



REQUEST FOR QUALIFICATIONS

CITY OF NAPLES
PURCHASING DIVISION
CITY HALL 735 8TH STREET SOUTH
NAPLES, FL 34102

PH: 239-213-7100 FX: 239-213-7105

NOTIFICATION DATE: 12/24/10	TITLE: DESIGN & ENGINEERING SERVICES FOR ANTHONY PARK AND 5TH AVENUE N. ON STREET PARKING	NUMBER: 017-11	OPENING DATE & TIME: 2:00PM 1/10/11
PRE-PROPOSAL CONFERENCE: DATE, TIME AND LOCATION:			

NAME OF PARTNERSHIP, CORPORATION OR INDIVIDUAL:	
MAILING ADDRESS:	
CITY-STATE-ZIP:	
PH:	EMAIL:
FX:	WEB ADDRESS:

I certify that this proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a proposal for the same materials, supplies, or equipment or services and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this proposal and certify that I am authorized to sign this proposal for the proposer. In submitting a proposal to the City of Naples the proposer offers and agrees that if the proposal is accepted, the proposer will convey, sell, assign or transfer to the City of Naples all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of FL for price fixing relating to the particular commodities or services purchased or acquired by the City of Naples. At the City's discretion, such assignment shall be made and become effective at the time the City tenders final payment to the proposer.

AUTHORIZED SIGNATURE	DATE	PRINTED NAME/TITLE
Please initial by all that apply I acknowledge receipt of the following addendum _____ Addendum #1 _____ Addendum #2 _____ Addendum #3 _____ Addendum #4		

PLEASE NOTE THE FOLLOWING:

- > This page must be completed and returned with your proposal.
- > Proposals must be submitted in a sealed envelope, with the proposal number & closing date.
- > Proposals received after the above closing date and time will not be accepted.
- > Proposal tabulations will be available on the City of Naples web site www.naplesgov.com, Departments, Finance, Purchasing.

GENERAL CONDITIONS

TO INSURE ACCEPTANCE OF THE PROPOSAL, PLEASE FOLLOW THESE INSTRUCTIONS. ANY AND ALL SPECIAL CONDITIONS, ATTACHED HERETO, HAVE PRECEDENCE.

- 1. SEALED PROPOSAL:** All proposals must be submitted in a sealed envelope. The face of the envelope shall contain the proposal name and proposal number. Proposals not submitted on attached proposal form shall be rejected. All proposals are subject to the conditions specified herein. Those which do not comply with these conditions are subject to rejection.
- 2. EXECUTION OF PROPOSAL:** Proposal must contain a manual signature of authorized representative in the proposal section. Proposal must be typed or printed in ink. Use of erasable ink is not permitted. All corrections made by proposer to his proposal must be initialed.
- 3. NO PROPOSAL:** If not submitting a proposal, respond by returning the Statement of No Proposal and explain the reason in the spaces provided. Failure to respond 3 times in succession without justification shall be cause for removal of the supplier's name from the proposal mailing list. NOTE: To qualify as a respondent, proposer must submit a "NO PROPOSAL," and it must be received no later than the stated proposal opening date and hour.
- 4. PROPOSAL OPENING:** Shall be public, on the date and at the time specified on the proposal form. It is the proposer's responsibility to assure that his proposal is delivered at the proper time and place of the proposal opening. Proposals which for any reason are not so delivered will not be considered. Offers by telegram; telephone; or fax are not acceptable. Proposal files may be examined during normal working hours.
- 5. WITHDRAWAL OF PROPOSALS:** Withdrawal of a proposal within sixty (60) days after the opening of proposals is subject to suspension or debarment in accordance with Policy 7-4 for up to three years.
- 6. PRICES, TERMS and PAYMENT:** Prices shall be proposed if required by this request for proposal and include all packing, handling, shipping charges and delivery to the destination shown herein. Proposer is encouraged to offer cash discount for prompt invoice payment. Terms of less than 20 days will not be considered.
 - A. TAXES:** The City of Naples does not pay Federal Excise and Sales taxes on direct purchases of tangible personal property. See exemption number on face of purchase order. This exemption does not apply to purchases of tangible personal property made by contractors who use the tangible personal property in the performance of contracts for the improvement of City-owned real property.
 - B. MISTAKES:** Proposers are expected to examine the specifications, delivery schedule, proposal prices, extensions, and all instructions pertaining to supplies and services. Failure to do so will be at proposer's risk. In case of mistake in extension, the unit price will govern.
 - C. CONDITION AND PACKAGING:** It is understood and agreed that any item offered or shipped as a result of this proposal shall be a new, current standard production model available at the time of this proposal. All containers shall be suitable for storage or shipment, and all prices shall include standard commercial packaging.
 - D. SAFETY STANDARDS:** Unless otherwise stipulated in the proposal, all manufactured items and fabricated assemblies shall comply with applicable requirements of Occupational Safety and Health Act and any standards there under.
 - E. UNDERWRITERS' LABORATORIES:** Unless otherwise stipulated in the proposal, all manufactured items and fabricated assemblies shall carry U.L. approval and re-examination listing where such has been established.
 - F. PAYMENT:** Payment will be made by the buyer after the items awarded to a vendor have been received, inspected, and found to comply with award specifications, free of damage or defect and properly invoiced. All invoices shall bear the purchase order number. Payment for partial shipments shall not be made unless specified in the proposal. Failure to follow these instructions may result in delay in processing invoices for payment. In addition, the purchase order number must appear on bills of lading, packages, cases, delivery lists and correspondence.
- 7. DELIVERY:** Unless actual date of delivery is specified (or if specified delivery cannot be met), show number of days required to make delivery after receipt of purchase order in space provided. Delivery time may become a basis for making an award (see Special Conditions). Delivery shall be within the normal working hours of the user, Monday through Friday, unless otherwise specified.
- 8. MANUFACTURERS' NAMES AND APPROVED EQUIVALENTS:** Any manufacturers' names, trade names, brand names, information and/or catalog numbers listed in a specification are for information and not intended to limit competition. The proposer may offer any brand for which he is an authorized representative, which meets or exceeds the specification for any item(s). If proposals are based on equivalent products, indicate on the proposal form the manufacturer's name and number. Proposer shall submit with his proposal, cuts, sketches, and descriptive literature, and/or complete specifications. Reference to literature submitted with a previous proposal will not satisfy this provision. The proposer shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Proposals which do not comply with these requirements are subject to rejection. Proposals lacking any written indication of intent to quote an alternate brand will be received and considered in complete compliance with the specifications as listed on the proposal form.
- 9. INTERPRETATIONS:** Any questions concerning conditions and specifications shall be directed in writing to this office for receipt no later than ten (10) days prior to the proposal opening. Inquiries must reference the date of proposal opening and proposal number. Failure to comply with this condition will result in proposer waiving his right to dispute the proposal.

10. CONFLICT OF INTEREST: All proposal awards are subject to Section 2-72 Conflict of Interest, City of Naples Code of Ordinances, which states: *"No public officer or employee shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of or is doing business with the city; nor shall an officer or employee have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his private interests and the performance of his public duties or that would impede the full and faithful discharge of his public duties. Any member of the city council or any city officer or employee who willfully violates this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the city shall render the contract or sale voidable by the city manager or the city council."*

11. AWARDS: Will be made in the best interest of the City of Naples. The City reserves the right to reject any and all proposals or waive any minor irregularity or technicality in proposals received.

12. ADDITIONAL QUANTITIES: For a period not exceeding ninety (90) days from the date of acceptance of this offer by the buyer, the right is reserved to acquire additional quantities up to but not exceeding those shown on proposal at the prices proposal in this invitation. If additional quantities are not acceptable, the proposal sheets must be noted "PROPOSAL IS FOR SPECIFIED QUANTITY ONLY." (THIS PARAGRAPH DOES NOT APPLY FOR A TERM CONTRACT.)

13. SERVICE AND WARRANTY: Unless otherwise specified, the proposer shall define any warranty service and replacements that will be provided during and subsequent to this contract. Proposers must explain on an attached sheet to what extent warranty and service facilities are provided.

14. SAMPLES: Samples of items, when called for, must be furnished free of expense, and if not destroyed may, upon request, be returned at the proposer's expense. Each individual sample must be labeled with proposer's name, manufacturer's brand name and number, proposal number and item reference. Request for return of samples shall be accompanied by instructions which include shipping authorization and name of carrier and must be received with your proposal. If instructions are not received within this time, the commodities shall be disposed of by the City of Naples.

15. PROPOSAL PROTESTS: The City of Naples has formal protest procedures that are available upon request

16. INSPECTION, ACCEPTANCE AND TITLE: Inspection and acceptance will be at destination unless otherwise provided. Title and risk of loss or damage to all items shall be the responsibility of the contract supplier until accepted by the ordering agency, unless loss or damage results from negligence by the ordering

17. DISPUTES: In case of any doubt or difference of opinion as to the items to be furnished hereunder, the decision of the buyer shall be final and binding on both parties.

18. GOVERNMENTAL RESTRICTIONS: In the event any governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship or performance of the items offered on this proposal prior to their delivery, it shall be the responsibility of the successful proposer to notify the buyer at once, indicating in his letter the specific regulation which required an alteration. The City reserves the right to accept any such alteration, including any price adjustments occasioned thereby, or to cancel the contract at no expense to the City.

19. LEGAL REQUIREMENTS: Applicable provision of all Federal, State, county and local laws, and of all ordinances, rules, and regulations shall govern development submittal and evaluation of all proposals received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a proposal response hereto and the City of Naples by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any proposer shall not constitute a cognizable defense against the legal effect thereof.

20. PATENTS AND ROYALTIES: The proposer, without exception, shall indemnify and save harmless the City of Naples and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the City of Naples. If the proposer uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the proposal prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.

21. ADVERTISING: In submitting a proposal, proposer agrees not to use the results there from as a part of any commercial advertising.

22. ASSIGNMENT: Any Purchase Order issued pursuant to this proposal invitation and the monies which may become due hereunder are not assignable except with the prior written approval of the buyer.

23. LIABILITY: The supplier shall hold and save the City of Naples, its officers, agents, and employees harmless from liability of any kind in the performance of this contract.

24. PUBLIC ENTITY CRIMES: A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit proposals on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

25. DISCRIMINATION: An entity or affiliate who has been placed on the discriminatory vendor list may not submit a proposal on a contract to provide goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit proposals on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.

26. COUNTY TAXES: No proposal shall be accepted from and no contract will be awarded to any person, firm or corporation that is in arrears to the government of Collier County, Florida.

27. OFFER EXTENDED TO OTHER GOVERNMENTAL ENTITIES: The City of Naples encourages and agrees to the successful proposer/proposer extending the pricing, terms and conditions of this solicitation or resultant contract to other governmental entities at the discretion of the successful proposer/proposer.

IF THIS PROPOSAL IS FOR A TERM CONTRACT, THE FOLLOWING CONDITIONS SHALL ALSO APPLY

28. ELIGIBLE USERS: All departments of the City of Naples are eligible to use this term contract. Such purchases shall be exempt from the competitive proposal requirements otherwise applying to their purchases.

29. PRICE ADJUSTMENTS: Any price decrease effectuated during the contract period by reason of market change shall be passed on to City of Naples. Price increases are not acceptable.

30. CANCELLATION: All contract obligations shall prevail for at least one hundred eighty (180) days after effective date of contract. After that period, for the protection of both parties, this contract may be cancelled in whole or in part by either party by giving thirty (30) days prior written notice to the other party.

31. RENEWAL: The City of Naples reserves the option to renew the period of this contract, or any portion thereof for up to two (2) additional periods. Renewal of the contract period shall be by mutual agreement in writing.

32. ABNORMAL QUANTITIES: While it is not anticipated, should any unusual or abnormal requirements arise, the City reserves the right to solicit separate proposals thereon.

33. FISCAL NON-FUNDING CLAUSE: In the event sufficient funds are not budgeted for a new fiscal period, the City shall notify the contractor of such occurrence and the contract shall terminate on the last day of the current fiscal year without penalty or expense to the City.

IF THIS PROPOSAL IS FOR PERFORMING A SERVICE, THE FOLLOWING CONDITIONS SHALL ALSO APPLY

34. ALTERNATIVE PROPOSALS: Proposers offering service delivery methods other than those permitted by the scope of work may submit a separate envelope clearly marked "ALTERNATIVE PROPOSAL". Alternative proposals will be deemed non-responsive and will not be considered for award. All such responses will, however, be examined prior to award. Such examination may result in cancellation of all proposals received to permit rewriting the scope of work to include the alternative method, or the alternative method may be considered for future requirements of the City of Naples.

35. ANTITRUST: By entering into a contract, the contractor conveys, sells, assigns and transfers to the City of Naples all rights, titles and interest it may now have or hereafter acquire under the antitrust laws of the United States and the State of Florida that relate to the particular goods or services purchased or acquired by the City of Naples under said contract.

36. PROPOSER INVESTIGATIONS: Before submitting a proposal, each proposer shall make all investigations and examinations necessary to ascertain all site conditions and requirements affecting the full performance of the contract and to verify any representations made by the City of Naples upon which the proposer will rely. If the proposer receives an award as a result of its proposal submission, failure to have made such investigations and examinations will in no way relieve the proposer from its obligation to comply in every detail with all provisions and requirements of the contract documents, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for any claim whatsoever by the contractor for additional compensation.

37. CERTIFICATES AND LICENSES: The Contractor, at time of proposal, shall possess the correct occupational licenses, all professional licenses or other authorizations necessary to carry out and perform the work required by the City of Naples and Collier

County for this project pursuant to all applicable Federal, State and Local Laws, Statutes, Ordinances, and rules and regulations of any kind.

38. CHANGE IN SCOPE OF WORK: The City of Naples may order changes in the work consisting of additions, deletions or other revisions within the general scope of the contract. No claims may be made by the contractor that the scope of the project or of the contractor's services has been changed, requiring changes to the amount of compensation to the contractor or other adjustments to the contract unless such changes or adjustments have been made by written amendment to the contract signed by the City of Naples and the contractor. If the contractor believes that any particular work is not within the scope of the project, is a material change, or will otherwise require more compensation to the contractor, the contractor must immediately notify the City in writing of this belief. If the City believes that the particular work is within the scope of the contract as written, the contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the scope.

39. CONTRACTOR PERSONNEL: The City of Naples shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the work by the contractor. If the City reasonably rejects staff or subcontractors, the contractor must provide replacement staff or subcontractors satisfactory to the City in a timely manner and at no additional cost to the City. The day-to-day supervision and control of the contractor's employees and sub-contractors is the responsibility solely of the contractor.

40. COST REIMBURSEMENT: The contractor agrees that all incidental costs, including allowances for profit and tools of the trade, must be included in the proposal rates. If an arrangement is made between the contractor and the City to reimburse the contractor for the cost of materials provided in the performance of the work, the contractor shall be reimbursed in the following manner: The City shall reimburse the contractor on completion and acceptance of each assigned job, only for those materials actually used in the performance of the work that is supported by invoices issued by the suppliers of the contractor describing the quantity and cost of the materials purchased. No surcharge shall be added to the supplier's invoices or included in the contractor's invoice submitted to the City that would increase the dollar amount indicated on the supplier's invoice for the materials purchased for the assigned job.

41. EXCEPTIONS: Proposers taking exception to any part or section of the solicitation shall indicate such exceptions on the proposal form. Failure to indicate any exception will be interpreted as the proposer's intent to comply fully with the requirements as written. Conditional or qualified proposals, unless specifically allowed, shall be subject to rejection in whole or in part.

42. FAILURE TO DELIVER: In the event of the contractor to fail to deliver services in accordance with the contract terms and conditions, the City, after due oral or written notice, may procure the services from other sources and hold the contractor responsible for any resulting purchase and administrative costs. This remedy shall be in addition to any other remedies that the City may have.

43. FAILURE TO ENFORCE: Failure by the City at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the City to enforce any provision at any time in accordance with its terms.

44. FORCE MAJEURE: The contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by the contract due to legal strikes, fires, riots, rebellions and acts of God beyond the control of the contractor, unless otherwise specified in the contract.

45. INDEPENDENT CONTRACTOR: The contractor shall be legally considered an independent contractor and neither the contractor nor its employees shall, under any circumstances, be considered servants or agents of the City of Naples and the City of Naples shall be at no time legally responsible for any negligence or any wrongdoing by the contractor, its servants or agents. The City of Naples shall not withhold from the contract payments to the contractor any federal income taxes, Social Security tax, or any other amounts for benefits to the contractor. Further, the City shall not provide to the contractor any insurance coverage or other benefits, including Workers' Compensation normally provided by the City for its employees.

46. ORAL STATEMENTS: No oral statement of any person shall modify or otherwise affect the terms, conditions or specifications stated in this contract. All modifications to the contract must be made in writing by the City of Naples.

47. QUALIFICATIONS OF PROPOSERS: The proposer may be required, before the award of any contract, to show to the complete satisfaction of the City of Naples that it has the necessary facilities, ability, and financial resources to provide the service specified therein in a satisfactory manner. The proposer may also be required to give a past history and references in order to satisfy the City in regard to the proposer's qualifications. The City may make reasonable investigations deemed necessary and proper to determine the ability of the proposer to perform the work, and the proposer shall furnish to the City all information for this purpose that may be requested. The City reserves the right to reject any proposal if the evidence submitted by, or investigation of, the proposer fails to satisfy the City that the proposer is properly qualified to carry out the obligations of the contract and to complete the work described therein. Evaluation of the proposer's qualifications shall include:

- > The ability, capacity, skill and financial resources to perform the work or service.
- > The ability to perform the work service promptly or within the time specified, without delay.
- > The character, integrity, reputation, judgment, experience, and efficiency of the proposer.
- > The quality of performance of previous contracts or services.

48. QUALITY CONTROL: The contractor shall institute and maintain throughout the contract period a properly documented quality control program designed to ensure that the services are provided at all times and in all respects in accordance with the contract. The program shall include providing daily supervision and conducting frequent inspections of the contractor's staff and ensuring that accurate records are maintained describing the disposition of all complaints. The records so created shall be open to inspection by the City.

49. RECOVERY OF MONEY: Whenever, under the contract, any sum of money shall be recoverable from or payable by the contractor to the City, the same amount may be deducted from any sum due to the contractor under the contract or under any other contract between the contractor and the City. The rights of the City are in addition and without prejudice to any other right the City may have to claim the amount of any loss or damage suffered by the City on account of the acts or omissions of the contractor.

50. REQUIREMENTS CONTRACT: During the period of the contract, the contractor shall provide all the services described in the contract. The contractor understands and agrees that this is a requirements contract and that the City shall have no obligation to the contractor if no services are required. Any quantities that are included in the scope of work reflect the current expectations of the City for the period of the contract. The amount is only an estimate and the contractor understands and agrees that the City is under no obligation to the contractor to buy any amount of services as a result of having provided this estimate or of having any typical or measurable requirement in the past. The contractor further understands and agrees that the City may require services in excess of the estimated annual contract amount and that the quantity actually used whether in excess of, or less than, the estimated annual contract amount and that the quantity actually used shall not give rise to any claim for compensation other than the total of the unit prices in the contract for the quantity actually used.

51. TERMINATION FOR CONVENIENCE: The performance of work under the contract may be terminated by the City in whole or in part whenever the City determines that termination is in the City's best interest. Any such termination shall be effected by the delivery to the contractor of a written notice of termination of at least seven (7) days before the date of termination, specifying the extent to which performance of the work under the contract is terminated and the date upon which such termination becomes effective. After receipt of a notice of termination, except as otherwise directed, the contractor shall stop work on the date of the receipt of the notice or other date specified in the notice; place no further orders or subcontracts for materials, services or facilities except as necessary for completion of such portion of the work not terminated; terminate all vendors and subcontracts; and settle all outstanding liabilities and claims.

52. TERMINATION FOR DEFAULT: The City of Naples reserves the right to terminate the contract if the City determines that the contractor has failed to perform satisfactorily the work required, as determined by the City. In the event the City decides to terminate the contract for failure to perform satisfactorily, the City shall give to the contractor at least seven (7) days written notice before the termination takes effect. The fifteen-day period will begin upon the mailing of notice by the City. If the contractor fails to cure the default within the seven (7) days specified in the notice and the contract is terminated for failure to perform satisfactorily, the contractor shall be entitled to receive compensation for all reasonable, allocable and allowable contract services satisfactorily performed by the contractor up to the date of termination that were accepted by the City prior to the termination. In the event the City terminates the contract because of the default of the contractor, the contractor shall be liable for all excess costs that the City is required to expend to complete the work under contract.

53. STATE AND FEDERAL EMPLOYMENT LAWS: Contractors providing service to the City are required to comply with all state and federal employment laws. This includes, but is not limited to, laws resulting from the Immigration and Reform and Control Act of 1986, wherein all employers are required to verify the identity and employment eligibility of all employees. The Department of Homeland Security, U.S. Citizenship and Immigration Services require employees and employers to complete Form I-9 and the employer must examine evidence of identity and employment eligibility within three business days of the date employment begins. Non compliant contractors will be subject to contract sanctions, up to and including contract termination.

THE CITY OF NAPLES IS AN EQUAL OPPORTUNITY EMPLOYER

GENERAL INSURANCE REQUIREMENTS

The Contractor shall not commence work until he has obtained all the insurance required under this heading, and until such insurance has been approved by the Owner, nor shall the Contractor allow any subcontractor to commence work until all similar insurance required of the subcontractor has also been obtained and approved by the Owner.

Certificates of insurance must be issued by an authorized representative of the insurance company at the request and direction of the policyholder and must include sufficient information so as to identify the coverage and the contract for Owner's improvements for which they are issued. Certificates of insurance must be issued by a nationally recognized insurance company with a Best's Rating of no less than B+VII, satisfactory to the Owner, and duly licensed to do business in the state of said Contract.

The Contractor shall procure and maintain, during the life of this Contract, Workmen's Compensation Insurance for all of his employees to be engaged in work under this Contract, and he shall require any subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work, unless such employees are covered by the protection afforded by the Contractor's insurance. In case any employees are to be engaged in hazardous work under this Contract, and are not protected under this Workmen's Compensation statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate coverage for the protection of such employees. It is acceptable to use a State-approved Workmen's Compensation Self-Insurance fund.

The Contractor shall take out and maintain during the life of this Contract, Public Liability and Property Damage and shall include Contractual Liability, Personal Injury, Libel, Slander, False Arrest, Malicious Prosecution, Wrongful Entry or Eviction, Broad Form Property Damage, Products, Completed Operations and XCU Coverage to be included on an occurrence basis, and to the full extent of the Contract to protect him, the Owner, and any subcontractor performing work covered by this Contract from damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this contract, whether such operations be by himself or by a subcontractor, or by anyone directly or indirectly employed by either of them. The Contractor shall also maintain automobile liability insurance including "non-owned and hired" coverage. The entire cost of this insurance shall be borne by the Contractor.

The amount of such insurance shall be no less than \$1,000,000 annual aggregate for bodily injury and property damage combined per occurrence.

The City of Naples must be named as Additional Insured on the insurance certificate and the following must also be stated on the certificate. "These coverage's are primary to all other coverage's the City possesses for this contract only." The City of Naples shall be named as the Certificate Holder. The Certificate Holder shall read as follows:

The City of Naples
735 Eighth Street South
Naples, Florida 34102

No City Division, Department, or individual name should appear on the Certificate.
No other format will be acceptable.

Thirty (30) days cancellation notice required.

The Certificate must state the proposal number and title.

When using the "Accord" form of insurance certificate, please note that under the cancellation clause, the following must be deleted: "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company".

STATEMENT OF NO PROPOSAL

If you will not be proposing on this product/service, please help us by completing and returning only this page to:

City of Naples, Purchasing Division
City Hall 735 8th Street South
Naples, FL 34102
Fax 239-213-7105

Proposal# _____ and Description: _____

We, the undersigned, decline to propose on the above project for the following reason(s):

- _____ We are not able to respond to the Invitation to Proposal or Request for Proposals by the specified deadline.
- _____ Our Company does not offer this product or service.
- _____ Our current work schedule will not permit us to perform the required services.
- _____ Specifications are incomplete or information is unclear (Please explain below).

_____ Other (Please specify below)

Company Name _____ PH _____

Name and Title of individual completing this form:

(Printed Name) (Title)

(Signature) (Date)

REFERENCES

THIS SHEET MUST BE COMPLETED AND RETURNED WITH PROPOSAL

PROVIDE AT LEAST THREE REFERENCES FOR WHOM YOUR COMPANY HAS PROVIDED SAME OR SIMILAR SERVICES WITHIN THE LAST 2 YEARS.

COMPANY NAME: _____

ADDRESS: _____

TELEPHONE: _____

CONTACT PERSON: _____

COMPANY NAME: _____

ADDRESS: _____

TELEPHONE: _____

CONTACT PERSON: _____

COMPANY NAME: _____

ADDRESS: _____

TELEPHONE: _____

CONTACT PERSON: _____

SPECIAL CONDITIONS

A. TERMS OF CONTRACT

The resulting contract will be in force until the completion of the project.

B. PROHIBITION OF CONTACT

Under no circumstances should any prospective organization or individual, or anyone acting for or on behalf of a prospective organization or individual, seek to influence or gain the support of any member of the City Council, public official or City staff favorable to the interest of any prospective organization or individual. Likewise, contact with City Council, any public official or city staff against the interests of other prospective organization (s) and or individual(s) is prohibited. Any such activities will result in the exclusion of the prospective organization or individual from consideration by the City.

C. PROPOSAL PERFORMANCE & PAYMENT BONDS (NOT APPLICABLE)

A Proposal Security Bond shall be submitted with the final proposal, if the total proposal is greater than \$125,000.00, in an amount equal to at least five percent (5%) of the total amount of the final proposal, or the equivalent in the form of a certified check or money order made payable to the City of Naples, Florida. Upon the award of the proposal to the successful proposer, both proposal performance bond and the payment bond will be required in the amount of one hundred percent (100%) of the price specified in the contract. **Also proof of insurance from the successful proposer is required at the time of award as well.**

D. QUESTIONS

Questions regarding this proposer packet must be received in writing in the Purchasing Division, **NO LATER THAN TEN CALENDAR DAYS PRIOR TO THE PROPOSAL CLOSING DATE TO ENSURE AN ANSWER IS PROVIDED PRIOR TO CLOSING.**

Direct all questions to:

J.F. WORKMAN CPPO CPPB

City of Naples, Purchasing Division

City Hall, 735 8th Street South

Naples, Florida 34102

PH: (239) 213-710x FX: (239) 213-7105

jworkman@naplesgov.com

Federal Regulations during construction, such as Davis Bacon will be enforced. Section 3 and Minority/Women owned Business Enterprises are encouraged to apply.

**REQUEST OF QUALIFICATIONS
DESIGN AND ENGINEERING OF ANTHONY PARK & 5TH AVE. N.
ON STREET PARKING**

1. PURPOSE:

The purpose of this Request of Quantifications is to obtain a firm that will provide the design and engineering for a project listed in the Project Scope below. This project supports the CDBG Entitlement communities' objective as authorized under Title I of the Housing and Community Development Act of 1974 by assisting in revitalizing neighborhoods through "providing improved community facilities."

2. SCOPE OF PROJECT:

The City of Naples is seeking a firm for landscape design, engineering and post-construction inspection of public facilities improvements with two components.

- The first component is improvement to Anthony Community Park. This component supports neighborhood Park enhancements including landscaping, hardscape and paving for up to 2 parking spaces in the Park. The landscaping improvements will be to City owned parcels and associated right-of-way located within the River Park community. The parcels to be improved are located at 15 Fifth Ave - N, Naples, FL (Folio # 18163520008 and 18163620005) on the west side of the roadway. Related irrigation for this project is a continuation of work which was completed by the support of earlier CDBG funding.
- The second component is also for public facilities improvements on the south side of 5th Ave. – N between 10th St. – N and Goodlette-Frank Road. This component is for on-street parking and will include up to eight parallel spaces on the south side of the right of way between 10th and 11th St - N. Related landscaping from 10th St - N to Goodlette-Frank Road will include additional ground cover and will support additional trees and palms. Irrigation for the project will originate on the south side of 5th Ave – N, where the City has an existing reuse water meter and supply.

Design work will include post-construction inspection of both components for completeness and adherence to design and engineering plans.

This project is being funded by a Community Development Block Grant.

This contract will be for design / engineering and inspection only.

Design should be completed with in 45 days.

A Draft shall be submitted to the City for review at 60% design completion.

3. GENERAL DESIGN / ENGINEERING WORK TO INCLUDE BY CHOSEN QUALIFIED ENGINEER:

For both project components:

- Detailed landscape design plan (with irrigation and drainage overlays)
- Provide all necessary product information, plant identification, and landscape installation
- Detailed engineering plans for parking paving, curb, and drainage elements
- Detailed infrastructure design plans required to construction

Section 3 Clause

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

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

C. The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

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

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

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

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

4. SELECTION CRITERIA

The participation of Minority and Women-owned Business Enterprise will be actively pursued. The City of Naples vendor list and current bidding process is in conformance with federal regulatory standards. The State of Florida's Minority and Women-owned Business Enterprise vendor listing will be consulted prior to putting together the potential vendor listing for the CDBG activities. Additionally, the State of Florida Convicted Vendor List will be consulted, as required by federal law and Title I.

1. Experience of personnel to be assigned to this project. Give the name(s) of people to be assigned and a brief resume of their experience with this type of project.

30 points max

2. Project Schedule

15 points max

3. Experience of the firm in completing similar projects.

30 points max

4. Is your firm a certified minority business enterprise?

5 points max

5. Office location responsible for the work.

5 points max

6. Section 3 Contractors

15 points max

Total

100 points max

Items needed to be mentioned/included with Bid
documents

1. Approved Wage Determination-most current pertaining to your project,
reviewed and approved by HHVS.- ATTACHED
2. Federal Labor Standards.-ATTACHED
3. Debarment Certification-ATTACHED
4. CDBG Supplemental Conditions-ATTACHED
5. Section 3 Documentation-ATTACHED

General Decision Number: FL100310 03/12/2010 FL310

Superseded General Decision Number: FL20080310

State: Florida

Construction Type: Highway

County: Collier County in Florida.

HIGHWAY CONSTRUCTION PROJECTS

Modification Number Publication Date
0 03/12/2010

ELEC0349-008 08/31/2009

	Rates	Fringes
ELECTRICIAN.....	\$ 25.05	7.56

SUFL2009-207 08/05/2009

	Rates	Fringes
CARPENTER.....	\$ 15.30	2.54
CEMENT MASON/CONCRETE FINISHER...	\$ 12.30	0.00
HIGHWAY/PARKING LOT STRIPING: Operator (Striping Machine).....	\$ 11.97	2.23
HIGHWAY/PARKING LOT STRIPING: Painter.....	\$ 13.31	0.00
IRONWORKER, REINFORCING.....	\$ 14.50	1.37
IRONWORKER, STRUCTURAL.....	\$ 16.75	3.88
LABORER: Asphalt Shoveler.....	\$ 10.70	0.00
LABORER: Common or General.....	\$ 10.19	1.55
LABORER: Flagger.....	\$ 12.75	0.00
LABORER: Grade Checker.....	\$ 10.50	0.55
LABORER: Landscape and Irrigation.....	\$ 8.77	0.00
LABORER: Luteman.....	\$ 10.32	0.00
LABORER: Mason Tender - Cement/Concrete.....	\$ 12.00	1.80
LABORER: Pipelayer.....	\$ 11.63	2.65
LABORER: Power Tool Operator (Hand Held Drills/Saws, Jackhammer and Power Saws.....	\$ 11.23	1.96
OPERATOR: Asphalt Paver.....	\$ 11.52	0.00
OPERATOR: Asphalt Plant.....	\$ 12.20	0.00

OPERATOR: Asphalt Spreader.....	\$ 10.76	0.00
OPERATOR: Auger.....	\$ 19.40	0.44
OPERATOR: Backhoe Loader Combo.....	\$ 15.33	0.97
OPERATOR: Backhoe/Excavator.....	\$ 15.50	2.28
OPERATOR: Boom.....	\$ 16.61	0.00
OPERATOR: Bulldozer.....	\$ 13.71	1.55
OPERATOR: Crane.....	\$ 19.94	1.37
OPERATOR: Distributor.....	\$ 11.47	0.00
OPERATOR: Drill.....	\$ 13.00	1.59
OPERATOR: Grader/Blade.....	\$ 14.32	0.00
OPERATOR: Loader.....	\$ 12.83	1.29
OPERATOR: Mechanic.....	\$ 16.31	1.37
OPERATOR: Milling Machine.....	\$ 11.92	0.00
OPERATOR: Oiler.....	\$ 11.92	1.91
OPERATOR: Paver.....	\$ 12.42	0.86
OPERATOR: Piledriver.....	\$ 15.59	4.00
OPERATOR: Roller.....	\$ 11.14	0.00
OPERATOR: Scraper.....	\$ 10.70	1.60
OPERATOR: Screed.....	\$ 10.82	0.00
OPERATOR: Tractor.....	\$ 12.78	0.00
OPERATOR: Trencher.....	\$ 13.41	0.49
PAINTER: Spray and Steel.....	\$ 16.62	0.00
TRUCK DRIVER: 10 Yard Haul Away Truck.....	\$ 12.50	0.00
TRUCK DRIVER: Distributor.....	\$ 11.30	2.26
TRUCK DRIVER: Dump Truck.....	\$ 10.05	0.00
TRUCK DRIVER: Lowboy Truck.....	\$ 14.05	0.00
TRUCK DRIVER: Material Truck....	\$ 12.76	9.80
TRUCK DRIVER: Tractor Haul Truck.....	\$ 10.64	0.00
TRUCK DRIVER: Water Truck.....	\$ 10.50	0.00

WELDERS - Receive rate prescribed for craft performing

operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

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In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party

(those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7).

Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION

**1. WAGE
DETERMINATION-
OBTAIN FROM HHVS**

2. FEDERAL LABOR STANDARDS

Federal Labor Standards Provisions

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

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

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

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where

appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

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

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

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part

of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number D29-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

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

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR 5.5 (a)(3)(i) and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll

period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

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

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

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

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

4. Apprentices and Trainees.

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

journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

(III) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 of this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

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

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

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

10. (I) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(II) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

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

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

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph

graph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in sub paragraph (1) of this paragraph.

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

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

C. Health and Safety. The provisions of this paragraph C are applicable only where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

(3) The Contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

3. DEBARMENT FORM

**Certification Regarding
Debarment, Suspension
And Other Responsibility Matters
Primary Covered Transactions**

- (1) The prospective primary 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 judgement 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 governmental 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.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name

Project Name

Title

Project Number

Firm

Street Address

FEDERAL ID # _____

City, State, Zip

**Certification Regarding
Debarment, Suspension, Ineligibility
and Voluntary Exclusion**

Lower Tier Covered Transactions

- (1) The prospective lower tier participant certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to the above statement, the prospective participant shall attach an explanation to this form.

Name

Local Government

Title

CDBG Contract Number

Firm

Street Address

City, State, Zip

Date

FEDERAL ID # _____

4. CDBG SUPPLEMENTAL CONDITIONS

CDBG SUPPLEMENTAL CONDITIONS
(Construction Contracts)

The supplemental conditions contained in this section are intended to cooperate with, to supplement, and to modify the general conditions and other specifications. In case of disagreement with any other section of this contract, the Supplemental Conditions shall govern.

1. Termination (Cause and Convenience)
 2. Access to Records
 3. Retention of Records
 4. Remedies
 5. Environmental Compliance (Clean Air Act and Clean Water Act)
 6. Energy Efficiency
 7. Special Equal Opportunity Provisions
 8. Conflict of Interest
 9. Utilization of Minority and Women's Businesses
 10. Federal Labor Standards Provisions (Davis-Bacon, Copeland, and Contract Work Hours Act)
 11. Guidance to Contractor for Compliance with Labor Standards Provisions
-

1. Termination (Cause and/or Convenience)

(a) This contract may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this contract through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

(1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate; and

(2) an opportunity for consultation with the terminating party prior to termination.

(b) This contract may be terminated in whole or in part in writing by the local government for its convenience, provided that the other party is afforded the same notice and consultation opportunity specified in 1(a) above.

(c) If termination for default is effected by the local government, an equitable adjustment in the price for this contract shall be made, but

(1) no amount shall be allowed for anticipated profit on unperformed services or other work, and

(2) any payment due to the contractor at the time of termination may be adjusted to cover any additional costs to the local government because of the contractor's default.

If termination for convenience is effected by the local government, the equitable adjustment shall include a reasonable profit for services or other work performed for which profit has not already been included in an invoice.

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For any termination, the equitable adjustment shall provide for payment to the contractor for services rendered and expenses incurred prior to receipt of the notice of intent to terminate, in addition to termination settlement costs reasonably incurred by the contractor relating to commitments (e.g., suppliers, subcontractors) which had become firm prior to receipt of the notice of intent to terminate.

(d) Upon receipt of a termination action under paragraphs (a) or (b) above, the contractor shall (1) promptly discontinue all affected work (unless the notice directs otherwise) and (2) deliver or otherwise make available to the local government all data, drawings, reports specifications, summaries and other such information, as may have been accumulated by the contractor in performing this contract, whether completed or in process.

(e) Upon termination, the local government may take over the work and may award another party a contract to complete the work described in this contract.

(f) If, after termination for failure of the contractor to fulfill contractual obligations, it is determined that the contractor had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the local government. In such event, adjustment of the contract price shall be made as provided in paragraph (c) above.

2. Access to Records

The local government, the Florida Department of Community Affairs, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

3. Retention of Records

The contractor shall retain all records relating to this contract for five years after the local government makes final payment and all other pending matters are closed.

4. Remedies

Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the local government and the contractor, arising out of or relating to this contract, or the breach of it, will be decided by arbitration, if the parties mutually agree, or in a Florida court of competent jurisdiction.

5. Environmental Compliance

If this contract exceeds \$100,000, the contractor shall comply 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 U.S. Environmental Protection Agency regulations (40 C.F.R. Part 15). The contractor shall include this clause in any subcontracts over \$100,000.

6. Energy Efficiency

The contractor shall comply with any 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 (Public Law 94-163).

7. SPECIAL EQUAL OPPORTUNITY PROVISIONS

A. Activities and Contracts Not Subject to Executive Order 11246, as Amended

(Applicable to Federally assisted construction contracts and related subcontracts \$10,000 and under.)

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(2) The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer seeking forth the provisions of this nondiscrimination clause. The Contractor shall state that all qualified applicants be considered without regard to race, color, religion, sex or national origin.

(3) Contractors shall incorporate foregoing requirements in all subcontracts.

B. Executive Order 11246 (contracts/subcontracts above \$10,000)

(1) Section 202 Equal Opportunity Clause

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

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in a conspicuous place, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration without regard to race, color,

religion, sex, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided by the Contract Compliance Officer advising the said labor union or worker's representatives of the Contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the Rules, Regulations, and Relevant Orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and others.

(f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the Provisions of the sentence immediately preceding Paragraph (a) and the provisions of Paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sections of noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

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

(a) The Offerer's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

(b) The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Female participation: 6.9% (statewide)

Minority participation (See Appendix at CDBG-25 for goals for each county)

These goals are applicable to all Contractor's construction work (whether or not it is federally-assisted) performed in the covered area. If the Contractor performs construction work in a geographic area located outside of the covered area, it shall apply the goals established for such geographic area where

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the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its Federally involved and non-Federally involved construction.

The Contractor's compliance with 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 or the geographic area where the contract resulting from his solicitation is to be performed. The hours of minority and female employment or training must be substantially uniform throughout the length of the contract and in each trade the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

(c) 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.

(d) As used in this Notice, and in the contract resulting from the solicitation, the "covered area" is the county in which the contract work is being undertaken.

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

(a) As used in these specifications:

1. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
2. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
3. "Employer identification number" means the Federal Social Security number used on the Employer's quarterly Federal Tax Return, U. S. Treasury Department Form 941.
4. "Minority" includes:
 - (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);

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- (III) Asian and Pacific Islander (all persons having origins in any of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Island); 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 toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

(4) The Contractor shall implement the specific affirmative action standards provided in paragraphs (7) 1. through 16. of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing contracts in geographical areas where they do not have a Federal or Federally-assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

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

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

(7) The Contractor shall take specific affirmative actions to ensure equal employment opportunity.

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

1. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites in such facilities.
2. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
3. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union, or if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
4. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
5. Develop on-the-job training opportunities and/or participate in training programs for the areas which expressly include minorities and women, including upgrading apprenticeship, trainee and other programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
6. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin

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boards accessible to all employees at each location where construction work is performed.

7. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
8. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
9. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
10. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
11. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR 60-3.
12. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
13. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
14. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
15. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to

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minority and female contractor associations and other business associations.

16. Conduct a review, at least annually, of all supervisors adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

(8) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations ((7) 1. through 16.). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under (7) 1. through 16. of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation shall not be a defense for the Contractor's noncompliance.

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

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

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

(12) The Contractor shall carry out sections 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 extensively as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its effort to ensure equal employment opportunity. If the Contractor fails to comply with the requirement 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

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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 where 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 location 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 and 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).

C. Certification of Nonsegregated Facilities (over \$10,000)

By the submission of this bid, the bidder, offeror, applicant or subcontractor certifies that he/she does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and that he/she does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. He/She certifies further that he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is violation of the Equal Opportunity Clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work eating areas, time clocks, locker rooms, and other storage or dressing areas, transportation and housing facilities provided for employees which are in fact segregated on the basis of race, color, religion, or otherwise. He/She further agrees that (except where he/she has obtained identical certifications from proposed subcontractors prior to the award of subcontractors have submitted identical certifications for specific time periods).

D. Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

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

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

F. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities

(1) The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as

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amended, 12 U. S. C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

(2) The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 134, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

(3) The Contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or workers representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

(4) The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Contractor will not subcontract with any subcontractor where it has notice of knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

(5) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors or subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

G. Section 503 Handicapped (Contracts \$2,500 or Over)

(1) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(2) The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

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(3) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(4) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(5) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or their contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(6) The Contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

H. Age Discrimination Act of 1975

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

8. CONFLICT OF INTEREST OF OFFICERS OR EMPLOYEES OF THE LOCAL JURISDICTION, MEMBERS OF THE LOCAL GOVERNING BODY, OR OTHER PUBLIC OFFICIALS

No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this contract, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

9. UTILIZATION OF MINORITY AND WOMEN FIRMS (M/WBE)

The contractor shall take all necessary affirmative steps to assure that M/WBE firms are utilized when possible as suppliers and/or subcontractors, as applicable. Prior to contract award, the contractor shall document efforts to utilize M/WBE firms, including identifying what firms were solicited as suppliers and/or subcontractors, as applicable. Information regarding certified M/WBE firms can be obtained from:

- * the State of Florida at 904-487-4698 (all goods and services)
- * the State of Florida at 904-921-7370 (construction services, particularly highway)
- * Minority Business Development Center in most major cities
- * local government M/WBE programs in many large counties and cities

A firm recognized as an M/WBE by any of the above agencies is acceptable for the CDBG program.

10. FEDERAL LABOR STANDARDS PROVISIONS

(Davis-Bacon Act, Copeland Act, and Contract Works Hours & Safety Standards Act)

The Project to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A.1.(I) Minimum Wages. All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, employment Standards Administration, U. S. Department of Labor, Washington, D. C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event that the Contractor, the laborers or mechanics to be employed in the Classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designed for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that the additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

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

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

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the

same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD, or its designee may, after written notice to the contractor, sponsor, applicant, or owners, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3.(i) Payrolls and Basic Records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017).

(ii)(a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owners, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(I). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U. S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149).

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

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(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5 (a)(3)(I) and that such information is correct and complete;

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

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

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

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

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

4.(i) Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U. S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program, shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is

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registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination.

Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with the determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

5. Compliance with Copeland Act Requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

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

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

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

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

10.(i) Certification of Eligibility. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

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

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

B. Contract Work Hours and Safety Standards Act. As used in the paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

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

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(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

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

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

C. Health and Safety

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54.83 State 96).

(3) The contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

11. Guidance to Contractor for Compliance with Labor Standards Provisions

a) Contracts with Two Wage Decisions

If the contract includes two wage decisions, the contractor, and each subcontractor who works on the site, must submit either two separate payrolls (one for each wage decision) or one payroll which

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identifies each worker twice and the hours worked under each wage decision. One single payroll, reflecting each worker once, may be submitted provided the Contractor uses the higher rate in the wage decisions for each identical job classification. However, where a job classification is not listed in a wage decision and is needed for that portion of the work, the classification **must** be added to the wage decision. A worker may not be paid at the rate for a classification using the hourly rate for that same classification in another wage decision. After the additional classification is approved, the contractor may pay the higher of the two rates and submit one payroll, if desired.

b) Complying with Minimum Hourly Amounts

- 1) The minimum hourly amount due to a worker in each classification is the total of the amounts in the ■Rates■ and ■Fringe Benefits■ (if any) columns of the applicable wage decision.
- 2) The contractor may satisfy this minimum hourly amount by any combination of cash and bona fide fringe benefits, regardless of the individual amounts reflected in the ■Rates■ and ■Fringe Benefits■ columns.
- 3) A contractor payment for a worker which is required by law is not a fringe benefit in meeting the minimum hourly amount due under the applicable wage decision. For example, contractor payments for FICA or unemployment insurance are not a fringe benefit; however, contractor payments for health insurance or retirement are a fringe benefit. Generally, a fringe benefit is bona fide if (a) it is available to most workers and (b) involves payments to a third party.
- 4) The hourly value of the fringe benefit is calculated by dividing the contractor's annual cost (excluding any amount contributed by the worker) for the fringe benefit by 2080. Therefore, for workers with overtime, an additional payment may be required to meet the minimum hourly wages since generally fringe benefits have no value for any time worked over 40 hours weekly. (If a worker is paid more than the minimum rates required by the wage decision, this should not be a problem. As long as the total wages received by a worker for straight time equals the hours worked times the minimum hourly rate in the wage decision, the requirement of the Davis-Bacon and Related Acts has been satisfied.)

c) Overtime

For any project work over 40 hours weekly, a worker generally must be paid 150% of the actual hourly cash rate received, not the minimum required by the wage decision. (The Davis-Bacon and Related Acts only establishes minimum rates and does not address overtime; the Contract Work Hours Act contains the overtime requirement and uses ■basic rate of pay■ as the base for calculation, not the minimum rates established by the Davis-Bacon and Related Acts.)

d) Deductions

Workers who have deductions, not required by law, from their pay must authorize these deductions in writing. The authorization must identify the purpose of each deduction and the amount, which may be a specific dollar amount or a percentage. A copy of the authorization must be submitted with the first payroll containing the deduction. If deducted amounts increase, another authorization must be submitted. If deducted amounts decrease, no revision to the original authorization is needed. Court-

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ordered deductions, such as child support, may be identified by the responsible payroll person in a separate document. This document should identify the worker, the amount deducted and the purpose. A copy of the court order should be submitted.

e) Classifications Not Included in the Wage Decision

If a classification not in the wage decision is required, please advise the owner's representative in writing and identify the job classification(s) required. In some instances, the State agency may allow the use of a similar classification in the wage decision.

Otherwise, the contractor and affected workers must agree on a minimum rate, which cannot be lower than the lowest rate for any trade in the wage decision. Laborers (including any subcategory of the laborer classification) and truck drivers are not considered a trade for this purpose. If the classification involves a power equipment operator, the minimum cannot be lower than the lowest rate for any power equipment operator in the wage decision. The owner will provide forms to document agreement on the minimum rate by the affected workers and contractor.

The U.S. Department of Labor (USDOL) must approve the proposed classification and rate. The contractor may pay the proposed rate until the USDOL makes a determination. Should the USDOL require a higher rate, the contractor must make wage restitution to the affected worker(s) for all hours worked under the proposed rate.

f) Supervisory Personnel

Foremen and other supervisory personnel who spend at least 80% of their time supervising workers are not covered by the Davis-Bacon and Related Acts. Therefore, a wage decision will not include such supervisory classifications and their wages are not subject to any minimums under the Davis-Bacon and Related Act or overtime payments under the Contract Work Hours and Safety Standards Act. However, foremen and other supervisory personnel who spend less than 80% of their time engaged in supervisory activities are considered workers/mechanics for the time spent engaged in manual labor and must be paid at least the minimum in the wage decision for the appropriate classification(s) based on the work performed.

g) Sole Proprietorships / Independent Contractors / Leased Workers

The nature of the relationship between a prime contractor and a worker does not affect the requirement to comply with the labor standards provisions of this contract. The applicability of the labor standards provisions is based on the nature of the work performed.

If the work performed is primarily manual in nature, the worker is subject to the labor standards provisions in this contract. For example, if John Smith is the owner of ABC Plumbing and performs all plumbing work himself, then Mr. Smith is subject to the labor standards provisions, including minimum wages and overtime. His status as owner is irrelevant for labor standards purposes.

If a worker meets the IRS standards for being an independent contractor, and is employed as such, this means that the worker must submit a separate payroll as a subcontractor rather than be included on some other payroll. The worker is still subject to the labor standards provisions in this contract, including

minimum wages and overtime.

If a contractor or subcontractor leases its workers, they are subject to the labor standards provisions in this contract, including minimum wages and overtime. The leasing firm must submit payrolls and these payrolls must reflect information required to determine compliance with the labor standards provisions of this contract, including a classification for each worker based on the nature of the work performed, number of regular hours worked, and number of overtime hours worked.

h) Apprentices / Helpers

A worker may be classified as an apprentice **only if participating in a federal or state program**. Documentation of participation must be submitted. Generally, the apprentice program specifies that the apprentice will be compensated at a percentage of journeyman rate. For Davis-Bacon Act purposes, the hourly rate cannot be lower than the percentage of the hourly rate for the classification in the applicable wage decision.

If the worker does not participate in a federal or state apprentice program, then the worker must be classified according to duties performed. This procedure may require classification in the ~~trade~~ depending on tools used, or as a laborer if specialized tools of the trade are not used. The contractor may want to consult with the Wage and Hour Division of the U.S. Department of Labor located in most large cities regarding the appropriate classification.

Presently, no worker may be classified as a ~~helper~~. As with apprentices not participating in a formal apprentice program, the worker must be classified according to duties performed and tools used.

Appendix Minority Participation Goals

These are the goals, by county, for meeting the minority participation portion of Section 7-B (2)(b) of the CDBG Supplemental Conditions. These are contractor workforce goals, not goals for subcontracting to minority and women firms. Solicitation of minority and women firms as subcontractors is a separate federal requirement which the contractor must document compliance with.

<u>Tampa-St. Petersburg Area</u>	<u>Percentage</u>
Hillsborough, Pinellas, Pasco	17.9
Charlotte, Citrus, Collier, DeSoto Hardee, Hernando, Highlands	17.1 (all seven)
Lee	15.3
Manatee	15.9
Polk	18.0

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Sarasota	10.5
<u>Tallahassee Area</u>	
Leon, Wakulla	24.3
Calhoun, Franklin, Gadsden, Jackson Jefferson, Liberty, Madison, Taylor	29.5 (all eight)
<u>Pensacola - Panama City Area</u>	
Bay	14.1
Escambia, Santa Rosa	18.3
Gulf, Holmes, Okaloosa Walton, Washington	15.4 (all five)
<u>Jacksonville Area</u>	
Alachua	20.6
Baker, Clay, Duval, Nassau, St. Johns	21.8
Bradford, Columbia, Dixie, Gilchrist Hamilton, Lafayette, Levy, Marion, Putnam, Suwannee, Union	22.2 (all 11)
<u>Orlando - Daytona Beach Area</u>	
Volusia	15.7
Brevard	10.7
Orange, Osceola, Seminole	15.5
Flagler, Lake, Sumter	14.9
<u>Miami - Fort Lauderdale Area</u>	
Dade	39.5
Broward	15.5
Palm Beach	22.4

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Glades, Hendry, Indian River
Martin, Monroe, Okeechobee
St. Lucie

30.4 (all seven)

5. SECTION 3 INFORMATION



HUD Compliance and Monitoring?

HUD monitors the performance of recipients and contractors. HUD examines employment and contract records for evidence of actions taken to train and employ Section 3 residents and to award contracts to Section 3 businesses. HUD provides technical assistance to recipients and contractors in order to obtain compliance with Section 3 requirements.



What if it appears that an entity is not complying with Section 3?

There is a complaint process. Section 3 residents and business concerns may file complaints if they think a violation of Section 3 requirements has occurred where a HUD-funded project is planned or underway. Complaints will be investigated; if appropriate, voluntary resolutions will be sought. There are appeal rights to the Secretary. Section 3 residents and businesses may also seek judicial relief.



How can Section 3 businesses or residents complain about a violation of Section 3 requirements?

They can file a complaint in writing to the local HUD FHEO Office or to:

The Assistant Secretary for Fair Housing
and Equal Opportunity
U.S. Department of Housing and Urban Development
451 Seventh Street, SW, Room 5100
Washington, DC 20410-2000
1-800-689-9777
1-800-827-9276 (TTY)
www.hud.gov www.espanol.hud.gov

A written complaint should contain:

1. Name and address of the person filing the complaint;
2. Name and address of subject of complaint (HUD recipient or contractor);
3. Description of acts or omissions in alleged violation of Section 3;
4. Statement of corrective actions sought.



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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Section 3

Economic Opportunity *A Piece of the American Dream*



U.S. Department of Housing
and Urban Development



Fair Housing and Equal
Opportunity

April 2006
HUD-1476-FHEO Rev 2
OMB Approval Number 2529-0043 (exp. 8/31/2007)
Previous Editions are Obsolete

Section 3 Act

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (as amended), requires that economic opportunities generated by certain HUD financial assistance for housing (including Public and Indian Housing) and community development programs shall, to the greatest extent feasible, be given to low and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

Other HUD programs covered by Section 3 (to distinguish between HUD Public and Indian housing programs) are those that provide housing or community development assistance for housing rehabilitation, housing construction, or other public construction project.

Who are Section 3 residents?

Public housing residents including persons with disabilities.

Low and very low income persons who live in the area where a HUD assisted project is located.

What is a Section 3 business?

A section 3 business is one:

That is owned by Section 3 residents
Employs Section 3 residents or;
Subcontracts with businesses that provide opportunities to low and very low income persons.

What types of Economic Opportunities are available under Section 3?

- ✓ Jobs and Employment opportunities
- ✓ Training and Educational opportunities
- ✓ Contracts and Business opportunities

Who will provide the Economic Opportunities?

Recipients of HUD financial assistance and their contractors and subcontractors are expected to develop a Section 3 Plan to assure that economic opportunities to the greatest extent feasible, are provided to low and very low-income persons and to qualified Section 3 businesses. One element of that Plan is the use of a Section 3 clause which indicates that all work performed under the contract are subject to the requirements of Section 3.

Who receives Economic Opportunities under Section 3?

For training and employment:

- ✓ persons in public and assisted housing;
- ✓ persons in the affected project neighborhood;
- ✓ participants in HUD Youth-build programs;
- ✓ homeless persons.

For contracting:

- ✓ businesses which fit the definition of a Section 3 business.

How can individuals and businesses find out more about Section 3?

Contact the Fair Housing and Equal Opportunity representative at your nearest HUD Office.

Economic Opportunities for Low- and Very Low-Income Persons

U.S. Department of Housing
and Urban Development
Office of Fair Housing
And Equal Opportunity

OMB Approval No: 2529-0043
(exp. 11/30/2010)

HUD Field Office:

Section back of page for Public Reporting Burden statement

1. Recipient Name & Address: (street, city, state, zip)	2. Federal Identification: (grant no.)	3. Total Amount of Award:
	4. Contact Person	5. Phone: (include area code)
	6. Length of Grant:	7. Reporting Period:
8. Date Report Submitted:	9. Program Code: (Use separate sheet for each program code)	10. Program Name:

Part I: Employment and Training (** Columns B, C and F are mandatory fields. Include New Hires in E & F)

A	B	C	D	E	F
Job Category	Number of New Hires	Number of New Hires that are Sec. 3 Residents	% of Aggregate Number of Staff Hours of New Hires that are Sec. 3 Residents	% of Total Staff Hours for Section 3 Employees and Trainees	Number of Section 3 Trainees
Professionals					
Technicians					
Office/Clerical					
Construction by Trade (List)					
Trade					
Trade					
Trade					
Trade					
Other (List)					
Total					

* Program Codes
1 = Flexible Subsidy
2 = Section 202/811

3 = Public/Indian Housing
A = Development
B = Operation
C = Modernization

4 = Homeless Assistance
5 = HOME
6 = HOME State Administered
7 = CDBG Entitlement

8 = CDBG State Administered
9 = Other CD Programs
10 = Other Housing Programs

Part II: Contracts Awarded**1. Construction Contracts:**

A. Total dollar amount of all contracts awarded on the project	\$
B. Total dollar amount of contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving contracts	

2. Non-Construction Contracts:

A. Total dollar amount all non-construction contracts awarded on the project/activity	\$
B. Total dollar amount of non-construction contracts awarded to Section 3 businesses	\$
C. Percentage of the total dollar amount that was awarded to Section 3 businesses	%
D. Total number of Section 3 businesses receiving non-construction contracts	

Part III: Summary

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

- ☐ Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contracts with the community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.
- ☐ Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.
- ☐ Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.
- ☐ Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.
- ☐ Other; describe below.

Public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB number.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, mandates that the Department ensures that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low- and very-low income persons, particularly those who are recipients of government assistance housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as self-monitoring tool. The data is entered into a database and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808(e)(6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.

Form HUD-60002, Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons.

Instructions: This form is to be used to report annual accomplishments regarding employment and other economic opportunities provided to low- and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to any *public and Indian housing programs* that receive: (1) development assistance pursuant to Section 5 of the U.S. Housing Act of 1937; (2) operating assistance pursuant to Section 9 of the U.S. Housing Act of 1937; or (3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937 and to recipients of housing and community development assistance in excess of \$200,000 expended for: (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards); (2) housing construction; or (3) other public construction projects; and to *contracts and subcontracts in excess of \$100,000* awarded in connection with the Section-3-covered activity.

Form HUD-60002 has three parts, which are to be completed for all programs covered by Section 3. Part I relates to *employment and training*. The recipient has the option to determine numerical employment/training goals either on the basis of the number of hours worked by new hires (columns B, D, E and F). Part II of the form relates to *contracting*, and Part III summarizes recipients' efforts to comply with Section 3.

Recipients or contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs were directed toward low- and very low-income persons.* A recipient of Section 3 covered assistance shall submit one copy of this report to HUD Headquarters, Office of Fair Housing and Equal Opportunity. Where the program providing assistance requires an annual performance report, this Section 3 report is to be submitted at the same time the program performance report is submitted. Where an annual performance report is not required, this Section 3 report is to be submitted by January 10 and, if the project ends before December 31, within 10 days of project completion. *Only Prime Recipients are required to report to HUD. The report must include accomplishments of all recipients and their Section 3 covered contractors and subcontractors.*

HUD Field Office: Enter the Field Office name.

1. Recipient: Enter the name and address of the recipient submitting this report.
2. Federal Identification: Enter the number that appears on the award form (with dashes). The award may be a grant, cooperative agreement or contract.
3. Dollar Amount of Award: Enter the dollar amount, rounded to the nearest dollar, received by the recipient.
- 4 & 5. Contact Person/Phone: Enter the name and telephone number of the person with knowledge of the award and the recipient's implementation of Section 3.
6. Reporting Period: Indicate the time period (months and year) this report covers.
7. Date Report Submitted: Enter the appropriate date.

8. Program Code: Enter the appropriate program code as listed at the bottom of the page.
9. Program Name: Enter the name of HUD Program corresponding with the "Program Code" in number 8.

Part I: Employment and Training Opportunities

Column A: Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e. supervisors, architects, surveyors, planners, and computer programmers). For construction positions, list each trade and provide data in columns B through F for each trade where persons were employed. The category of "Other" includes occupations such as service workers.

Column B: (Mandatory Field) Enter the number of new hires for each category of workers identified in Column A in connection with this award. New hire refers to a person who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

Column C: (Mandatory Field) Enter the number of Section 3 new hires for each category of workers identified in Column A in connection with this award. Section 3 new hire refers to a Section 3 resident who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

Column D: Enter the percentage of all the staff hours of new hires (Section 3 residents) in connection with this award.

Column E: Enter the percentage of the total staff hours worked for Section 3 employees and trainees (including new hires) connected with this award. Include staff hours for part-time and full-time positions.

Column F: (Mandatory Field) Enter the number of Section 3 residents that were trained in connection with this award.

Part II: Contract Opportunities

Block 1: Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project/program that were awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards.

Block 2: Non-Construction Contracts

Item A: Enter the total dollar amount of all contracts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards.

Part III: Summary of Efforts – Self-explanatory

Submit one (1) copy of this report to the HUD Headquarters Office of Fair Housing and Equal Opportunity, at the same time the performance report is submitted to the program office. The Section 3 report is submitted by January 10. Include only contracts executed during the period specified in item 8. PHAs/IHAs are to report all contracts/subcontracts.

* The terms "low-income persons" and very low-income persons" have the same meanings given the terms in section 3 (b) (2) of the United States Housing Act of 1937. *Low-income persons* mean families (including single persons) whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that

The Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings such that variations are necessary because of prevailing levels of construction costs or unusually high- or low-income families. *Very low-income persons* mean low-income families (including single persons) whose incomes do not exceed 50 percent of the median family income area, as determined by the Secretary with adjustments or smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

III. Examples of Procurement Procedures That Provide for Preference for Section 3 Business Concerns

This Section III provides specific procedures that may be followed by recipients and contractors (collectively, referred to as the "contracting party") for implementing the section 3 contracting preference for each of the competitive procurement methods authorized in 24 CFR 85.36(d).

(1) Small Purchase Procedures. For section 3 covered contracts aggregating no more than \$25,000, the methods set forth in this paragraph (1) or the more formal procedures set forth in paragraphs (2) and (3) of this Section III may be utilized.

(i) Solicitation. (A) Quotations may be solicited by telephone, letter or other informal procedure provided that the manner of solicitation provides for participation by a reasonable number of competitive sources. At the time of solicitation, the parties must be informed of:

- the section 3 covered contract to be awarded with sufficient specificity;
- the time within which quotations must be submitted; and
- the information that must be submitted with each quotation.

(B) If the method described in paragraph (i)(A) is utilized, there must be an attempt to obtain quotations from a minimum of three qualified sources in order to promote competition. Fewer than three quotations are acceptable when the contracting party has attempted, but has been unable, to obtain a sufficient number of competitive quotations. In unusual circumstances, the contracting party may accept the sole quotation received in response to a solicitation provided the price is reasonable. In all cases, the contracting party shall document the circumstances when it has been unable to obtain at least three quotations.

(ii) Award. (A) Where the section 3 covered contract is to be awarded based upon the lowest price, the contract shall be awarded to the qualified section 3 business concern with the lowest responsive quotation, if it is reasonable and no more than 10 percent higher than the quotation of the lowest responsive quotation from any qualified source. If no responsive quotation by a qualified section 3 business concern is within 10 percent of the lowest responsive quotation from any qualified source, the award shall be made to the source with the lowest quotation.

(B) Where the section 3 covered contract is to be awarded based on factors other than price, a request for quotations shall be issued by developing the particulars of the solicitation, including a rating system for the assignment of points to evaluate the merits of each quotation. The solicitation shall identify all factors to be considered, including price or cost. The rating system shall provide for a range of

15 to 25 percent of the total number of available rating points to be set aside for the provision of preference for section 3 business concerns. The purchase order shall be awarded to the responsible firm whose quotation is the most advantageous, considering price and all other factors specified in the rating system.

(2) Procurement by sealed bids (Invitations for Bids). Preference in the award of section 3 covered contracts that are awarded under a sealed bid (IFB) process may be provided as follows:

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(i) Bids shall be solicited from all businesses (section 3 business concerns, and non-section 3 business concerns). An award shall be made to the qualified section 3 business concern with the highest priority ranking and with the lowest responsive bid if that bid--

(A) is within the maximum total contract price established in the contracting party's budget for the specific project for which bids are being taken, and

(B) is not more than ``X" higher than the total bid price of the lowest responsive bid from any responsible bidder. ``X" is determined as follows:

		x=lesser of:
When the lowest responsive bid is less than \$100,000.		10% of that bid or \$9,000.
When the lowest responsive bid is:		
At least \$100,000, but less than \$200,000.		9% of that bid, or \$16,000.
At least \$200,000, but less than \$300,000.		8% of that bid, or \$21,000.
At least \$300,000, but less than \$400,000.		7% of that bid, or \$24,000.
At least \$400,000, but less than \$500,000.		6% of that bid, or \$25,000.
At least \$500,000, but less than \$1 million.		5% of that bid, or \$40,000.
At least \$1 million, but less than \$2 million.		4% of that bid, or \$60,000.
At least \$2 million, but less than \$4 million.		3% of that bid, or \$80,000.
At least \$4 million, but less than \$7 million.		2% of that bid, or \$105,000.
\$7 million or more.....		1 1/2% of the lowest responsive bid, with no dollar limit.

(ii) If no responsive bid by a section 3 business concern meets the requirements of paragraph (2)(i) of this section, the contract shall be awarded to a responsible bidder with the lowest responsive bid.

(3) Procurement under the competitive proposals method of procurement (Request for Proposals (RFP)). (i) For contracts and subcontracts awarded under the competitive proposals method of procurement (24 CFR 85.36(d)(3)), a Request for Proposals (RFP) shall identify all evaluation factors (and their relative importance) to be used to rate proposals.

(ii) One of the evaluation factors shall address both the preference for section 3 business concerns and the acceptability of the strategy for meeting the greatest extent feasible requirement (section 3 strategy), as disclosed in proposals submitted by all business concerns (section 3 and non-section 3 business concerns). This factor shall provide for a range of 15 to 25 percent of the total number of available points to be set aside for the evaluation of these two components.

(iii) The component of this evaluation factor designed to address the preference for section 3 business concerns must establish a preference for these business concerns in the order of priority ranking as described in 24 CFR 135.36.

(iv) With respect to the second component (the acceptability of the section 3 strategy), the RFP shall require the disclosure of the contractor's section 3 strategy to comply with the section 3 training and employment preference, or contracting preference, or both, if applicable. A determination of the contractor's responsibility will include the submission of an acceptable section 3 strategy. The contract award shall be made to the responsible firm (either section 3 or non-section 3 business concern) whose proposal is determined most advantageous, considering price and all other factors specified in the RFP.

Section 3 Clause

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).