Work that the Resident Project Representative believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by the ENGINEER.

Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.

Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.

The Resident Project Representative shall receive a copy of all correspondence from the CONTRACTOR, and shall be kept fully informed of all the CONTRACTOR'S transactions with the ENGINEER, including status of submittal and review of Shop Drawings.

9. CLAIMS FOR EXTRA PAYMENT OR TIME EXTENSIONS

The CONTRACTOR'S claims for extra payment or time extensions which have not resulted from executed Change Orders will only be considered if presented to the ENGINEER and the OWNER in accordance with the procedures outlined in Articles 14 and 15 of the General Conditions.

END OF SECTION

\*\*\*

SECTION 00815

LABOR REGULATIONS ON PUBLIC WORKS  
KENTUCKY PROJECTS

- A. All Public Works Projects submitted for bids and constructed by a Public Authority in the State of Kentucky are subject to the provisions of the Kentucky Revised Statutes, Chapter 337, entitled Wages and Hours as may be amended from time to time. Contractors submitting Bids for the specified project must consider the fact that in the event of an award it shall be his responsibility to comply with all aspects of the statutory requirements contained therein while engaged upon the project covered by these Specifications.
- B. Prior to the scheduled date for receipt of construction Bids, a determination will be obtained by the OWNER from the Kentucky Department of Labor and wage rates, if applicable, will be issued in the form of an addendum to these Specifications to each of the known prospective Bidders. The addendum shall become a part of the Contract Specifications and the prevailing rate of wages specified therein shall be the minimum hourly rate of wages to be paid to all laborers, workmen, mechanics, helpers and apprentices performing Work under the Project covered by these Specifications.
- C. A Department of Labor Regulation for Contractors on Public Works prescribes that the prime CONTRACTOR on a project shall, by the tenth day of each month, forward to the Kentucky Department of Labor, Division of Labor Standards, Frankfort, Kentucky all weekly payroll data of all his employees employed on such Public Works, for the preceding month, on forms furnished or approved by the Kentucky Department of Labor. The same requirements apply to all Subcontractors on the Project and under the regulation the prime CONTRACTOR is responsible for compliance of all his Subcontractors.
- D. In addition to the Wages and Hours requirements under Kentucky Statutes, if the Project to which these Specifications apply is funded in whole or in part by a Federal grant or loan program whereby the U.S. Department of Labor is required to prescribe predetermined prevailing minimum wages, compliance with the currently applicable Federal labor regulations is also required.
- E. Prior to the scheduled date for receipt of construction Bids, where Federal funds are involved, a determination of the prevailing rate of wages will also be obtained from the U.S. Department of Labor and issued in the form of an addendum to these Specifications to each of the known prospective Bidders. The addendum shall become a part of the Contract Specifications together with the addendum setting out Kentucky Department of Labor prevailing rate of wages. As provided by Kentucky Revised Statute, Chapter 337, where there is a difference in the Federal and Kentucky prevailing wage determinations the higher wage rate in each classification shall prevail. The rates so determined from this comparison shall be the minimum hourly rate of wages to be paid to all laborers, workmen, mechanics, helpers and apprentices performing Work under this Project covered by these Specifications.

- F. On Federally funded projects, weekly payroll data for all the CONTRACTOR and Subcontractor employees must be furnished monthly to the Federal agency designee or as may be prescribed by the agency at a preconstruction conference. While weekly wage data reports are not required to be filed with the Kentucky Department of Labor on Federally assisted projects, one copy of the report must be filed with the OWNER and be available at the Public Authority's (OWNER) office for inspection by the Kentucky Department of Labor. The prime CONTRACTOR is responsible for payroll reporting compliance by all his Subcontractors.
- G. Federal labor regulations applicable to the Project for which these Specifications are applicable shall be those established by the Federal agency involved (if any). The CONTRACTOR and Subcontractor performing the Work under this Project must fulfill all requirements of the presently effective labor legislation and Executive Orders as listed below and any other Federal labor regulations which may be or may become applicable.
1. Minimum Wages - Davis-Bacon Act
  2. "Anti-Kickback" Act, Copeland Act
  3. Contract Work Hours Standard Act - Overtime Compensation
  4. Non Discrimination - Civil Rights Act
  5. Equal Employment Opportunity - Executive Orders 11246 and 11375
  6. Elimination of segregated facilities
  7. Certification of nonsegregated facilities

**END OF SECTION**

\*\*\*



SECTION 00820

SPECIAL CONDITIONS

1. DESCRIPTION OF THE WORK; DESIGNATION OF OWNER AND ENGINEER

1.1 These Specifications and the accompanying Drawings describe the work to be done and the materials to be furnished for the construction of Contract 519-06-02, Water System Improvements, Little Cowan.

1.2 All references to the OWNER in these Specifications, Contract Documents and Drawings shall mean the Letcher County Water and Sewer District.

1.3 All references to the ENGINEER in these Specifications, Contract Documents and Drawings shall mean Howard K. Bell, Consulting Engineers, Inc.

2. AVAILABLE FUNDS

2.1 The attention of all Bidders is directed to the fact that funds will be made available for the award of this Contract from the following source:

Abandoned Mine Lands

3. TIME OF COMPLETION

3.1 The time allowed for completion of this Contract and/or portions thereof is as follows:

Contract 519-06-02 - 120 Calendar Days

3.2 The time allowed for completion shall begin at midnight, local time, 10 calendar days from the date on which the OWNER, or his authorized representative, the ENGINEER, shall instruct the CONTRACTOR in writing to start work. In case of awarding more than one Contract to a CONTRACTOR, periods of construction are not additive, but will run concurrently. The same applies to divisions within a Contract.

4. LIQUIDATED DAMAGES

4.1 It is understood that time is of the essence of this Contract, and that the OWNER will sustain damages, monetary and otherwise, in the event of delay in completion of the work hereby contracted.

4.2 Therefore, if the said CONTRACTOR shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the OWNER, then the CONTRACTOR does hereby agree, as a part consideration for the awarding of this Contract, to pay to the OWNER the amount specified in the Contract, not as a penalty but as liquidated damages for such breach of Contract as hereinafter set forth, for each and every calendar day that the CONTRACTOR shall be in default after the time stipulated in the Contract for completing the work.

4.3 The said amount is fixed and agreed upon by and between the CONTRACTOR and the OWNER because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the OWNER would in such event sustain, and said amount is agreed to be the amount of damages which the OWNER would sustain and said amount shall be retained from time to time by the OWNER from current periodical estimates.

4.4 Liquidated damages are fixed at the following amounts per calendar day of overrun beyond the date set for completion or authorized extension thereof for each of the Contracts, divisions, sections, or combinations thereof:

Contract 519-06-02 - \$500.00 per calendar day

5. INSURANCE

5.1 The minimum amounts of insurance coverage to be furnished by the CONTRACTOR under this Contract in accordance with the provisions of Articles 21 and 24 of the General Conditions of these Specifications are:

- a. Workmen's Compensation Statutory  
Employer's Liability ..... \$100,000
- b. Comprehensive General Liability Including Coverage for the Explosion, Collapse, and Underground Hazards, Contractual Liability (See Section 00700, Article 24), Products and/or Completed Operations, Personal Injury (Employment Exclusion waived), Broad Form Property Damage (No deductible clauses are acceptable for these coverages), and Independent Contractors (Subcontractors)
  - Bodily Injury Liability ..... \$500,000 Each Occurrence
  - Personal Injury Liability..... \$500,000 Each Occurrence
  - Property Damage Liability..... \$100,000 Each Occurrence
  - \$300,000 Each Policy Period
- c. Comprehensive Automobile Liability, Including Hired Car and Employer's Non-Ownership Liability Coverage
  - Bodily Injury Liability \$200,000 Each Person
  - \$500,000 Each Occurrence
  - Property Damage Liability \$100,000 Each Occurrence
- d. All Risk Type Builder's Risk or Installation Floater (See Section 00700, Article 21.5)..... 100% of Contract Price
- e. All policies written for, and applicable to, the Contract of which this Specification is a part shall provide for a minimum of 30 days advance written notice of cancellation or any material change. Notice to be given to both the OWNER and the ENGINEER.
- f. Umbrella Excess Liability .....\$2,000,000 Per Occurrence

- g. OWNER'S Protective Liability  
OWNER to be named insured (no deductible)
  - Bodily Injury .....\$500,000 Each Occurrence
  - Personal Injury .....\$500,000 Each Occurrence
  - Property Damage.....\$250,000 Each Occurrence
- h. Flood Insurance (where required) .....Insurable Amount

5.2 All policies written for and applicable to the Contract of which this Specification is part shall provide for a minimum of 30 days advance written notice of cancellation or any material change. Notice to be given both to the OWNER and the ENGINEER.

5.3 Certificates of Insurance for all coverages required under this Contract shall be included at the time of the execution of the Contract Documents by the CONTRACTOR. The minimum policy period for the initial insurance submittal shall be for the length of the Contract or 1 year, whichever is the lesser.

6. PERFORMANCE AND PAYMENT BONDS

6.1 The CONTRACTOR shall furnish separate performance and payment bonds (forms included elsewhere in these Specifications) issued by an approved bonding company in an amount at least equal to 100 percent of the Contract price, as security for the faithful performance of this Contract and for the payment of persons performing labor and furnishing materials in connection with this Contract. These bonds shall be executed by a company authorized to do business in the State of Kentucky and shall be signed or countersigned by a Kentucky resident agent.

7. METHOD OF BIDDING

7.1 The work under this Contract shall be bid by unit price and/or lump sum as provided for in the Form of Proposal. This Contract shall be bid in full on the form provided.

7.2 The CONTRACTOR must bid all divisions and all listed unit price items and/or lump sums to complete a Contract. The OWNER will not award the work on divisions or sections within a Contract separately. Each Contract shall be bid separately and in full on the Form of Proposal provided.

7.3 In the case of major equipment item bidding, the CONTRACTOR must bid the base bid item.

7.4 The OWNER reserves the right to delete divisions, sections, unit price items, or any combination thereof, in making award of Contract, without invalidating the CONTRACTOR's bid on other divisions.

7.5 The OWNER reserves the right, should financing considerations require or allow, to delete or add physical units to the unit price items bid. However, the monetary value of such deletions or additions shall not exceed 25 percent of the total amount bid for the Contract without specific approval of the CONTRACTOR.

519-06-02 (08/06)

7.6 If deletions or additions are made, comparison of bids will be made on the basis of portions of the Contract to be awarded and not on the total of the base bid made by the CONTRACTOR.

8. VIDEO TAPING

8.1 Continuous video taping of preconstruction surface conditions is required for this Contract. All taping and reproduction must be completed before any construction activity will be allowed. Taping must be performed by persons experienced with this type equipment and must be acceptable to the ENGINEER. Taping equipment used shall utilize standard VHS format tapes.

8.2 The video taping shall be supplemented with continuous audio description of the area traversed. Verbal description of problem areas and items of special interest shall be elaborated upon.

8.3 All locations, streets and/or easements on or in which construction activity will occur shall be taped for the complete length or boundary of the construction area.

8.4 An index shall be furnished for each tape coordinating the location of the taped area with the location of the proposed facilities as shown on the Drawings.

8.5 The CONTRACTOR shall be responsible for providing access to all areas to be taped. All tapes shall be viewed by the ENGINEER before any construction is started. The CONTRACTOR shall provide tape viewing equipment for the duration of the project.

8.6 The cost of preconstruction audio/video taping shall be at no additional cost to the OWNER, the cost being incorporated into the CONTRACTOR's unit price or lump sum bid for the items of work as listed on the Form of Proposal.

8.7 The CONTRACTOR is also urged to video tape any structure within a reasonable distance of his blasting or other work operations for reference and file.

8.8 Color print still photographs shall be used as needed to supplement the continuous video taping of preconstruction conditions and/or pertinent construction items.

8.9 Any photographs or audio/video tapes required by governing agencies will be the responsibility of the OWNER.

9. MINIMUM WAGE RATES

9.1 The prevailing minimum wage rates have not at this time been determined by the governing agencies. However, before bids are received, applicable rates will be determined and issued in the form of an addendum to these Specifications.

519-06-02 (08/06)

10. EXCAVATION

10.1 It is to be specifically noted that no separate payment for solid rock excavation will be made under this Contract. All excavation shall be considered unclassified, and payment for same included in the appropriate furnishing and laying or other items containing excavation.

11. PERMISSION TO USE PROPERTY OTHER THAN THAT PROVIDED BY OWNER

11.1 Should the CONTRACTOR desire or elect to use, pass over and/or encroach on private property other than that provided by the OWNER, either by fee simple title or right-of-way for a specific purpose, he shall obtain such rights and permission from the individual property owner at his own expense and risk.

12. TIE-IN TO EXISTING WATER MAINS

12.1 As far as possible, the locations and sizes of existing mains are indicated on the Drawings; however, exact locations, pipe materials and sizes cannot be guaranteed. It shall be the responsibility of the CONTRACTOR to locate and uncover existing lines, to which new mains are to be connected, and provide all connecting fittings of the correct size and type for each connection. Payment for the above shall be included in the unit price bid for each item used for the connection as indicated on the Drawings or as specified.

13. EXTRA FILL MATERIAL

13.1 Extra fill material required to complete the finished grading to the line and grade shown on the Drawings shall be obtained by the CONTRACTOR at no extra cost to the OWNER above that included in his lump sum bid.

14. SURFACE RESTORATION RETAINAGE

14.1 In the case of water, gas, and air mains or sewage force mains, there will be retained from the unit price for "Furnishing, Laying, Trenching and Backfilling" an amount of \$0.50 per foot for clean-up operations. Upon completion of clean-up work satisfactory to the ENGINEER, this retainage will be paid on the following periodic payment estimate.

15. USE OF SPECIALS IN VERTICAL PLANE OPTIONAL

15.1 Where specials (fittings) are shown at change in grade of pipeline, the CONTRACTOR, at his option, may use fittings as shown with blocking, or he may, where possible without exceeding maximum allowable deflection in pipe joints, avoid the use of specials at grade changes, by increasing the trench depth, provided the pipe installed to such extra depth is designed to withstand the extra depth cover and the maximum internal pressure specified. No additional compensation will be given for installing the pipe at an extra depth to avoid the use of fittings and thrust blocking.

16. ACCESS TO THE WORK

16.1 The representatives of the OWNER, the ENGINEER, and the Kentucky Division of Water shall have access to the work wherever it is in preparation or progress, and the CONTRACTOR shall provide proper facilities for such access and inspection.

17. BLASTING AND PREBLAST SURVEYS

17.1 The CONTRACTOR will be held liable for all damages caused by blasting operations required for the construction of this project. All blasting operations shall be performed in accordance with local municipal ordinances and state laws governing such operations, including the storage of explosives.

17.2 Special precautions are required when blasting near natural gas pipelines. The CONTRACTOR shall notify the OWNER of the gas line at or near the area of blasting prior to beginning the blasting operation. The CONTRACTOR shall, with or without assistance from the gas company, develop emergency procedures, planned in advance of each blast.

17.3 Preblast surveys are required on this project for the protection of all parties concerned. These surveys shall be conducted by independent firms specializing in blasting damage control safety.

17.4 Preblast surveys shall be detailed studies of all commercial, industrial, residential or other structures within the areas subject to damage as a result of the blasting operations. The surveys shall include the exterior and/or interior of the building and other improvements on the property such as concrete, brick or bituminous paved drives, parking areas, sidewalks, retaining walls or pillars subject to damage as a result of blasting operations. In rural areas, the surveys shall also include water sources such as wells, springs and dams for farm ponds.

17.5 Individual reports shall be prepared for each parcel of property surveyed within the given radius of the blasting area. Each report shall indicate the type and location of existing structural damage, or the fact that none exists, shown in detail by sketch supplemented by color photo, audio cassette tape supplemented by color photo or video tape, as the CONTRACTOR may elect. Should the video tape method be provided, a video projector shall be furnished for the project duration.

17.6 Preblast survey reports shall also include recommended blasting methods and techniques to preclude damage.

17.7 One copy of each individual report shall be filed with the OWNER for his file and reference prior to the start of blasting operations.

17.8 The cost for preblast surveys shall be considered incidental to the work and shall be included in the bid price for the work.

519-06-02 (08/06)

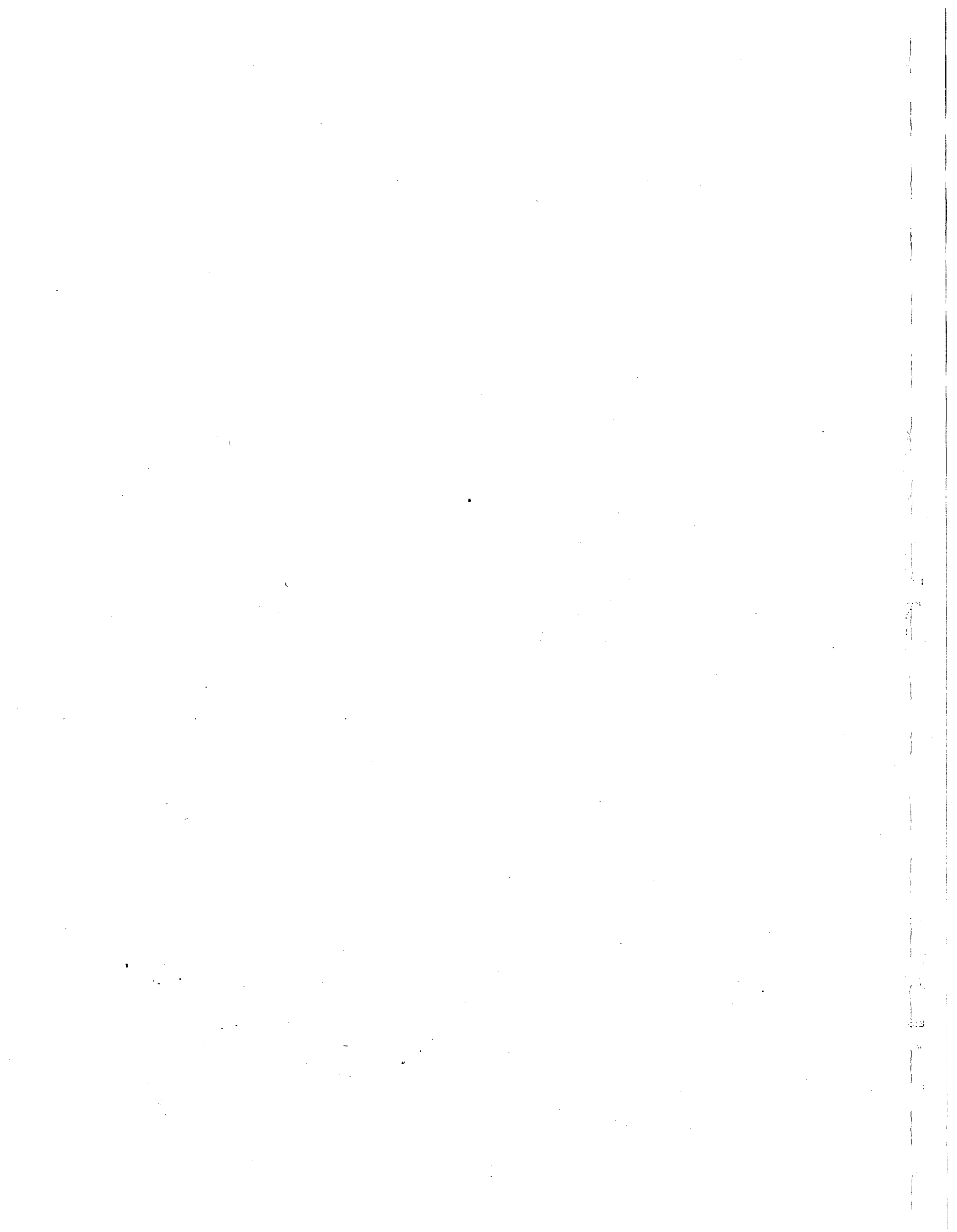
18. FUNDING AGENCY CONDITIONS

18.1 The obtaining of all utilities for construction, including power, on-site power, and water, shall be the responsibility of the CONTRACTOR, and he shall bear the cost of all utilities used for construction. Cost of all connections and facilities for use of utilities shall be borne by the CONTRACTOR.

END OF SECTION

\*\*\*

00820-7





**SUPPLEMENTAL GENERAL CONDITIONS**  
**FOR**  
**CLEAN WATER STATE REVOLVING FUND**  
**DRINKING WATER STATE REVOLVING FUND**  
**EPA SPECIAL APPROPRIATION GRANTS**  
**(Drinking Water and Wastewater)**

**Project Name: Little Cowan Water Improvements Project**

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

The attached instructions and regulations as listed below shall be incorporated into the Specifications and comprise Special Conditions.

	<u>Attachment No.</u>
SRF/EPA Special Provisions	1
Requirements for Sub-agreements Awarded by Prime Contractors	2
40 CFR 31.36 (Procurement)-grants only	3A
KRS Chapter 45A-Kentucky Model Procurement Code-loans only	3B
<b>Equal Employment Opportunity (EEO) Documents:</b>	
Notice of Requirement for Affirmative Action	4
Contract Specifications (Executive Order 11246)	5
EEO Goals for Region 4 Economic Areas	6
Special Notice #1 - Check List of EEO Documentation	7
Employer Information Report EEO-1 (SF 100)	8
Labor Standards Provisions for Federally Assisted Construction, EPA Form 5720-4	9
<b>Certifications</b>	
Debarment, Suspension and Other Responsibility Matters	10
Anti-lobbying	11
Utilization of Small, Minority and Women's Businesses	12
Region 4 Disadvantaged Business Enterprise (DBE) Negotiated Rates	13
Bonds and Insurance	14
Outlay Management Schedule	15
Storm Water General Permit	16
Wage Rates	17

These special conditions shall supersede any conflicting provisions of this contract.

### EPA SPECIAL PROVISIONS

- a) The construction of the project shall conform to the applicable requirements for state, territorial and local laws and ordinances to the extent that such requirements do not conflict with Federal laws.
- b) The EPA shall have access to the site and the project.
- c) Any contract(s) awarded under this invitation for Bids are expected to be funded in part by a grant from the U.S. Environmental Protection Agency. Neither the United States nor any of its departments, agencies or employees are or will be a part to this Invitation for Bids or any resulting contract.
- d) The Method of Award is to the lowest responsible responsive bidder.
- e) A statement that the bidder must make positive efforts to use small and minority owned business and women business enterprises.

### SRF SPECIAL PROVISIONS

- (a) Sewer line crossing of all roads and streets shall be done in accordance with the Kentucky Transportation Cabinet requirements as may be set forth in the Special Conditions.
- (b) Construction is to be carried out so as to prevent by-passing of flows during construction unless a schedule has been approved by the State or EPA, whichever is applicable.
- (c) Siltation and soil erosion must be minimized during construction. All construction projects with surface disturbance of more than 5 acres during the period of construction must have a KPDES Storm Water General Permit. To apply, the contractor must submit the "Notice of Intent" form at least 48 hours prior to start of construction. See Attachment 16 for the "Notice of Intent" form.
- (d) Restore disturbed areas to original or better condition.
- (e) Use of Chemicals: All chemicals used during project construction or furnished for project operation, whether herbicide, pesticide, disinfectant, polymer, reactant or of other classification, must show approval of either EPA or USDA. Use of all such chemicals and disposal of residues shall be in conformance with instructions on the manufacturer's label.
- (f) The construction of the project, including the letting of contracts in connection therewith, shall conform to the applicable requirements of state, territorial, and local laws and ordinances to the extent that such requirements do not conflict with Federal laws and this subchapter.
- (g) The owner shall provide and maintain competent and adequate supervision and inspection.
- (h) The Kentucky Infrastructure Authority and Kentucky Division of Water shall have access to the site and the project work at all times.
- (i) In the event Archaeological materials (arrowheads, stone tools, stone axes, prehistoric and historic pottery, bottles, foundations, Civil War artifacts, and other types of artifacts) are uncovered during the construction of this project, work is to immediately cease at the location and the Kentucky Heritage Council shall be contacted. The telephone number is (502) 564-7005. Construction shall commence at this location until a written release is received from the Kentucky Heritage Council. Failure to report a find could result in legal action.

**GRANT REQUIREMENTS FOR SUB-AGREEMENTS**  
**AWARDED BY A PRIME CONTRACTOR**

A contractor must comply with the following provisions in its award of sub-agreements. (This section does not apply to a supplier's procurement of materials to produce equipment, materials and catalog, off-the-shelf, or manufactured items.)

- (a) 40 CFR Part 32 (Debarment and Suspension Under EPA Assistance Programs);
- (b) The limitations and sub-agreement award in 40 CFR 31.35, and 31.36(i) (3,4,6,10,12) ;
- (c) The requirement for small, small rural, minority, women's and labor surplus area business in 40 CFR 31.36(e);
- (d) The specifications requirements of 40 CFR 31.36(c) (1);
- (e) The Federal cost principles in 40 CFR 31.22 and 31.36(f)(3);
- (f) The prohibited types of sub-agreements in 40 CFR 31.36(f)(4);
- (g) 40 CFR Part 34 (Anti-Lobbying under EPA Assistance Programs).

**TITLE 40--PROTECTION OF ENVIRONMENT  
CHAPTER I--ENVIRONMENTAL PROTECTION AGENCY**

**PART 31--UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND  
COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS**

**Subpart C--Post-Award Requirements**

**Sec. 31.36 Procurement.**

(a) States. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and sub-grantees will follow paragraphs (b) through (i) in this section.

(b) Procurement standards. (1) Grantees and sub-grantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable federal law, the standards identified in this section, and if applicable, Sec. 31.38.

(2) Grantees and sub-grantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and sub-grantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or sub-grantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his immediate family,

(iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or sub-grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. Grantee and sub-grantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and sub-grantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and sub-grantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and sub-grantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and sub-grantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and sub-grantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.

Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and sub-grantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.

Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and sub-grantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and sub-grantees will use time and material type contracts only--

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and sub-grantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or sub-grantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or sub-grantee unless the matter is primarily a

Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and sub-grantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and sub-grantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or sub-grantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or sub-grantee.

(c) Competition. (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 31.36. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies,

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

(2) Grantees and sub-grantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features, which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential

characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerers shall be clearly stated; and

(ii) Identify all requirements which the offerers must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and sub-grantees will ensure that all pre-qualified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and sub-grantees will not preclude potential bidders from qualifying during the solicitation period.

(5) Construction grants awarded under Title II of the Clean Water Act are subject to the following "Buy American" requirements in paragraphs (c)(5) (i)-(iii) of this section. Section 215 of the Clean Water Act requires that contractors give preference to the use of domestic material in the construction of EPA-funded treatment works.

(i) Contractors must use domestic construction materials in preference to nondomestic material if it is priced no more than 6 percent higher than the bid or offered price of the nondomestic material, including all costs of delivery to the construction site and any applicable duty, whether or not assessed. The grantee will normally base the computations on prices and costs in effect on the date of opening bids or proposals.

(ii) The award official may waive the Buy American provision based on factors the award official considers relevant, including:

(A) Such use is not in the public interest;

(B) The cost is unreasonable;

(C) The Agency's available resources are not sufficient to implement the provision, subject to the Deputy Administrator's concurrence;

(D) The articles, materials or supplies of the class or kind to be used or the articles, materials or supplies from which they are manufactured are not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities or satisfactory quality for the particular project; or

(E) Application of this provision is contrary to multilateral government procurement agreements, subject to the Deputy Administrator's concurrence.

(iii) All bidding documents, sub-agreements, and, if appropriate, requests for proposals must contain the following "Buy American" provision: In accordance with section 215 of the Clean Water Act (33 U.S.C. 1251 et seq.) and implementing EPA regulations, the contractor agrees that preference will be given to domestic construction materials by the contractor, subcontractors, materialmen and suppliers in the performance of this sub-agreement.

(d) Methods of procurement to be followed--(1) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other properties that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in 31.36(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

- (B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
- (C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
- (D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (E) Any or all bids may be rejected if there is a sound documented reason.
- (3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
- (i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
- (ii) Proposals will be solicited from an adequate number of qualified sources;
- (iii) Grantees and sub-grantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;
- (iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- (v) Grantees and sub-grantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- (4) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.
- (i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:
- (A) The item is available only from a single source;
- (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (C) The awarding agency authorizes noncompetitive proposals; or
- (D) After solicitation of a number of sources, competition is determined inadequate.
- (ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.
- (iii) Grantees and sub-grantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.
- (e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms.
- (1) The grantee and sub-grantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
- (2) Affirmative steps shall include:
- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
- (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and



(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) Contract cost and price.

(1) Grantees and sub-grantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offerer is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and sub-grantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed.

To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see Sec. 31.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) Awarding agency review.

(1) Grantees and sub-grantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or sub-grantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and sub-grantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or sub-grantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or sub-grantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or sub-grantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or sub-grantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or sub-grantee that it is complying with these standards. A grantee or sub-grantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) Bonding requirements. For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or sub-grantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) Contract provisions. A grantee's and sub-grantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

(Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or sub-grantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or sub-grantees)

(4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and sub-grants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and sub-grantees when required by Federal grant program legislation)

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5).

(Construction contracts awarded by grantees and sub-grantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the sub-grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or sub-grantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C.

1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

(Contracts, subcontracts, and sub-grants of amounts in excess of \$100,000)

(13) Mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

(j) Payment to consultants.

(1) EPA will limit its participation in the salary rate (excluding overhead) paid to individual consultants retained by grantees or by a grantee's contractors or subcontractors to the maximum daily rate for a GS-18. (Grantees may, however, pay consultants more than this amount). This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed; grantees will pay these in accordance with their normal travel reimbursement practices. (Pub. L. 99-591).

(2) Sub-agreements with firms for services which are awarded using the procurement requirements in this part are not affected by this limitation.

(k) Use of the same architect or engineer during construction.

(1) If the grantee is satisfied with the qualifications and performance of the architect or engineer who provided any or all of the facilities planning or design services for a waste-water treatment works project and wishes to retain that firm or individual during construction of the project, it may do so without further public notice and evaluation of qualifications, provided:

(i) The grantee received a facilities planning (Step 1) or design grant (Step 2), and selected the architect or engineer in accordance with EPA's procurement regulations in effect when EPA awarded the grant; or

(ii) The award official approves noncompetitive procurement under Sec. 31.36(d)(4) for reasons other than simply using the same individual or firm that provided facilities planning or design services for the project; or

(iii) The grantee attests that:

(A) The initial request for proposals clearly stated the possibility that the firm or individual selected could be awarded a sub-agreement for services during construction; and

(B) The firm or individual was selected for facilities planning or design services in accordance with procedures specified in this section.

(C) No employee, officer or agent of the grantee, any member of their immediate families, or their partners have financial or other interest in the firm selected for award; and

(D) None of the grantee's officers, employees or agents solicited or accepted gratuities, favors or anything of monetary value from contractors or other parties to sub-agreements.

(2) However, if the grantee uses the procedures in paragraph (k)(1) of this section to retain an architect or engineer, any Step 3 sub-agreements between the architect or engineer and the grantee must meet all of the other procurement provisions in Sec. 31.36.

[53 FR 8068 and 8087, Mar. 11, 1988, and amended at 53 FR 8075, Mar. 11, 1988; 60 FR 19639, 19644, Apr. 19, 1995; 66 FR 3794, Jan. 16, 2001]

**KRS Chapter 45A**  
**Kentucky Model Procurement Code**

**45A.075 Methods of awarding state contracts.**

Except as otherwise authorized by law, all state contracts shall be awarded by:

- (1) Competitive sealed bidding, pursuant to KRS 45A.080; or
- (2) Competitive negotiation, pursuant to KRS 45A.085 and 45A.090 or 45A.180; or
- (3) Noncompetitive negotiation, pursuant to KRS 45A.095; or
- (4) Small purchase procedures, pursuant to KRS 45A.100.

**Effective:** June 24, 2003

**History:** Amended 2003 Ky. Acts ch. 98, sec. 4, effective June 24, 2003. -- Created 1978 Ky. Acts ch. 110, sec. 16, effective January 1, 1979.

**45A.080 Competitive sealed bidding.**

(1) Contracts exceeding the amount provided by KRS 45A.100 shall be awarded by competitive sealed bidding unless it is determined in writing that this method is not practicable. Factors to be considered in determining whether competitive sealed bidding is not practicable shall include:

- (a) Whether specifications can be prepared that permit award on the basis of best value; and
- (b) The available sources, the time and place of performance, and other relevant circumstances as are appropriate for the use of competitive sealed bidding.

(2) The invitation for bids shall state that awards shall be made on the basis of best value. In any contract which is awarded under an invitation to bid which requires delivery by a specified date and imposes a penalty for late delivery, if the delivery is late, the contractor shall be given the opportunity to present evidence that the cause of the delay was beyond his control. If it is the opinion of the purchasing officer that there is sufficient justification for delayed delivery, the purchasing officer may adjust or waive any penalty that is provided for in the contract.

(3) Adequate public notice of the invitation for bids shall be given a sufficient time prior to the date set forth for the opening of bids. The notice may include posting on the Internet or publication in a newspaper or newspapers of general circulation in the state as determined by the secretary of the Finance and Administration Cabinet not less than seven (7) days before the date set for the opening of the bids. The provisions of this subsection shall also apply to price contracts and purchase contracts of state institutions of higher education.

(4) Bids shall be opened publicly at the time and place designated in the invitation for bids. At the time the bids are opened, the purchasing agency shall announce the agency's engineer's estimate, if applicable, and make it a part of the agency records pertaining to the letting of any contract for which bids were received. Each bid, together with the name of the bidder and the agency's engineer's estimate, shall be recorded and be open to public inspection. Electronic bid opening and posting of the required information for public viewing shall satisfy the requirements of this subsection.

(5) The contract shall be awarded by written notice to the responsive and responsible bidder whose bid offers the best value.

(6) Correction or withdrawal of bids shall be allowed only to the extent permitted by regulations issued by the secretary.

**Effective:** July 14, 2000

**History:** Amended 2000 Ky. Acts ch. 509, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 120, sec. 10, effective July 15, 1998. -- Amended 1997 (1<sup>st</sup> Extra. Sess.) Ky. Acts ch. 4, sec. 27, effective May 30, 1997. -- Amended 1996 Ky. Acts ch. 60, sec. 2, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 278, sec. 1, effective July 15, 1994. -- Amended 1982 Ky. Acts ch. 282, sec. 1, effective July 15, 1982. -- Amended 1979 (1st Extra.

**45A.085 Competitive negotiation.**

(1) When, under administrative regulations promulgated by the secretary or under KRS 45A.180, the purchasing officer determines in writing that the use of competitive sealed bidding is not practicable, and except as provided in KRS 45A.095 and 45A.100, a contract may be awarded by competitive negotiation.

(2) Adequate public notice of the request for proposals shall be given in the same manner and circumstances as provided in KRS 45A.080(3).

(3) Contracts other than contracts for projects utilizing an alternative project delivery method under KRS 45A.180 may be competitively negotiated when it is determined in writing by the purchasing officer that the bids received by competitive sealed bidding either are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which each competitive bidder has been notified of the intention to negotiate and is given reasonable opportunity to negotiate.

(4) Contracts for projects utilizing an alternative project delivery method shall be processed in accordance with KRS 45A.180.

(5) The request for proposals shall indicate the relative importance of price and other evaluation factors.

(6) Award shall be made to the responsible offerer whose proposal is determined in writing to be the most advantageous to the Commonwealth, taking into consideration price and the evaluation factors set forth in the request for proposals.

(7) Written or oral discussions shall be conducted with all responsible offerers who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerers. Discussions need not be conducted:

(a) With respect to prices, where the prices are fixed by law or administrative regulation, except that consideration shall be given to competitive terms and conditions;

(b) Where time of delivery or performance will not permit discussions; or

(c) Where it can be clearly demonstrated and documented from the existence of adequate competition or prior experience with the particular supply, service, or construction item, that acceptance of an initial offer without discussion would result in fair and reasonable best value procurement, and the request for proposals notifies all offerers of the possibility that award may be made on the basis of the initial offers.

**Effective:** June 24, 2003

**History:** Amended 2003 Ky. Acts ch. 98, sec. 5, effective June 24, 2003. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 28, effective May 30, 1997. -- Amended 1979 (1st Extra. Sess.) Ky. Acts ch. 9, sec. 2, effective February 10, 1979. -- Created 1978 Ky. Acts ch. 110, sec. 18, effective January 1, 1979.

**45A.090 Negotiation after competitive sealed bidding when all bids exceed available funds.**

(1) In the event that all bids submitted pursuant to competitive sealed bidding under KRS 45A.080 result in bid prices in excess of the funds available for the purchase, and the chief purchasing officer determines in writing:

(a) That there are no additional funds available from any source so as to permit an award to the responsive and responsible bidder whose bid offers the best value; and

(b) The best interest of the state will not permit the delay attendant to a resolicitation under revised specifications, or for revised quantities, under competitive sealed bidding as provided in KRS 45A.080, then a negotiated award may be made as set forth in subsections (2) or (3) of this section.

(2) Where there is more than one (1) bidder, competitive negotiations pursuant to KRS 45A.085(3) shall be conducted with the three (3) (two (2) if there are only two (2)) bidders determined in writing to be the most responsive and responsible bidders, based on criteria contained in the bid invitation. Such competitive negotiations shall be conducted under the following restrictions:

(a) If discussions pertaining to the revision of the specifications or quantities are held with any potential offerer, all other potential offerers shall be afforded an opportunity to take part in such discussions; and

(b) A request for proposals, based upon revised specifications or quantities, shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements, and shall be awarded upon the basis of best value.

(3) Where, after competitive sealed bidding, it is determined in writing that there is only one (1) responsive and responsible bidder, a noncompetitive negotiated award may be made with such bidder in accordance with KRS 45A.095.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 98, sec. 6, effective June 24, 2003. – Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 29, effective May 30, 1997. – Created 1978 Ky. Acts ch. 110, sec. 19, effective January 1, 1979.

#### **45A.095 Noncompetitive negotiation.**

(1) A contract may be made by noncompetitive negotiation only for sole source purchases, or when competition is not feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A, or when emergency conditions exist. Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no less than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record. Competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) Where rates are fixed by law or ordinance;

(c) For library books;

(d) For commercial items that are purchased for resale;

(e) For interests in real property;

(f) For visiting speakers, professors, expert witnesses, and performing artists;

(g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725; and

(h) For agricultural products in accordance with KRS 45A.645.

(2) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency condition exists.

(3) An emergency condition is a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through

normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person.

(4) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.

**Effective:** July 15, 2002

**History:** Amended 2002 Ky. Acts ch. 344, sec. 9, effective July 15, 2002. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 30, effective May 30, 1997. -- Amended 1990 Ky. Acts ch. 496, sec. 4, effective July 13, 1990. -- Created 1978 Ky. Acts ch. 110, sec. 20, effective January 1, 1979.

#### **45A.100 Small purchases.**

(1) Procurements may be made in accordance with small purchase administrative regulations promulgated by the secretary of the Finance and Administration Cabinet, pursuant to KRS Chapter 13A, as follows:

(a) Up to ten thousand dollars (\$10,000) per project for construction and one thousand dollars (\$1,000) for purchases by any state governmental body, except for those state administrative bodies specified in paragraph (b) of this subsection; and

(b) Up to forty thousand dollars (\$40,000) per project for construction or purchases by the Finance and Administration Cabinet, state institutions of higher education, and the legislative branch of government.

(2) Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. At least every two (2) years, the secretary shall review the prevailing costs of labor and materials and may make recommendations to the next regular session of the General Assembly for the revision of the then current maximum small purchase amount as justified by intervening changes in the cost of labor and materials.

(3) The secretary of the Finance and Administration Cabinet may grant to any state agency with a justifiable need a delegation of small purchasing authority, which exceeds the agency's small purchase limit, provided in subsection (1) of this section.

Delegations of small purchasing authority shall be granted or revoked by the secretary of the Finance and Administration Cabinet, in accordance with administrative regulations promulgated by the cabinet pursuant to KRS Chapter 13A. These administrative regulations shall establish, at a minimum, the criteria for granting and revoking delegations of small purchasing authority, including the requesting agency's past compliance with purchasing regulations, the level of training of the agency's purchasing staff, and the extent to which the agency utilizes the Kentucky Automated Purchasing System. The administrative regulations may permit the secretary of the Finance and Administration Cabinet to delegate small purchase procurements up to the maximum amount specified in subsection (1)(b) of this section.

**Effective:** July 15, 2002

**History:** Amended 2002 Ky. Acts ch. 320, sec. 2, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 225, sec. 1, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 60, sec. 1, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 323, sec. 1, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 496, sec. 5, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 384, sec. 1, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 384, sec. 1, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 282, sec. 2, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 242, sec. 1, effective July 15, 1980; and ch. 250, sec. 19, effective April 9, 1980. -- Created 1978 Ky. Acts ch. 110, sec. 21, effective January 1, 1979.

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE  
EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)**

The following excerpts are from 45 FR 65984 (October 3, 1980):

The minority and female goals apply to Federal and federally assisted construction contractors and subcontractors which have covered contracts. The goals are expressed as a percentage of the total hours worked by such a covered or subcontractor's entire onsite construction workforce, which is working on any construction site within a relevant area. The goal applies to each construction craft and trade in the contractor's entire workforce in the relevant area including those employees working on private non-federally involved projects.

Until further notice, the following goals for minority utilization in each construction craft and trade shall be included in all Federal or federally assisted construction contracts and subcontracts in excess of \$10,000 to be performed in the respective geographic area. The goals are applicable to each nonexempt contractor's total onsite construction workforce, regardless of whether or not part of that workforce is performing work on a Federal, federally assisted or non-federally related project, contract or subcontract.

Construction contractors which are participating in an approved Hometown Plan (see 41 CFR 60-4.5) are required to comply with the goals of the Hometown Plan with regard to construction work they perform in the area covered by the Hometown Plan. With regard to all their other covered construction work, such contractors are required to comply as follows:

- Goals for female participation in each trade.....6.9%
- Goals for minority participation in each trade.....Insert goals for each year  
(see Attachment Number 6)

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area.

The following excerpts are from 45 FR 65977 (October 3, 1980):

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

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

4. As used in this Notice, and in the contract resulting from this solicitation, the covered area is (insert description of the geographical areas where the contract is to be performed giving the state, country, and city, if any).



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

EEO Specifications

Following is the standard language, which must be incorporated into all solicitations for offers and bids on all Federal and Federally assisted construction contracts or subcontracts in excess of \$10,000 to be performed in designated geographical areas:

1. As used in these specifications:

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

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

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take a good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7-a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative action to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative actions steps at least as extensively as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligation.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources complied under 7-b above.

- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, lay-off, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foreman, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that EEO policy and the Contractor's obligations under these specifications are being carried out.
- n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
- p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative actions obligations (7 a through p). The efforts of a contractor association, joint

contractor-union, contractor-community, of other similar group of which the contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7 a through p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example: even though the Contractor has achieved its goal for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables for affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

EEO Goals for Economic Areas in Region 4  
 Source: Appendix B-80 in 45 FR 65984 (October 3, 1980)

**Alabama:**

047 Mobile, AL	
SMSA Counties:	
5160 Mobile, AL	26.9
AL Baldwin; AL Mobile.	
6026 Pascagoula - Moss, Point MS	16.9
MS Jackson.	
Non-SMSA Counties	26.4
AL Choctaw; AL Clarke; AL Conecuh; AL Escambia; AL Monroe; AL Washington; AL Wilcox;	
MS George; MS Greene.	
048 Montgomery, AL:	
SMSA Counties	
5240 Montgomery, AL	29.9
AL Autauga; AL Elmore; AL Montgomery.	
Non-SMSA Counties	29.9
AL Barbour; AL Bullock; AL Butler; AL Coffee; AL Coosa; AL Covington;	
AL Crenshaw; AL Dale; AL Dallas; AL Geneva; AL Henry; AL Houston.;	
AL Lowndes; AL Macon; AL Perry; AL Pike; AL Tallapoosa.	
049 Birmingham, AL:	
SMSA Counties:	
0450 Anniston, AL	14.3
AL Calhoun	
1000 Birmingham, AL	24.9
AL Jefferson, AL St- Clair; AL Shelby; AL Walker; AL Etowah	
8600 Tuscaloosa, AL	20.6
AL Tuscaloosa.	
Non-SMSA Counties	20.7
AL Bibb; AL Blount AL Cherokee; AL Chilton; AL Clay; AL Cleburne; AL Cullman;	
AL Fayette; AL Greene; AL Hale; AL Lamar; AL Marion; AL Pickens; AL Randolph;	
AL Sumter; AL Talladega; AL Winston.	
050 Huntsville - Florence, AL:	
SMSA Counties:	
2650 Florence, AL	11.9
AL Colbert; AL Lauderdale.	
3440 Huntsville, AL	12.0
AL Limestone; AL Madison; AL Marshall.	
Non-SMSA Counties	11.2
AL Franklin; AL Lawrence AL Morgan; TN Lincoln.	
<b>Georgia:</b>	
035 Augusta, GA:	
SMSA Counties:	
0600 Augusta, GA - SC	27.2
GA Columbia; GA Richmond; SC Aiken	
Non-SMSA Counties	32.8
GA Burke; GA Emanuel; GA Glascock; GA Jefferson; GA Jenkins; GA Lincoln; GA	
McDuffie; GA Taliaferro; GA Warren; GA Wilkes; SC Allendale, SC Bamberg;	
SC Barnwell; SC Edgefield; SC McCormick	
036 Atlanta, GA	
SMSA Counties	
0520 Atlanta	21.2
GA Butts; GA Cherokee; GA Clayton; GA Cobb; GA DeKalb; GA Douglas; GA Fayette;	
GA Forsyth; GA Fulton; GA Gwinnett; GA Henry, GA Newton; GA Paulding; GA Rockdale;	
GA Walton	

Non-SMSA Counties	19.5
GA Banks; GA Barrow; GA Bartow; GA Carroll; GA Clarke; GA Coweta; GA Dawson; GA Elbert; GA Fannin; GA Floyd; GA Franklin; GA Gilmer; GA Gordon; GA Greene; GA Habersham; GA Hall; GA Haralson; GA Hart; GA Heard; GA Jackson; GA Jasper; GA Lamar; GA Lumpkin; GA Madison, GA Morgan; GA Oconee, GA Oglethorpe; GA Pickens; GA Pike; GA Polk; GA Rabun, GA Spalding; GA Stephens; GA Towns; GA Union; GA Upson; GA White.	
037 Columbus, GA:	
SMSA Counties	
1800 Columbus	29.6
AL Russell; GA Chattahoochee; GA Columbus.	
Non-SMSA Counties	31.6
AL Chambers; AL Lee; GA Harris; GA Marion; GA Meriwether; GA Quitman; GA Schley; GA Stewart; GA Sumter; GA Talbot; GA Troup; GA Webster.	
038 Macon, GA:	
SMSA Counties	
4660 Macon, GA	27.5
GA Bibb; GA Houston; GA Jones; GA Twiggs.	
Non-SMSA Counties	31.7
GA Baldwin; GA Bleckley; GA Crawford; GA Crisp; GA Dodge; GA Dooly; GA Hancock; GA Johnson; GA Laurens; GA Macon; GA Monroe; GA Peach; GA Pulaski; GA Putnam. GA Taylor; GA Telfair; GA Treutlen; GA Washington; GA Wheeler; GA Wilcox; GA Wilkinson.	
039 Savannah, GA:	
SMSA Counties:	
7520 Savannah, GA	30.6
GA Bryan; GA Chatham; GA Effingham	
Non-SMSA Counties	29.8
GA Appling; GA Atkinson; GA Bacon; GA Bullock; GA Candler; GA Coffee; GA Evans; GA Jeff Davis; GA Liberty; GA Long; GA McIntosh; GA Montgomery; GA Screven; GA Tattinall; GA Toombs; GA Wayne; SC Beaufort; SC Hampton; SC Jasper.	
040 Albany, GA	
SMSA Counties	
0120 Albany, GA	32.1
GA Dougherty; GA Lee.	
Non-SMSA Counties	31.1
GA Baker; GA Ben Hill; GA Berrien; GA Brooks; GA Calhoun; GA Clay; GA Clinch; GA Colquitt; GA Cook; GA Decatur; GA Early; GA Echols; GA Grady; GA Irwin; GA Lanier, GA Lowndes; GA Miller; GA Mitchell; GA Randolph; GA Seminole, GA Terrell; GA Thomas; GA Tift; GA Turner; GA Worth	
<b>Florida:</b>	
041 Jacksonville, FL:	
SMSA Counties	
2900 Gainesville, FL	20.6
FL Alachua	
3600 Jacksonville, FL	21.8
FL Baker; FL Clay; FL Duval; FL Nassau; FL St. Johns.	
Non-SMSA Counties	22.2
FL Bradford; FL Columbia; FL Dade; FL Gilchrist; FL Hamilton; FL LaFayette; FL Levy; FL Marion; FL Putnam; FL Suwannee; FL Union; GA Brantley; GA Camden; GA Charlton; GA Glynn; GA Pierce; GA Ware.	
042 Orlando - Melbourne - Daytona Beach, FL.	
SMSA Counties:	
2020 Daytona Beach, FL	15.7
FL Volusia.	
4900 Melbourne - Titusville - Cocoa, FL	10.7
FL Brevard.	
5960 Orlando, FL	15.5
FL Orange; FL Osceola; FL Seminole.	

Non-SMSA Counties	14.9
FL Flagler; FL Lake; FL Sumter.	
043 Miami - Fort Lauderdale, FL:	
SMSA Counties:	
2680 Fort Lauderdale - Hollywood, FL	15.5
FL. Broward.	
5000 Miami, FL	39.5
FL Dade.	
8960 West Palm Beach - Boca Raton, FL	22.4
FL Palm Beach.	
Non-SMSA Counties	30.4
FL Glades; FL Hendry; FL Indian River, FL Martin; FL Monroe:	
FL Okeechobee; FL St. Lucie.	
044 Tampa - St Petersburg, FL	
SMSA Counties:	
1140 Bradenton, FL	15.9
FL Manatee.	
2700 Fort Myers, FL	
15.3	
FL Lee.	
3980 Lakeland - Winter Haven, FL	18.0
FL Polk	
7510 Sarasota, FL	10.5
FL Sarasota.	
8280 Tampa - St. Petersburg, FL	17.9
FL Hillsborough, FL Pasco; FL Pinellas	
Non-SMSA Counties	17.1
FL Charlotte; FL Citrus; FL Collier, FL Desoto; FL Hardee; FL Hernando; FL Highlands.	
045 Tallahassee. FL:	
SMSA Counties:	
8240 Tallahassee, FL	24.3
FL Leon; FL Wakulla.	
Non-SMSA Counties:	29.5
FL Calhoun; FL Franklin; FL Gadsden; FL Jackson; FL Jefferson; FL Liberty;	
FL Madison; FL Taylor.	
046 Pensacola - Panama City, FL	
SMSA Counties:	
8615 Panama City, FL	14.1
FL Bay.	
6080 Pensacola, FL	18.3
FL Escambia; FL Santa Rosa.	
Non-SMSA Counties	15.4
FL Gulf, FL Holmes; FL Okaloosa; FL Walton; FL Washington.	
Kentucky:	
056 Paducah, KY:	
Non-SMSA Counties	5.2
IL Hardin; IL Massac; IL Pope; KY Ballard; KY Caldwell; KY Calloway. KY Carlisle;	
KY Crittenden; KY Fulton; KY Graves; KY Hickman; KY Livingston; KY Lyon. KY	
McCracken; KY Marshall.	
057 Louisville, KY:	
SMSA Counties:	
4520 Louisville, KY-IN	11.2
IN Clark; IN Floyd; KY Bullitt; KY Jefferson; KY Oldham.	
Non-SMSA Counties	9.6
IN Crawford; IN Harrison; IN Jefferson; IN Orange; IN Scott; IN Washington;	
KY Breckinridge; KY Grayson; KY Hardin; KY Hart; KY Henry; KY Larue; KY Marion;	
KY Meade; KY Nelson; KY Shelby; KY Spencer; KY Trimble; KY Washington.	
058 Lexington, KY	
SMSA Counties	

4280 Lexington-Fayette, KY  
 KY Bourbon; KY Clark; KY Fayette; KY Jessamine; KY Scott; KY Woodford.

Non-SMSA Counties

7.0

KY Adair KY Anderson; KY Bath; KY Boyle; KY Breathitt; KY Casey; KY Clay;  
 KY Estill; KY Franklin- KY Garrard; KY Green; KY Harrison- KY Jackson; KY Knott;  
 KY Lee; KY Leslie; KY Letcher; KY Lincoln; KY Madison; KY Magoffin; KY Menifee;  
 KY Mercer; KY Montgomery; KY Morgan. KY Nicholas; KY Owsley; KY Perry;  
 KY Powell; KY Pulaski; KY Rockcastle; KY Russell; KY Taylor; KY Wolfe.

**Mississippi:**

112 Jackson, MS:

SMSA Counties;

3560 Jackson, MS

30.3

MS Hinds; MS Rankin.

Non-SMSA Counties

32.0

MS Attala; MS Choctaw; MS Choctaw; MS Clarke; MS Copiah;  
 MS Covington; MS Franklin; MS Holmes; MS Humphreys; MS Issaquena;  
 MS Jasper; MS Jefferson; MS Jefferson Davis; MS Jones; MS Kemper;  
 MS Lauderdale; MS Lawrence; MS Leake; MS Lincoln; MS Lowndes;  
 MS Madison; MS Neshoba; MS Newton; MS Noxubee,- MS Oktibbeha;  
 MS Scott; MS Sharkey; MS Simpson; MS Smith; MS Warren; MS Wayne;  
 MS Winston; MS Yazoo.

**North Carolina:**

024 Rocky Mount - Wilson - Greenville NC:

Non-SMSA Counties

31.7

NC Beaufort; NC Carteret; NC Craven, - NC Dare; NC Edgecombe; NC Greene; NC  
 Halifax; NC Hyde; NC Jones; NC Lenoir', NC Martin; NC Nash; NC Northampton; NC  
 Pamlico; NC Pitt; NC Tyrrell; NC Washington; NC Wayne; NC Wilson

025 Wilmington, NC:

SMSA Counties:

9200 Wilmington, NC

20.7

NC Brunswick; NC New Hanover.

Non-SMSA counties

3.5

NC Columbus; NC Duplin; NC Onslow; NC Pender.

026 Fayetteville, NC:

SMSA Counties:

2560 Fayetteville, NC

26.2

NC Cumberland.

Non-SMSA Counties

33.5

NC Bladen; NC Hoke; NC Richmond; NC Robeson; NC Sampson; NC Scotland.

027 Raleigh - Durham, NC.

SMSA Counties:

6640 Raleigh - Durham

22.8

NG Durham; NC Orange; NC Wake.

Non-SMSA Counties

24.7

NC Chatham; NC Franklin; NC Granville; NC Harnett; NC Johnston; NC Lee; NC Person;  
 NC Vance; NC Warren.

028 Greensboro - Winston Sale m - High Point, NC:

SMSA Counties:

DOW/RPPS - April 2005



1300 Burlington, NC  
16.2  
NC Alamance.  
3120 Greensboro - Winston Salem - High Point NC  
16.4  
NC Davidson; NC Forsyth; NC Guilford,- NC Randolph; NC Stokes; NC Yadkin.  
Non-SMSA Counties  
15.5  
NC Alleghany; NG Ashe; NC Caswell; NC Davie; NC Montgomery; NC Moore; NC Rockingham; NC Surry; NC Watauga; NC Wilkes.  
029 Charlotte, NC:  
SMSA Counties:  
1520 Charlotte - Gastonia, NC  
18.5  
NC Gaston; NC Mecklenburg; NC Union.  
Non-SMSA Counties  
15.7  
NC Alexander; NC Anson; NC Burke; NG Cabarrus; NC Caldwell; NC Catawba; NC Cleveland; NC Ire dell; NC Lincoln; NC Rowan; NC Rutherford; NC Stanley; SC Chester; SC Lancaster SC York.  
030 Asheville, NC  
Non-SMSA Counties:  
0480 Asheville, NC 8.5  
NC Buncombe; NC Madison.  
Non-SMSA Counties 6.3  
NC Avery,- NC Cherokee; NC Clay; NC Graham; HC Heywood, NC Henderson; NC Jackson; NC McDowell; NC Macon; NC Mitchell; NC Swain; NC Transylvania; NC Yancey.

**South Carolina:**  
031 Greenville -Spartanburg, SC:  
SMSA Counties:  
316bGreenville -Spartanburg, SC 16.0  
SC Greenville; SC Pickens; SC Spartanburg.  
Non-SMSA Counties 17.8  
SC Polk; SC Abbeville; SC Anderson; SC Cherokee', SC Greenwood; SC Laurens; SC Oconee; SC Union.  
032 Columbia, SC  
SMSA Counties:  
1760 Columbia, SC 23.4  
SC Lexington; SC Richland.  
Non-SMSA Counties 32.0  
SC Calhoun SC Clarendon; SC Fairfield; SC Kershaw; SC Lee; SC Newberry; SC Orangeburg; SC Saluda; SC Sumter  
033 Florence, SC  
Non-SMSA Counties 33.0  
SC Chesterfield; SC Darlington; SC Dillon; SC Florence; SC Georgetown; SC Horry; SC Marion; SC Marlboro; SC Williamsburg.  
034 Charleston - North Charleston, SC  
SMSA Counties 30.0  
1440 Charleston - North Charleston, SC  
SC Berkeley; SC Charleston; SC Dorchester.  
Non-SMSA Counties 30.7  
SC Collection

**Tennessee:**  
051 Chattanooga, TN:  
SMSA Counties  
1560 Chattanooga, TN - GA 12.6  
GA Catoosa; GA Dade; GA Walker; TN Hamilton; TN Marion; TN Sequatchie.

Non-SMSA Counties	8.6
AL De Kalb; AL Jackson; GA Chattooga; GA Murray; GA Whitfield; TN Bledsoe; TN Bradley; TN Grundy; TN McMinn; TN Meigs; TN Monroe; TN Polk; TN Rhea.	
052 Johnson City - Kingsport - Bristol, TN-VA:	
SMSA Counties:	
3660 Johnson City - Kingsport - Bristol, TN - VA	2.6
TN Carter; TN Hawkins- TN Sullivan; TN Unicoi; TN Washington; VA Scott; VA Washington; VA Bristol.	
Non-SMSA Counties	3.2
TN Greene; TN Hancock; TN Johnson; VA Buchanan; VA Dickenson; VA Lee; VA Russell; VA Smyth; VA Tazewell; VA Wise; VA Norton; WV McDowell, WV Mercer.	
053 Knoxville, TN	
SMSA Counties:	
3840 Knoxville, TN	6.6
TN Anderson; TN Blount; TN Knox; TN Union.	
Non-SMSA Counties	4.5
KY Bell; KY Harlan; KY Knox; KY Laurel; KY McCreary; KY Wayne; KY Whitley; TN Campbell; TN Claiborne; TN Cooke; TN Cumberland; TN Fentress; TN Grainger, TN Hamblen; TN Jefferson; TN Loudon; TN Morgan; TN Roane; TN Scott; TN Sevier.	
054 Nashville, TN:	
SMSA Counties:	
1660 Clarksville - Hopkinsville, TN - KY	18.2
KY Christian; TN Montgomery.	
5360 Nashville - Davidson, TN	15.8
TN Cheatham, TN Davidson; TN Dickson; TN Robertson; TN Rutherford; TN Sumner; TN Williamson; TN Wilson.	
Non-SMSA Counties	12.0
KY Allen; KY Barren; KY Butler; KY Clinton; KY Cumberland; KY Edmonson; KY Logan; KY Metcalfe; KY Monroe; KY Simpson; KY Todd; KY Trigg; KY Warren; TN Bedford; TN Cannon; TN Clay; TN Coffee; TN DeKalb; TN Franklin; TN Giles; TN Hickman; TN Houston; TN Humphreys; TN Jackson; TN Lawrence; TN Lewis; TN Macon; TN Marshall; TN Maury; TN Moore; TN Overton; TN Perry; TN Pickett; TN Putnam; TN Smith,, TN Stewart; TN Trouslale; TN Van Buren; TN Warren; TN Wayne; TN White.	
055 Memphis, TN:	
SMSA Counties:	
4920 Memphis, TN-AR-MS	32.3
AR Critteriden; MS Do Soto; TN Shelby; TN Tipton.	
Non-SMSA Counties	26.5
AR Clay; AR Craighead; AR Cross; AR Greene; AR Lawrence; AR Lee; AR Mississippi; AR Phillips- AR. Poinsett; AR Randolph; AR St. Francis; MS Alcorn, MS Benton; MS Bolivar; MS Calhoun; MS Carroll; MS Chickasaw, MS Clay; MS Coahoma; MS Grenada; MS Itawamba; MS Lafayette; MS Lee; MS Leflore; MS Marshall; MS Monroe; MS Montgomery; MS Panola; MS Pontotoc; MS Prentiss; MS Quitman; MS Sunflower; MS Tallahatchie; MS Tate; MS Tippah; MS Tishomingo; MS Union; MS Washington; MS Webster. MS Yalobusha; MO Dunklin; MO New Madrid; MO Perniscot; TN Benton; TN Carroll; TN Chester; TN Crockett; TN Decatur; TN Dyer; TN Fayette; TN Gibson; TN Hardeman; TN Hardin; TN Haywood; TN Henderson- TN Henry; TN Lake; TN Lauderdale; TN McNairy; TN Madison; TN Obion; TN Weakley.	

**CHECK LIST OF EEO DOCUMENTATION FOR BIDDERS  
ON GRANT/LOAN CONSTRUCTION  
(Required by Executive Order 11246 as amended)**

The low, responsive responsible bidder must forward the following items, in duplicate, to the owner no later than ten (10) days after bid opening. The owner shall have one (1) copy available for inspection by the Office of Federal Contracts Compliance within 14 days after the bid opening. The web site for the OFCC is [http://www.dol.gov/esa/ofcp\\_org.htm](http://www.dol.gov/esa/ofcp_org.htm).

1. Project Number. Project Location. Type of Construction.
2. Proof of registration with the Joint Reporting Commission. (See Attachment Number 8.)
3. Copy of Affirmative Action Plan of contractor. Indicate company official responsible for EEO.
4. List of current construction contracts, with dollar amount. List contracting Federal Agency, if applicable.
5. Statistics concerning company percent workforce, permanent and temporary, by sex, race, trade, handicapped, and age. 40 CFR Part 7.
6. List of employment sources for project in question. If union sources are utilized, indicate percentage of minority membership within the union crafts.
7. Anticipated employment needs for this project, by sex, race and trade, with estimate of minority participation in specific trades.
8. List of subcontractors (name, address and telephone) with dollar amount and duration of subcontract. Subcontractor contracts over \$10,000 must submit items 1- 8.
9. List of any subcontract work yet to be committed with estimate of dollar amount and duration of contract.
10. Contract Price. Duration of prime contract.
11. DBE Documents - See special instructions regarding use of Minority, and Women Owned, and Small Businesses.

## Employer Information Report EEO-1

Under the direction of the US Equal Employment Opportunity Commission, the Joint Reporting Committee is responsible for the full-length, multi-phase processing of employment statistics collected on the Employer Information Report EEO-1. This report, also termed Standard Form 100, details the sex and race/ ethnic composition of an employer's work force by job category.

The Employer Information EEO-1 survey is conducted annually under the authority of Public Law 88-352, Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972. All employers with 15 or more employees are covered by Public Law 88-352 and are required to keep employment records as specified by Commission regulations. Based on the number of employees and federal contract activities, certain large employers are required to file an EEO-1 Report on an annual basis.

The EEO-1 Report must be filed by:

(A) All private employers who are: (1) subject to Title VII of the Civil Rights Act of 1964 (as amended by the Equal Employment Opportunity Act of 1972) with 100 or more employees EXCLUDING State and local governments, primary and secondary school systems, institutions of higher education, Indian tribes and tax-exempt private memberships clubs other than labor organizations; OR (2) subject to Title VII who have fewer than 100 employees if the company is owned or affiliated with another company, or there is centralized ownership, control or management (such as central control of personnel policies and labor relations) so that the group legally constitutes a single enterprise and the entire enterprise employs a total of 100 or more employees.

(B) All federal contractors (private employers), who: (1) are not exempt as provided for by 41 CFR 60-1.5, (2) have 50 or more employees, and (a) are prime contractors or first-tier subcontractors, and have a contract, subcontract, or purchase order amounting to \$50,000 or more; or (b) serve as depository of Government funds in any amount, or (c) is a financial institution which is an issuing an paying agent for U.S. Savings Bonds and Notes.

Only those establishments located in the District of Columbia and the 50 states are required to submit the EEO-1 Report. No Reports should be filed for establishments in Puerto Rico, the Virgin Islands or other American Protectorates.

When filing for the EEO-1 Report for the first time, go to the web site at: <http://www.mimdms.com/jrc.html> and select "Filing for the first time" from the box labeled INFORMATION. File out the electronic questionnaire to enter your company into Joint Reporting Committee (JRC) system. Once you have completed the registration process, you will be contacted on how to proceed with the EEO-1 Report. If you have previously registered with the JRC, follow their instructions to update your information.

**Labor Standards Provisions For Federally Assisted Construction**

Labor standards provisions applicable to contracts covering federally financed and assisted construction (29 CFR 5.5, Contract Provisions and Related Matters) that apply to EPA Special Appropriations Projects grants are:

(a)(4)(iii) 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.

(a)(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.

(a)(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5 (a) (1) through (10) and such other clauses as the U.S. Environmental Protection Agency may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

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

(b) Contractor Work Hours and Safety Standards Act. The Administrator, EPA shall cause or require the contracting officer to insert the following clauses set forth in paragraph (b)(1),(2),(3), and (4) of this section in full in any contract 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 \*Section 5.5(a) of this title. 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 work week in which he or she is employed on such work to 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 (b) (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for unliquidated 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 (b)(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 (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The U.S. Environmental Protection 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 liabilities of such contractor or

subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) (2) of this section.

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

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in section 5.1, the Administrator of EPA shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly worked, deductions made, and actual wages paid. Further, the Administrator of EPA shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the U.S. Environmental Protection Agency and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job. (Approved by the Office of Management and Budget under OMB control numbers 1215-0140 and 1215-0017.)

## CERTIFICATIONS

### **Debarred Firms**

All prime Construction Contractors shall certify that Subcontractors have not and will not be awarded to any firm that is currently on the EPA Master List of Debarred, Suspended and Voluntarily Excluded Persons in accordance with the provisions of 40 CFR 32.500(c). Debarment action is taken against a firm for noncompliance with Federal Law.

All bidders shall complete the attached certification (Attachment Number 10) and submit to the owner with the bid proposal.

### **Anti-lobbying Certification**

All prime Construction Contractors must certify (Attachment Number 11) that no appropriated funds were or will be expended for the purpose of lobbying the Executive or Legislative Branches of the Federal Government or Federal Agency concerning this contract (contract in excess of \$100,000). If the Contractor has made or agreed to make payment to influence any member of Congress in regard to award of this contract, a Disclosure Form must be completed and submitted to the owner with the bid proposal.

All prime Contractors must require all Subcontractors to submit the certification, which must also be submitted to the owner.

**CERTIFICATION REGARDING DEBARMENT,  
SUSPENSION AND OTHER RESPONSIBILITY MATTERS**

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

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

(b) 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;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) 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.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

\_\_\_\_\_  
Typed Name & Title of Authorized Representative

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

\_\_\_\_\_  
Date

\_\_\_\_\_ I am unable to certify to the above statements. My explanation is attached.



**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 sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients 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.

\_\_\_\_\_  
TYPED NAME & TITLE OF AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED REPRESENTATIVE      DATE

I am unable to certify to the above statements. My explanation is attached.

**UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESSES**

The provisions of PL 102-389 and EPA's implementing regulation 40 CFR 31.36(e) require recipients of Federal assistance to award a fair share of sub-agreements to small, small rural, minority and women's businesses on contracts and sub-agreement performed under EPA Assistance Agreements.

The following procedures are to be followed for procurement under EPA Assistance Agreements.

The successful bidder must submit to the grantee within 10 days after bid opening, evidence of the positive steps taken to utilize small, minority and women's businesses. Information should include the following:

EPA Project Number. Project Location. Type of Construction.

List of current construction contracts, with dollar amount. List contracting Federal Agency, if applicable.

List of subcontractors (name, address and telephone) with dollar amount and duration of subcontract.

List of any subcontract work yet to be committed with estimate of dollar amount and duration of contract.

Contract Price. Duration of prime contract.

Such positive efforts shall include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permit its, which encourage participation by small and minority business, and women's business enterprises;
- (5) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring each party to a sub-agreement to take the affirmative steps listed in paragraphs 1 through 5 of this section.

For purposes of clarification:

" This requirement applies to any EPA Financially assisted procurement.

" This requirement mandates three responsibilities. Separate solicitations must be made of small, small rural, minority and women's businesses enterprises.

" A minority business is a business, at least 51 percent of which is owned and controlled by minority group members (Black; Hispanic; Asian American; American Indian; and any other designations approved by the Office of Management and Budget that are U.S. citizens. Any specific clarification concerning the ownership and/or control issues will be provided by the EPA Regional Office.

" A women's business is a business, at least 51 percent of which is owned and controlled by one or more women who are U.S. citizens.

" The control determination will revolve around the minority or women owner's involvement in the day-to-day management of the business enterprise.

" Solicitation should allow adequate time for price analysis; EPA recommends that contact be made no later than 15 days before bid opening.

" Efforts taken to comply with this requirement must be documented in detail; maintain records of firms contacted, including any negotiation efforts to reach competitive price levels, and awards to the designated firms.

" Any proposed changes from the approved Minority/Women/Small business participation after EEO/MBE approval shall be reported to EPA prior to initiation of the action, with the reason for the proposed deviation.

" The EPA recommends that the grantee as well as the prime contractor utilize the services of the following agencies to find information on certified Minority/Women/Small business. Use of these services does not absolve the prime contractors from pursuing additional efforts to comply with this requirement.

Minority Business Development Service Centers These Centers are funded by the U.S. Department of Commerce, to provide technical, financial and contracting assistance to minority, women's and small rural business enterprises. The locations of the Centers are available by selecting the appropriate Minority Business Development Agency regional office from: <http://www.mbda.gov/>.

U.S. Small Business Administration Central Contractor Registration (procurement marketing and access network) at <http://www.ccr.gov/>.

U.S. Small Business Administration (SBA) Online Women's Business Center. For the Women's Business Center nearest you, go to: <http://www.onlinewbc.gov/> and select Women's Business Centers.

For additional information on listings of certified MBE/WBE contractors and subcontractors in the States of Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee, contact Rafael Santamaria in EPA Region 4 at 404 562-8312.

MINORITY AND WOMEN'S BUSINESS ENTERPRISE PARTICIPATION POLICY

MBE/WBE DATA SHEET I

PROJECT NAME: \_\_\_\_\_ BID DATE: \_\_\_\_\_

1. Name, address and telephone number of contact person on all MBE, WBE matters.

Contractor's Name: \_\_\_\_\_

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

Telephone Number: \_\_\_\_\_

2. Has the bidder met at least the minimum 3% and 5% goals?

Yes (submit MBE/WBE DATA SHEET II, including certifications and subcontracts (or letters of intent signed by both parties, identifying the type of work and the dollar amount) within 21 days)

No (submit MBE/WBE DATA SHEET III, including all documentation to support a good faith effort within 21 days)

If no, please provide an explanation of the bidders inability to achieve the required goals and list any uncommitted areas of work.

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

**MINORITY AND WOMEN'S BUSINESS ENTERPRISE PARTICIPATION POLICY  
MBE/WBE DATA SHEET II**

**PROJECT NAME:** \_\_\_\_\_ **BID DATE:** \_\_\_\_\_

1. Contractor's Name/Address:  
\_\_\_\_\_
2. Contact Person Name & Phone Number:  
\_\_\_\_\_
3. Total contract amount:  
\_\_\_\_\_
4. Total dollar amount/percent of contract of MBE participation:  
\_\_\_\_\_
5. Total dollar amount/percent of contract of WBE participation:  
\_\_\_\_\_
6. Certifications or self-certification\* for each subcontractor enclosed:  Yes  No
7. Subcontracts or letters of intent signed by both parties enclosed:  Yes  No

**8. List of MBE Subcontractors:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Type of Contract: \_\_\_\_\_  
Work to be Done: \_\_\_\_\_  
Amount: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Type of Contract: \_\_\_\_\_  
Work to be Done: \_\_\_\_\_  
Amount: \_\_\_\_\_

**9. List of WBE Subcontractors:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Type of Contract: \_\_\_\_\_  
Work to be Done: \_\_\_\_\_  
Amount: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Type of Contract: \_\_\_\_\_  
Work to be Done: \_\_\_\_\_  
Amount: \_\_\_\_\_

Attach Additional Sheets, If Necessary

\*Self-certification: The subcontractor's attorney certifies on his/her letterhead that the subcontractor is a MBE, WBE or both. Call our office at (502) 564-2225, extension 562 if there are any questions.

**MINORITY AND WOMEN'S BUSINESS ENTERPRISE PARTICIPATION POLICY**

**MBE/WBE DATA SHEET III**

**PROJECT NAME:** \_\_\_\_\_ **BID DATE:** \_\_\_\_\_

1. Information concerning the efforts for obtaining subcontractor(s)

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Contract Amount: \_\_\_\_\_  
Amount of subcontract work: \_\_\_\_\_  
Type of work to be subcontracted: \_\_\_\_\_

2. Information to be submitted by the bidder concerning good fair efforts taken

- a. Announcement: List each publication in which an announcement or notification was placed and attach the tear sheet of each announcement from each publication

Name of publication: \_\_\_\_\_

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

Dates of announcement: \_\_\_\_\_

Specific subcontract areas announced: \_\_\_\_\_

- b. List all Minority and Women Business Associations and/or offices contacted for assistance (i.e.: Minority Affairs Office, Louisville Minority Business Development Center).  
(Attach a copy of each notification letter)

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

- c. Minority and Women's Business: List each Minority and Women's Business construction firm or supplier to which a letter of solicitation was sent or with whom negotiations were held.

Company name and phone number: \_\_\_\_\_

Area of Minority and Women's Business Expertise: \_\_\_\_\_

Date of any follow-up call and person spoke to: \_\_\_\_\_

- d. Copies of returned envelopes.  
e. Copies of certified mail return receipts.  
f. Copies of letters from solicited firms declining offer.

**REGION 4 DISADVANTAGED BUSINESS ENTERPRISE (DBE) NEGOTIATED  
RATES (Subject to change - refer to grant award for specific fair share objectives)**

**KENTUCKY**

SRF Construction:  
(both programs)

3% MBE and 5% WBE

Equipment:

1.5% MBE and 6.4% WBE

Services:

4% MBE and 1.8% WBE

Supplies:\*

2% MBE and 5% WBE

**BONDS AND INSURANCE**

Bonding requirements for contracts of \$100,000 or less are contained in 40 CFR 31.36(h).

Bond requirements for contracts in excess of \$100,000 are:

Bid guarantee equivalent to five percent of the bid price. The bid guarantee shall consist of a firm commitment such as a certified check or bid bond submitted with the bid;

Performance bond equal to 100 percent of the contract price, and

Payment bond equal to 100 percent of the contract price. Bonds must be obtained from companies holding Certificates of Authority as acceptable sureties, issued by the U.S. Treasury.

Insurance requirements are contained in the General Conditions of the contract. In addition to the other required insurance, the owner or the contractor, as appropriate, must acquire any flood insurance made available by the Federal Emergency Management Agency as required by 44 CFR Parts 59-79, if construction will take place in a flood hazard area identified by the Federal Emergency Management Agency. The owner's requirements on Flood Insurance are contained in the Special Conditions Section of the Contracts Documents.



## OUTLAY MANAGEMENT

The contractor must provide a contract progress schedule of percentage of work in place and costs against time; and a schedule of projected payments (cumulative) for construction and for the architectural/engineering contract when the contract is awarded. The payment schedule must be submitted, in a format similar to the attached sample, to the owner for forwarding to the State when the contract is awarded, and whenever actual payments on a project vary beyond -5 percent and +10 percent from the schedule, as determined by the grantee.

Contractor will be required to review each of these contract schedules during the month of June and to submit revised schedules, as necessary, no later than July 1<sup>st</sup> of each year.

THIS FORMAT IS A SAMPLE ONLY.

CONSTRUCTION AND OUTLAY SCHEDULE

Project No.: \_\_\_\_\_

Applicant: \_\_\_\_\_

Contract Identification: \_\_\_\_\_

Description of Contract: \_\_\_\_\_

*(INSTRUCTIONS FOR USE ON REVERSE SIDE)*

SCHEDULE I - CONSTRUCTION SCHEDULE

Date for Advertisement: \_\_\_\_\_

Date for Opening Bids: \_\_\_\_\_

Pre-Construction Conference Date: \_\_\_\_\_

Date of Contract Award: \_\_\_\_\_

Contract Period: \_\_\_\_\_ days Projected Contract Completion Date: \_\_\_\_\_

Total Eligible Contract Amount: \_\_\_\_\_

Work Order Date: \_\_\_\_\_

Start Construction Date: \_\_\_\_\_

Contract Completed: \_\_\_\_\_

SCHEDULE II - CUMULATIVE OUTLAY SCHEDULE (55% EPA Share) - Projection  
only for quarters that remain in the fiscal year (FY) plus cumulative  
annual amount for the next FY.

Cum EPA Amount thru 1 <sup>st</sup> Qtr. Oct./Dec.:	\$ _____
Cum EPA Amount thru 2 <sup>nd</sup> Qtr. Jan./Mar.:	\$ _____
Cum EPA Amount thru 3 <sup>rd</sup> Qtr. Apr./June:	\$ _____
Cum EPA Amount thru 4 <sup>th</sup> Qtr. July/Sept.:	\$ _____
Cum EPA Amount for Next Fiscal Year:	\$ _____

## INSTRUCTIONS

To insure timely achievement of the grant objectives the owner (grantee) must provide EPA with a grants activities schedule, contract construction schedules and corresponding payment outlay schedules for the grant and each contract under the grant. One copy of information similar to that showing the Construction and Outlay Schedule Form will be submitted for the grant schedule with the grant acceptance. A separate form will accompany each contract at time of contract award.

- A. The grant activities schedule shall depict the period from grant award through grant closeout and cover all major milestone date. The grant activities schedule shall include Schedule I information items as well as other appropriate items necessary to monitor the grant. Schedule II shall be filled out to estimate the cumulative (all construction and architectural/engineering contracts) payment schedule to be requested by the grantee from EPA during the grant period, and whenever actual outlays vary beyond -5% and +10% from the schedule.
- B. Individual contractor's construction schedules for each contract will be submitted to support the grant activities schedule. The Schedule I shall be submitted prior to date of advertisement of each contract and Schedule II along with the contractor's construction schedule shall be submitted seven (7) calendar days prior to the dates of the pre-construction conference. The contractor's construction schedule shall depict the contractor's plan for completing all contract requirements and show work placement in dollars versus contract time. Schedule II shall depict the contract payment outlay by month or quarter. The contract schedule will be coordinated with all parties at the pre-construction conference.

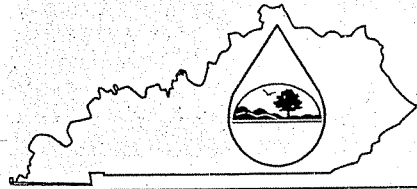
The grants activities schedule, contractor construction schedules, will be the basis for monitoring progress towards completion of the project. The schedules shall be maintained at the available for inspection and updated at least monthly. The schedules shall be revised to incorporate approved change orders as they occur.

All of the schedules will be submitted to the State Division of Water.

**NOTICE OF INTENT**

All construction projects with surface disturbance of more than 1 acre during the period of construction must have a KPDES Storm Water General Permit. The contractor must complete and submit the attached form at least 48 hours prior to start of construction to the address below:

Section Supervisor  
Inventory and Data Management Section  
KPDES Branch  
Kentucky Division of Water  
14 Reilly Road, Frankfort Office Park  
Frankfort, Kentucky 40601



Kentucky Pollutant Discharge Elimination System (KPDES)  
 Notice of Intent (NOI)  
 for Storm Water Discharges  
 Associated with Industrial Activity Under the  
 KPDES General Permit

Submission of this Notice of Intent constitutes notice that the party identified in Section I of this form intends to be authorized by a KPDES permit issued for storm water discharges associated with industrial activity. Becoming a permittee obligates such discharger to comply with the terms and conditions of the permit.

ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM (See Instructions on back)

I. Facility Operator Information

Name:		Phone:	
Address:		Status of Owner/Operator:	
City, State, Zip Code:			

II. Facility/Site Location Information

Name:			
Address:			
City, State, Zip Code:			
County:			
Site Latitude: (degrees/minutes/seconds)		Site Longitude: (degrees/minutes/seconds)	

III. Site Activity Information

MS4 Operator Name:						
Receiving Water Body:						
Are there existing quantitative data?	Yes <input type="checkbox"/>	If Yes, submit with this form.				
	No <input type="checkbox"/>					
SIC or Designated Activity Code Primary		2 <sup>nd</sup>		3 <sup>rd</sup>		4 <sup>th</sup>
If this facility is a member of a Group Application, enter Group Application Number:						
If you have other existing KPDES Permits, enter Permit Numbers:						

IV. Additional Information Required FOR CONSTRUCTION ACTIVITIES ONLY

Project Start Date:		Completion Date:	
Estimated Area to be disturbed (in acres):			
Is the Storm Water Pollution Prevention Plan in Compliance with State and/or Local Sediment and Erosion Plans?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.			
Printed or Typed Name:			
Signature:		Date:	

## Kentucky Pollutant Discharge Elimination System (KPDES)

### Instructions

Notice of Intent (NOI) for Storm Water Discharges Associated with Industrial Activity  
To Be Covered Under The KPDES General Permit

### WHO MUST FILE A NOTICE OF INTENT (NOI) FORM

Federal law at 40 CFR Part 122 prohibits point source discharges of stormwater associated with industrial activity to a water body of the Commonwealth of Kentucky without a Kentucky Pollutant Discharge Elimination System (KPDES) permit. The operator of an industrial activity that has such a storm water discharge must submit a NOI to obtain coverage under the KPDES Storm Water General Permit. If you have questions about whether you need a permit under the KPDES Storm Water program, or if you need information as to whether a particular program is administered by the state agency, call the Storm Water Contact, Industrial Section, Kentucky Division of Water at (502) 564-3410.

### WHERE TO FILE NOI FORM

NOIs must be sent to the following address:

Section Supervisor  
Inventory & Data Management Section  
KPDES Branch, Division of Water  
Frankfort Office Park  
14 Reilly Road  
Frankfort, KY 40601

### COMPLETING THE FORM

Type or print legibly in the appropriate areas only. If you have any questions regarding the completion of this form call the Storm Water Contact, Industrial Section, at (502) 564-3410.

### SECTION I - FACILITY OPERATOR INFORMATION

Give the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this application. The name of the operator may or may not be the same as the name of the facility. The responsible party is the legal entity that controls the facility's operation, rather than the plant or site manager. Do not use a colloquial name. Enter the complete address and telephone number of the operator.

Enter the appropriate letter to indicate the legal status of the operator of the facility.

F = Federal                      M = Public (other than federal or state)  
S = State                        P = Private

### SECTION II - FACILITY/SITE LOCATION INFORMATION

Enter the facility's or site's official or legal name and complete street address, including city, state, and ZIP code.

### SECTION III - SITE ACTIVITY INFORMATION

If the storm water discharges to a municipal separate storm sewer system (MS4), enter the name of the operator of the MS4 (e.g., municipality name, county name) and the receiving water of the discharge from the MS4. (A MS4 is defined as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by a state, city, town, borough, county, parish, district, association, or other public body which is designed or used for collecting or conveying storm water.)

If the facility discharges storm water directly to receiving water(s), enter the name of the receiving water.

Indicate whether or not the owner or operator of the facility has existing quantitative data that represent the characteristics and concentration of pollutants in storm water discharges.

If data is available submit with this form.

List, in descending order of significance, up to four 4-digit standard industrial classification (SIC) codes that best describe the principal products or services provided at the facility or site identified in Section II of this application.

If the facility listed in Section II has participated in Part 1 of an approved storm water group application and a group number has been assigned, enter the group application number in the space provided.

If there are other KPDES permits presently issued for the facility or site listed in Section II, list the permit numbers.

#### SECTION IV - ADDITIONAL INFORMATION REQUIRED FOR CONSTRUCTION ACTIVITIES ONLY

Construction activities must complete Section IV in addition of Sections I through III. Only construction activities need to complete Section IV.

Enter the project start date and the estimated completion date for the entire development plan.

Provide an estimate of the total number of acres of the site on which soil will be disturbed (round to the nearest acre).

Indicate whether the storm water pollution prevention plan for the site is in compliance with approved state and/or local sediment and erosion plans, permits, or storm water management plans.

#### SECTION V - CERTIFICATION

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

*For a corporation:* by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

*For a partnership or sole proprietorship:* by a general partner or the proprietor; or

*For a municipality, state, Federal, or other public facility:* by either a principal executive officer or ranking elected official.

**WAGE RATES**

Federal Davis-Bacon rates are not applicable for these funds. This determination applies only to the grant/loan portion of this project. Please contact the other funding sources, if applicable, for their requirements pertaining to federal wage rates. You must contact the Kentucky Labor Cabinet for determination of applicable state wages.