

PROJECT MANUAL
FOR THE
BUILDING 17 ROOF REPLACEMENT
AT
800 PETERCHEFF STREET
TERRE HAUTE, INDIANA 47803

MIKE BRAUN
GOVERNOR
STATE OF INDIANA

LAWRENCE MUENNICH
BRIGADIER GENERAL, INARNG
THE ADJUTANT GENERAL

CHAD EVANS
BASE CIVIL ENGINEER
INDIANA AIR NATIONAL GUARD
TERRE HAUTE

ALEXIS TELLER
DIRECTOR STATE PURCHASING & CONTRACTING
ADJUTANT GENERAL'S AGENCY

PREPARED BY:

JOINT FORCE HEADQUARTERS – INDIANA
ATTN: STATE CONTRACTING OFFICE
202 SOUTH HOLT ROAD, BDG 5
INDIANAPOLIS, INDIANA 46241-4839

DATED: April 3, 2025
STATE OF INDIANA
STATE ARMORY BOARD

NOTICE TO GENERAL CONTRACTORS

PROJECT VALUED BY THE STATE ARMORY BOARD, OVER \$150,000

Notice is hereby given that sealed bids for the **Building 17 Roof Replacement** at 800 Petercheff Street, Terre Haute, IN 47803 for the Indiana Army National Guard will be received via email to Elysia Justice, State Contracting Officer at **contractingpublicbid@ago.in.gov** until **9:00 o'clock AM** (Eastern Standard Time) on **Tuesday, May 13, 2025**. All bids will be read aloud, via conference call **317-247-3300 or 812-526-1499 Conference ID: 11000** at **10:00 o'clock AM** (EDT). Any bid received after the designated time, for any reason, will not be read.

Proposals shall be submitted on the proper bid form and delivered via email to include the name and address of the bidder, all as described in the Instruction to Bidders, which accompanies the specification. A Bid Bond made payable to the Adjutant General's Office, State of Indiana, must be enclosed with the bid. Said bond shall be in the minimum amount of five (5%) percent of the maximum bid including all additive alternate bids.

The contract for this work shall be awarded or rejected within sixty (60) calendar days from the date of opening bids. Funds are presently available for this acquisition. The State Armory Board reserves the right to reject any and all bids.

Note: Contracts resulting from this solicitation will be required to conform to I.C. 4-13-18 (Contractor's Employee Drug Testing).

Note: In accordance with I.C. 4-13-16.5-2, the following goals are established for this construction: MBE 7%, WBE 5% and IVBE 3%.

Contractors interested in bidding and/or reviewing this project may obtain complete Contract Documents, in electronic form from Chad Evans at chad.evans.18@us.af.mil. **All RFIs and/or product substitution requests must be submitted in writing no later than COB 29 April 2025.**

A Pre-Bid Meeting for this project will be held at 800 Petercheff Street, Terre Haute, IN 47803 at **9:00 AM (Eastern Standard Time) on Tuesday, April 22, 2025**, for all interested bidders. Information on this page can also be found through Access Indiana @ <http://www.in.gov/sab/>, State Armory Board Indiana National Guard bid posting at agency.

Dated this 3rd day of April, 2025

STATE ARMORY BOARD, acting by and
through The Adjutant General,
Lawrence Muennich
Brigadier General, INARNG

INSTRUCTIONS TO BIDDERS

PROJECT ESTIMATED BY INDIAN AIR NATIONAL GUARD, STATE OF INDIANA

TO BE BID AT ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) AND ABOVE

01 GENERAL

- A. This project is estimated by the Indiana Air National Guard, State of Indiana, as stated in the Notice to Bidders, at One Hundred Fifty Thousand Dollars (\$150,000) and above.

02 PROJECT NUMBER, DESCRIPTION AND LOCATION (is as stated in the Notice to Bidders.)

03 TITLE AND DEFINITIONS

Said building and/or land upon which it stands is a property interest of the State of Indiana. All references to the title owner of said property hereinafter will be by the term "State" and all references to the person, firm, or corporation awarded the contract for the project will be by the term "Contractor". The preparation and issuance of contracts for this project are the responsibility of the State Contracting Officer acting with approval of the Indiana Air National Guard and the Governor.

Contract: A written agreement between two or more parties enforceable by law.

Contractor: A person who has entered into or seeks to enter into a Indiana Air National Guard contract.

Prime Contractor: A person or business which is primarily responsible for providing goods and services or performing a specific service, etc. under contract. A prime contractor can also be a Minority Business Enterprise.

Subcontractor: A person or a business who has a direct contract with a prime contractor who is under contract to provide goods and services or perform a specific service.

Joint Venture: An association of two or more businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge.

Manufacturer: A supplier that produces goods from raw materials or substantially alters them before resale.

Minority Business Enterprise (M/WBE): A business concern which is at least fifty-one percent (51%) owned and controlled by one or more of the individuals classified as a minority group which includes: African Americans, Hispanic Americans, Asian Americans, and other racial minorities.

Indiana Veteran Business Enterprise: Is owned and controlled by 1 or more veterans who have been residents of Indiana for at least 1 year before making an offer or, in the case of a corporation, have at least fifty-one percent (51%) of the corporation's stock owned by 1 or more veterans who have been residents of Indiana for at least 1 year before making an offer; and has its principal place of business located in Indiana.

Supplier: Any person or entity engaged to furnish goods, materials and/or equipment, but no on-site labor, is capable of furnishing such goods, materials and/or equipment either directly from its own stock or by ordering materials and/or equipment directly from a manufacturer, and is engaged to furnish such goods, materials and/or equipment directly to a prime contractor or one of its subcontractors.

04 PRE-BIDDING, BIDDING AND POST BIDDING REQUIREMENTS

- A. The Indiana Air National Guard, acting through the State Contracting Officer will authorize the issuance of the statement of work and addenda to Bidders.
- B. It is recommended, the BIDDER visit the site prior to submitting bid, and thoroughly familiarize themselves with existing site conditions and work to be performed, as indicated in the statement of work and addenda. Extra compensation or extension of time will not be allowed for failure to examine site.
- C. During the bidding period, should questions arise as to the meaning of any part of the statement of work, addenda, other bidding documents that may affect the Bidder, the Bidder shall contact the Project Manager, and submit a written request for clarification. The Project Manager will make such clarification only by Addendum which shall be emailed to each Bidder. Receipt of all Addenda shall be acknowledged with the Bid. No written request for clarification will be accepted by the Project Manager and/or the Indiana Air National Guard later than fourteen (14) calendar days prior to the scheduled bid date.
- D. Bid as described in Contractors Bid, (Bid Form) shall include Base Bid in figures and/or in words, and Alternates, (if any) as noted on page 2. Alternate amount(s) shall be listed where indicated. Add Alternates Are Not to be included in the Base Bid Scope of Work. Deduct Alternates Are to be included in the Base Bid Scope of Work. Unit prices and/or Equipment Lists shall be included with bid if required. The current bid form, CONTRACTORS BID shall be fully executed, signed and notarized with the notary seal affixed. Note that signing this document is acknowledgement of procurement of all addenda and certification by bidder that the bid recognizes all items in all addenda.
- E. A bid by a corporation shall be in the legal name of the corporation followed by the word "by" and the signature of the president. The secretary of the corporation shall sign indicating the president's authority to sign. A corporate resolution is required with, and as a part of, the bid if anyone other than the president of the corporation is signing bid documents. All required bid documents must contain original handwritten signatures.
- F. The Form 96A-Questionnaire and Financial Statement is no longer required to be submitted. The State Contracting Officer, Indiana Air National Guard, does reserve the right to request additional financial information or contractor experience as a basis for rejection of bid or award of contract.
- G. **Each bidder must file** with his bid a Non-Collusion Statement signed by the same authorized person(s) who signed the bid.
- H. **Each bidder shall file** with his bid a completely filled in and executed Bid Bond in accordance with I.C. 4-13.6-7-5. The bid bond penal sum shall be the minimum amount of five percent (5%) of the bid including all additive alternatives.
- I. **Each Bidder must file** with his bid a completed M/W/IVBE subcontractor plan and application for program waiver. Refer to the Supplement to General Conditions for Minority and Women's Business Enterprises Program (DAPW 26SUP1) for specific requirements.

- J. **Each Bidder must file** with his bid, the completed Contractor's Affidavit of Subcontractors Employed with whom he proposes to perform work, whose subcontract amount will be \$150,000.00 or more.
- K. **Each bidder must include** his Federal I.D. number or Social Security number on Page 1 of the Bid Form.
- L. All documents required by statute, rule or these instructions to be included in the bid, must be submitted together in a single email, plainly titled with the Name of Bidder, Project Identification, Project Number, Bid Time and Bid Date. Bids shall be rejected if all required documents are not in the bid packet.
- M. A bidder with proper identification may withdraw his bid at any time prior to the scheduled time for receipt of the bids; however, no bid may be withdrawn without written consent of the State for a period of sixty (60) days after the date of the bid opening, or unless extended in accordance with I.C. 4-13.6-6-4. Bids received after the designated due time for any reason, shall be rejected and returned unopened to the bidder. The Indiana Air National Guard reserves the right to reject any and all bids.

05 SIGNATURE AFFIDAVIT

- A. The signature affidavit has been removed from this project specification manual. A signature affidavit may NOT be submitted as a supplement to all other bid documents.
- B. All documents that are required, which constitutes the bid MUST BE signed and/or properly executed.
1. Contractor Bid Form
 2. Non-collusion Statement
 3. Bid Bond
 4. Drug-Free Workplace Certificate
 5. Corporate Certificate
 6. Certificate of Non-Segregated Facilities
 7. Domestic Steel Affidavit
 8. Contractor's Affidavit of Subs Employed
 9. M/WBE Subcontractor Plan
 10. Application for M/WBE Program Waiver

06 WORK BY CONTRACTOR

The Contractor **shall perform 20% of the value of work (measured in dollars of the total contract price)** with his own forces, and not more than 80% of the value of work is to be subcontracted.

07 SUBSTITUTIONS

The materials, products, systems and equipment described in the bidding documents establish a standard or required function, dimension, appearance and quality that shall also be met by any proposed substitution. No substitution by manufacturer, or trade name of product named, or of a quality specified will be considered unless written request for approval has been submitted by the bidder and has been received by the Project Manager at least fourteen (14) calendar days prior to the date for receipt of bids. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including drawings, cuts, performance and test data and any other information necessary for an evaluation. A statement

setting forth any changes in other materials, equipment or work that incorporation of the substitute would require shall be included. The burden of proof of the merit of the proposed substitute is upon the proposer. The Project Manager's decision of approval or disapproval of the proposed substitution shall be final. Products, materials or systems not specified or approved prior to bidding, shall not be accepted for use in this project. All such substitutions accepted shall be acknowledged by addendum. See para. 04 (C).

08 NONDISCRIMINATION

Pursuant to I.C. 22-9-1-10, Burns 40-2316, the Contractor and subcontractors, if any, shall not discriminate against any employee or applicant available for employment, to be employed in the performance of this contract, with respect to his hire, tenure, terms, conditions or privileges of employment, because of his race, color, religion, sex, handicap, national origin, or ancestry. Any violation of this covenant may result in the imposition of penalties prescribed by law and may be regarded as a material breach of the contract.

Pursuant to Indiana Code 5-16-6-1, the contractor agrees:

- A. that in the hiring of employees for the performance of work under this contract or any subcontract hereunder, no contractor, or subcontractor, shall, by reason of race, religion, color, sex, national origin or ancestry, discriminate against any citizen of the State of Indiana who is qualified and available to perform the work to which the employment relates; and
- B. that no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, religion, color, sex, national origin or ancestry; and
- C. that there may be deducted from the amount payable to the contractor by the State of Indiana or by any municipal corporation thereof, under this contract, a penalty of five dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract; and
- D. that this contract may be cancelled or terminated by the State of Indiana or by any municipal corporation thereof, and all money due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the contract.

09 NOTICE OF AWARD

- A. Prior to execution of the contract, in accordance with I.C. 4-13.6-5-2, the Indiana Air National Guard, State of Indiana may require additional submittals from bidder(s) to clarify contractor's experience and plans for performing the proposed work. Submittals which may be required include a critical path construction schedule which coordinates all significant tasks sequences and durations; schedules of values, and documentation of efforts to include minority businesses in the proposed work. The State Contracting Officer may require Bidder(s) to provide a comprehensive list of subcontractors and suppliers within 24 hours of receipt of bid.
- B. Each bidder shall furnish a completed Domestic Steel Affidavit to the Indiana Air National Guard, State of Indiana, State Contracting Officer, as part of the completed bid submittal. The Domestic Steel Affidavit is included as part of the bid packet.

NOTE: This law is as stated in I.C. 5-16-8.

Definition of Steel Products:

"Steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two (2) or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.

- C. Each bidder shall furnish a completed Drug-Free Workplace Certification to the Indiana Air National Guard, State of Indiana as part of the completed bid submittal. The drug-free workplace certification is included as part of the bid packet.
- D. Concurrent with execution of the Contract, the successful bidder shall furnish executed copies of Contractor-Subcontractor agreements as required in Article 5 of the General Conditions.
- E. Prior to execution of the Contract, the Indiana Air National Guard, State of Indiana will issue to the successful bidder a letter stating that his bid was the lowest responsible and responsive bid and that the enclosed contract documents are being submitted to them for their consideration. If they find it in accordance with the bid documents, it is to be returned to the State Contracting Officer by certified mail or in person within ten (10) calendar days after receipt for further execution and with the caution that a contract will not exist until it is signed by all signatories required. Failure to execute the proper contract and furnish the ancillary documents shall constitute reason to sacrifice the bid bond.

10 SUMMARY

Complete documents required with this bid:

- A. The Bid Bond must be signed by both the Bidder and Bonding Company. The Bonding Company must also attach a Power of Attorney. Bid bond information, may be on the Bonding Company's standard form.
- B. Bid Form - Contractors bid.
 - Page 1: State the amount of the bid in figures and words.
 - Page 2: State the amount of alternate(s), indicate add, deduct or no change (READ CAREFULLY).
 - Page 3: List all addenda received and state the number of days required for this work.
 - Page 4: Authorized signatures of Firm.
- C. The Non-Collusion Statement must be signed by the same authorized person(s) who signed the bid documents.
- D. Minority/Women Business Enterprise Subcontractor plan and Application for MWBE Program Waiver must be completed and signed by the same authorized person who signed the bid documents.
- E. The completed Contractor's Affidavit of Subcontractors Employed whose subcontract amount will be in excess \$150,000.00 or more.
- F. All other documents as listed in Paragraph 05B, above.
- G. One copy only of the Bid Documents is required. Bidders may remove and use the Documents included in the project specifications or use reproductions of the Documents.

11 BIDS WILL BE REJECTED FOR THE FOLLOWING REASONS

- A. If the Contractors Bid (Bid Form) and Bid Bond, or any one of these are not signed and notarized as required by these instructions.
- B. When no bids received under or within funds that can be appropriated, or within the Indiana Air National Guard's Estimate. All bids may be rejected in this case.
- C. When the bidder adds any provision reserving the right to accept or reject the award.
- D. If the bidder adds conditions or alternates, not requested, to his bid (voluntary alternates).
- E. If there are unauthorized additions or irregularities of any kind which tend to make the proposal incomplete, indefinite or ambiguous as to its meaning or amount.
- F. When situations develop which make it impossible or not practical to proceed with the proposed work.
- G. If subsequent to the opening of bids facts exist which would disqualify the bidder, or that such bidder is not responsive or responsible.
- H. If bid is received after the designated due time, as stated in the Notice to Bidders.
- I. If all documents required to be submitted with bid are not included.
- J. If all required bid or alternate(s) amounts, or unit prices and equipment lists are not submitted with bid when specifically called for by specifications issued on this project.
- K. If addendums (if any) are not acknowledged on the bid documents.

BID FORM
BUILDING 17 ROOF REPLACEMENT

IFB NO: MDI-ANG-TH-25-B-001

TO: INDIANA AIR NATIONAL GUARD
8001 REINOEHL ROAD
TERRE HAUTE, IN 47803

DATE:

NAME AND LOCATION OF PROJECT:

BUILDING 17 ROOF REPLACEMENT
800 PETERCHEFF STREET
TERRE HAUTE, INDIANA 47803

In compliance with your Invitation for Bid No: MDI-ANG-TH-25-B-001 the undersigned hereby proposes to furnish all plant, labor, material and equipment necessary to perform and complete all work for the above described project in strict accordance with the provided statement of work.

For consideration of the following prices:

CONTRACTOR'S BID AMOUNT

COMPANY NAME: _____

ADDRESS: _____

CITY, ST, ZIP: _____

PHONE: _____

PRIMARY CONTACT NAME: _____

EMAIL ADDRESS: _____

BASE BID:

Furnish all labor, material, equipment and services of every nature for the
BUILDING 17 ROOF REPLACEMENT

\$ _____

Federal I.D. Number _____

CONDITIONS:

- A. The State reserves the right to award the work on the basis of the total bid. Various bid numbers are solicited for cost control information.
- B. Bids shall be for the entire work and shall have each blank space filled.
- C. The bidder agrees that upon written acceptance of this bid, mailed or otherwise furnished within sixty (60) calendar days after date of opening of bids, they will execute the required Construction Contract, in accordance with their bid, as accepted, and will furnish the Indiana Air National Guard, State of Indiana, a Performance Bond and Payment Bond with good and sufficient surety, as required by the specifications, at time the contract is executed.
- D. The Bidder further agrees that if awarded the contract work will commence on or about _____, and that he will fully complete the work.
- E. Contractor shall state their required time in days from the date of notice to proceed until completion of work. Contractor agrees that work as specified shall be completed within _____ calendar days after the award of contract.

Pursuant to I.C. 22-9-1-10, Burns 40-2316, the Contractor and his subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of this contract, with respect to his hire, tenure, terms, conditions or privileges of employment, because of his race, color, religion, sex, handicap, national origin and ancestry. Breach of this covenant may be regarded as material breach of the contract.

BY SUBMITTING THIS OFFER FORM I DO HEREBY SUBMIT THE FOLLOWING:

- (1) That as a Corporation, Limited Liability Company, Limited Liability Partnership or Limited Partnership that Pursuant to IC 5-22-16-4 I/We are not delinquent with respect to gross retail and use taxes (IC 6-2.5).
- (2) That as a Corporation, Limited Liability Company, Limited Liability Partnership or Limited Partnership that Pursuant to IC 5-22-16-4 I/We are in good standing with the Secretary of the State of Indiana, the Department of Revenue and the Department of Workforce Development as applicable.
- (3) That as a Corporation, Limited Liability Company, Limited Liability Partnership or Limited Partnership I/We will complete and submit an Indiana Economic Impact report form when so requested to do so. Failure to do so will be cause for disqualification of the offeror.

RECEIPT OF AMENDMENTS, ADDENDUM OR ADDENDA:

The undersigned bidder hereby acknowledges receipt of the following amendments, addendum or addenda of the Invitation for Bids, Drawings and/or Specifications, etc., (Give Number and Date of Each). _____

F. The Contracting Officer will use the list of priorities in the bid schedule only to determine the low offeror. After determining the low offeror, an award may be made on any combination of items if ---

1. It is in the best interest of the Government;
2. Funds are available at the time of award: and
3. The Low offeror's price for the combination to be awarded is less than the price offered by another responsible offeror.

Example --- the amount available is \$100,000.00 Offeror A's base bid and four additives (in the order stated in the list of priorities in the base bid schedule) are \$85,000, \$10,000, \$8,000, \$6,000 and \$4,000. Offeror B's base bid and four additives are \$80,000, \$16,000, \$9,000, \$7,000 and \$4,000. Offeror A is the low Offeror. The aggregate amount of the Offeror A's bid for purposes of award would be \$99,000, which includes a base bid plus the first and fourth additives. The second and third additives were skipped because each of them would cause the aggregate bid to exceed \$100,000.

IN TESTIMONY WHEREOF, the Bidder has hereunto set his hand this _____ day of _____, 2025.

SOLE PROPRIETORSHIP BID MUST Proprietorship (Owner) Signature
BE SIGNED BY OWNER
(INDIVIDUAL)

Bidder - Firm Name

IN TESTIMONY WHEREOF, the Bidder (a partnership) have hereunto set their hands this _____ day of _____, 2025.

ALL GENERAL PARTNERS
MUST SIGN
(PARTNERSHIP)

Firm Name _____

Partner _____

Partner _____

Partner _____

IN TESTIMONY WHEREOF, the Bidder (a corporation) has caused this proposal to be signed by its President or other authorized signature and Secretary this _____ day of _____, 2025.

Corporation Name

By President

(CORPORATION)

Other Authorized Signature Title

Secretary

BY SIGNING THIS BID THE BIDDER ACKNOWLEDGED PROCUREMENT OF ALL ADDENDA AND CERTIFIES THAT THIS BID RECOGNIZED ALL ITEMS IN ALL ADDENDA.

If bid signed by other than the President, a Corporation Resolution designating other authorized signature shall be submitted with this bid.

NOTE: A bid submitted by a Sole proprietorship must be signed by the Owner. A bid submitted by a partnership must be signed by all general partners.



NON-COLLUSION AFFIDAVIT
State Form 4391 (R4 / 1-00)

STATE OF: _____

COUNTY OF _____

} SS:

The undersigned, being duly sworn on oath says, that he is the contracting party, or that he is the representative, agent, member, or officer of the contracting party, that he has not, nor has any other member, employee, representative, agent or officer of the firm, company, corporation or partnership represented by him, directly or indirectly, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he has not received or paid, any sum of money or other consideration for the execution of the annexed contract other than that which appears upon the face of the contract.

Signature
Printed name
Title
Company

Before me, a Notary Public in and for said County and State personally appeared,

who acknowledged the truth of the statements in the foregoing affidavit on this _____ day of _____, 2025.

		Signature of Notary Public
County of residence	Commission expiration date	Printed or typed name of Notary Public

BID BOND

KNOW ALL MEN BY THESE PRESENT, that we _____
(CONTRACTOR'S NAME AND ADDRESS)

_____ as Principal, hereinafter called the Principal and the

(BONDING COMPANY NAME)

a corporation duly organized under the laws of the State of _____ as Surety, hereinafter called the Surety, are held and firmly bound unto the Indiana Air National Guard, State of Indiana, as Obligee, hereinafter called the Obligee, in the sum of (\$ _____), for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these present.

WHEREAS, the Principal has submitted a bid for MDI-ANG-25-TH-B-001
(PROJECT, NUMBER, DESCRIPTION & LOCATION)

INDIANA AIR NATIONAL GUARD - TERRE HAUTE
8001 REINOEHL ROAD
TERRE HAUTE, INDIANA 47803

NOW THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract with the Obligee in accordance with the term of such bid, and give such bond or bonds as may be specified in the bidding or contract documents with good and sufficient surety for the faithful performance of such contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this _____ day of _____, A.D. 2025.

(Witness)

(Principal)

By: _____
(Title)

(Surety)

By: _____

DRUG FREE WORKPLACE CERTIFICATION

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all contracts with and grants from the State of Indiana in excess of \$25,000. No award of a contract or grant shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000, shall be valid unless and until this certification has been fully executed by the Vendor and attached to the contract or agreement as part of the contract documents. False certification or violation of the certification may result in sanctions, including, but not limited to, suspension of contract payments, termination of the contract or agreement and/or debarment of contracting opportunities with the State for up to three (3) years.

The Contractor/Grantee certifies and agrees that it will provide a drug-free workplace by:

- (a) Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Vendor's workplace and specifying the actions that will be taken against employees for violation of such prohibition; and
- (b) Establishing a drug-free awareness program to inform employees about (1) the dangers of drug abuse in the workplace; (2) the Vendor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace; and
- (c) Notifying all employees in the statement required by subparagraph (a) above that as a condition of continued employment the employee will (1) abide by the terms of the statement; and (2) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- (d) Notifying in writing the contracting State Agency and the Indiana Department of Administration within ten (10) days after receiving notice from an employee under subdivision (c) (2) above, or otherwise receiving actual notice of such conviction; and
- (e) Within thirty (30) days after receiving notice under subdivision (c) (2) above of conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and
- (f) Making a good faith effort to maintain a drug-free workplace through the implement of subparagraphs (a) through (e) above.

THE UNDERSIGNED AFFIRMS, UNDER PENALTIES OF PERJURY, THAT HE OR SHE IS AUTHORIZED TO EXECUTE THIS CERTIFICATION ON BEHALF OF THE DESIGNATED ORGANIZATION.

Printed Name of Organization

MDI-ANG-TH-25-B-001
Project Number

Signature of Authorized Representative

Date

Printed Name and Title

CORPORATE CERTIFICATE

NOTE: Contractor, if a corporation, should cause the following certificate to be executed, **provided that the same officer shall not execute both the contract and the certificate.**

CERTIFICATE

I, _____, certify that I am the _____ of the corporation named as Bidder herein, that _____, who signed this bid on behalf of the corporation, was then _____ of said corporation by authority of its governing body, and is within the scope of its corporate powers.

CORPORATE SEAL: _____

Subscribed and sworn to before me, this _____ day of _____, 2025.

Notary Public

My Commission Expires: _____

Resident of _____ County, _____

**CONTRACTOR'S CERTIFICATION OF
NONSEGREGATED FACILITIES**

The bidder or subcontractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The bidder or subcontractor certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any locations, under his control, where segregated facilities are maintained. The bidder or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this Certification, the term "segregated facilities" means any waiting rooms, work areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment area, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom or otherwise. The bidder or subcontractor further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontractors exceeding \$10,000 which are not exempt from the provisions of Equal Opportunity clause; that he will not retain such certifications in his files' and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES. A certification of nonsegregated facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontractor or for all subcontracts during a period (i.e., quarterly, semi-annually, or annually). (1970 ADG) (Note: the penalty for making false statements in offers is prescribed in the 18 U.S.C. 1001).

Date

Signature of Bidder or Subcontractor

Address

DOMESTIC STEEL AFFIDAVIT

STATE OF _____)
)
COUNTY OF _____)

SS:

MDI-ANG-TH-25-B-001
Project Number

I hereby swear, under penalties of perjury, that the steel products furnished for this project shall conform to the following Indiana Code Definitions and contract provisions:

5-16-8-1 - Definitions:

“Steel products” means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed by a combination of two (2) or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessmer or other steel making process. “United States” means the United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States.

5-16-8-2 - Public agency contract provisions; rules for determining reasonable pricing.

Sec. 2. (a) Each public agency shall require that every contract for the construction, alteration, repair, improvement or maintenance of Public Works contain a provision that, if any steel products are to be used or supplied in the performance of the contract or subcontract, only steel products as defined by this chapter shall be used or supplied in the performance of the contract or any of the subcontracts unless the head of the public agency determines, in writing, that the cost of steel products is deemed to be unreasonable.

FIRM NAME

OWNER/PRESIDENT/PARTNER SIGNATURE

VICE PRESIDENT/SEC. TREAS SIGNATURE

PARTNER SIGNATURE

(must be signed by principal of organization)

STATE OF _____)
)
COUNTY OF _____)

SS:

_____ PERSONALLY APPEARED BEFORE ME, A notary Public, in and for said County and State, this _____ day of _____, 2025, after being duly sworn upon his oath, says that the facts alleged in the foregoing affidavit are true.

My Commission Expires:

NOTARY PUBLIC – SIGNATURE

NOTARY PUBLIC PRINTED NAME

(Seal)
State Form 12125R3

STATE OF INDIANA
STATE ARMORY BOARD
MINORITY & WOMEN'S BUSINESS ENTERPRISE PROGRAM

MBE/WBE SUBCONTRACTOR PLAN

PROJECT # MDI-ANG-TH-25-B-001 BID DATE / /

PROJECT NAME: BUILDING 17 ROOF REPLACEMENT

BIDDER: _____

ADDRESS: _____

CITY/STATE/ZIP _____

PHONE () _____

The following minority owned firms will be subcontracting on the project according to the following schedule:

<u>MBE</u>	<u>PHONE</u>	<u>CONTRACT</u>	<u>TRADE</u>	<u>AMOUNT</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

THIS DOCUMENT MUST BE INCLUDED IN YOUR BID PACKAGE

**STATE OF INDIANA
 STATE ARMORY BOARD
 MINORITY & WOMEN'S BUSINESS ENTERPRISE PROGRAM
 APPLICATION FOR MBE/WBE PROGRAM WAIVER**

Application for MBE/WBE Program Waiver is hereby submitted for the project listed below:

Date of Application _____
Project # _____
Project Name _____

Bidder _____
Address _____
City/State/Zip _____
Phone _____

Please indicate reason (s) for application below:

- _____ **Unable to locate M/WBE engaged in** _____
 (Trade)
- _____ **Unable to secure competitive price in** _____
 (Trade)
- _____ **Other (See attached description)**

Please indicate MBE/WBE firm contacted below:

<u>MBE</u>	<u>Type of Attempt</u>	<u>Date(s) Attempted</u>	<u>Results</u>

Applicant Signature

Date

THIS DOCUMENT MUST BE INCLUDED IN YOUR BID PACKAGE

BIDDERS' CHECK LIST

IFB NO: MDI-ANG-TH -25-B-001

1.01 GENERAL

The omission of any of the applicable items of information listed below may result in a rejection of your bid. Therefore, the following is a series of questions to help you in the preparation of your bid. Refer to the "Instruction to Bidders" for more specific bidders' information.

1.02 FOR BIDS OVER ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00)

- A. Has your bid been properly signed?
 - 1. Seal Affixed? (If a corporation) _____

- B. Has the Non-Collusion Statement been signed? _____

- C. Has a bid bond or acceptable bid security in the minimum amount of Five (5%) Percent of the bid including all additive alternate bids been properly filled out and included? _____

- D. Has the Domestic Steel Affidavit been executed and included with Bid package? _____

- E. Has the Certificate of Nonsegregated Facilities form been signed? _____

- F. Application for MWBE Program Waiver and MWBE Subcontractor Plan been executed and included with bid package? _____

- G. If your firm is a corporation, have you obtained a Certificate of Good Standing from the Secretary of State? _____

- H. Has the bid been submitted via email with the required information. _____

AGREEMENT

1.01 DESCRIPTION

A. The Agreement shall be the latest addition of the Contract as prepared by the Contracting Officer, which is applicable to the dollar amount of work and cost participation of work.

B. A copy of this form is on file and may be examined in the office of Indiana Air National Guard, Hulman Field, State of Indiana, Terre Haute, Indiana.

C. When fully executed, this document will become a part of the contract document of the successful bidder.

EXAMPLE CONTRACT

Contract No: **MDI-ANG-22-C-00__**

**AIR NATIONAL GUARD CONSTRUCTION, ALTERATION OR REPAIR CONTRACT
STATE OF INDIANA**

DATE: _____

CONTRACTOR AND ADDRESS:

CONTRACT FOR: **REPAIR OF** _____

AMOUNT: _____

PLACE: _____

The supplies and services to be obtained by this instrument are authorized by and for the purposes set forth herein and are chargeable to the following allotments, the available balances of which are sufficient to cover the cost of the same.

APPROPRIATION DATA:

CONTRACT FOR CONSTRUCTION, ALTERATION OR REPAIR

1. **THIS CONTRACT**, entered into this ___ day of _____, 20__ by THE STATE OF INDIANA (hereinafter called the State), represented by the State Contracting Officer executing this contract, and

* a corporation organized and existing under the laws of the State of Indiana.

* a partnership consisting of

* an individual trading as

of the city of _____ in the State of Indiana, hereinafter called the contractor, provides that the parties hereto do mutually agree as follows:

2. **STATEMENT OF WORK:** - the contractor shall furnish the materials and perform the following generally described work: _____

For the consideration of: \$ _____

in strict accordance with the general and special provisions, specifications, schedules and drawings, all of which are made a part hereof and designated as follows:

Project Manual, Addendum, General Conditions, Special Conditions, Specifications and Drawings, identified as IFB No: MDI-ANG-??-B-00?? Dated _____, entitled _____

_____ as prepared by the Air National Guard-Terre Haute Indiana.

3. **COMMENCEMENT, PROSECUTION AND COMPLETION OF WORK:**

The contractor shall be required to (a) commence work under this contract within ten (10) calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than ___ days following the notice to proceed. The time stated for completion shall include final clean-up of the premises.

4. **RELATIONSHIP OF THE FEDERAL GOVERNMENT:** This contract is funded, fully or in part, by the Federal Government. The Federal Government is not a party to this contract. As a condition to receiving and expending Federal funds, there are certain rights of Federal inspection, Federal approval of contract changes and modifications, and Federal approval of settlements or dispute actions that the Federal Government will exercise prior to authorization of Federal funds. Therefore, no inspection or acceptance, change modification, settlement, dispute claim payment or dispute action will be considered binding until the required Federal approval is obtained. The Chief, National Guard Bureau, or his designated representative, is the approval authority. This paragraph does not abrogate any rights conferred on the Federal Government by law or other clause required due to the use of Federal funding.

5. **SITE INVESTIGATION:** The Contractor acknowledges that he has investigated and satisfied himself as to the conditions affecting the work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, river stages, tides or similar physical conditions at the site, the confirmation and conditions of the ground, the character of equipment and facilities needed primarily to and during prosecution

of the work. The Contractor further acknowledges that he has satisfied himself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the State, as well as from information presented by the drawings and specifications made a part of this contract. Any failure by the Contractor to acquaint himself with the available information will not relieve him from responsibility for estimating properly the difficulty or cost of successfully performing the work. The State assumes no responsibility for any conclusions or interpretations made by the Contractor on the basis of the information made available by the State.

6. PERMITS AND RESPONSIBILITIES: The Contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work. The Contractor shall also be responsible for all damages to persons or property that occurs as a result of the Contractor's fault or negligence. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

7. ADDITIONAL BOND SECURITY: The Contractor shall promptly furnish additional security required to protect the Government and person supplying labor or materials under this contract if -

- a. Any surety upon any bond furnished with this contract becomes unacceptable to the Government;
- b. Any surety fails to furnish reports on its financial conditions as required by the Government; or
- c. The contract price is increased so that the penal sum of any bond becomes inadequate in the opinion of the Contracting Officer.

8. INSPECTORS: The work will be conducted under general direction of the Contracting Officer and is subject to inspection by the appointed inspectors to ensure strict compliance with the terms of the contract. No inspector is authorized to change any provision of the specifications without written authorization of the Contracting Officer, nor shall the presence or absence of an inspector relieve the contractor from any requirements of the contract.

9. INSPECTION OF CONSTRUCTION:

- a. Definition: "Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.
- b. The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.
- c. Government inspections and tests are for the sole benefit of the Government and do not -
 - (1) Relieve the Contractor of responsibility for providing adequate quality control measures;
 - (2) Relieve the Contractor of responsibility for damage to, or loss of, the material before acceptance;
 - (3) Constitute or imply acceptance; or

(4) Affect the continuing rights of the Government after acceptance of the completed work under paragraph 12i below.

d. The presence or absence of a Government inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer's written authorization.

e. The Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The Government may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinsertion or retest necessary. The Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

f. The Contractor shall, without charge, replace or correct work found by the Government not to conform to contract requirements, unless in the public interest the Government consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

g. If the Contractor does not promptly replace or correct rejected work, the Government may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor or (2) terminate for default the Contractor's right to proceed.

h. If, before acceptance of the entire work, the Government decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work is thereby delayed, an extension of time.

i. Unless otherwise specified in the contract, the Government shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Government's rights under any warranty or guarantee.

10. SUPERINTENDENCE BY THE CONTRACTOR: At all times during performance of this contract, and until the work is completed and accepted, the Contractor shall directly superintend the work and have on the work a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

11. OPERATIONS AND STORAGE AREAS:

a. All operations of the Contractor (including storage of materials) upon State premises shall be confined to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the State, its officers and agents, free and harmless from liability of any nature occasioned by his operations.

b. Temporary building (storage sheds, shops, offices, etc.) may be erected by the Contractor only with the approval of the Contracting Officer, and shall be built with labor and materials furnished by the Contractor without expense to the State. Such temporary buildings and utilities shall remain the property of the Contractor and shall be removed by him at his expense upon the completion of the work. With the written consent of the Contracting Officer, such buildings and utilities may be abandoned and need not be

removed.

c. The Contractor shall, under regulation prescribed by the Contracting Officer, use only established roadways as may be authorized by the Contracting Officer. Where materials are transported in the prosecution of the work, vehicles shall not be loaded beyond the capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State or local law or regulation. When it is necessary to cross curbing or sidewalks, protection against damage shall be provided by the Contractor and any damaged roads, curbing, or sidewalks shall be repaired by, or at the expense of, the Contractor.

12. PAYMENT TO CONTRACTORS:

a. Unless otherwise provided in the specifications, partial payment will be made as the work progresses, or at intervals as approved by the Contracting Officer, on estimates submitted to and approved by the Project Manager. In preparing the application for payment, materials or equipment not incorporated in the work, but delivered and suitably stored at the site may/shall be included on such application.

b. In making such partial payments there shall be retained Six (6) percent over the first fifty (50) percent of the contract amount until final completion and acceptance of all work covered by the contract. And provided further, that on completion and acceptance of building, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made in full, including the retained percentage thereon, less authorized deductions.

c. All material and work covered by partial payments made shall thereupon become the sole property of the State, but this provision shall not be construed as relieving the Contractor from the sole responsibility for all materials and work upon which payments have been made or the restoration of any damaged work, nor as a waiver of the right of the State to require the fulfillment of all of the terms of the contract.

d. Upon completion and acceptance of all work required hereunder, and after the Contractor shall have furnished the State with a release of all claims against the State arising under and by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Contractor from the operation of the release, in stated amounts to be set forth therein, the amount due to the Contractor under this contract will be paid upon the presentation of a properly executed and duly certified voucher therefore. If the Contractor's claim to amounts payable under the contract has been assigned under the Assignment of Claims Act of 1940, as amended (41 U.S.C. 15), a release may also be required of the assignee at the option of the Contracting Officer or United States Property and Fiscal Officer (USPFO) for Indiana.

e. Payments; Direct Deposit: All payments shall be made 35 days in arrears in conformance with State fiscal policies and procedures and, as required by IC §4-13-2-14.8, by electronic funds transfer to the financial institution designated by the Contractor in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC §4-13-2-20.

f. The State Budget Agency and the Contractor acknowledge that Contractor is being paid in advance for the maintenance of equipment and / or software. Pursuant to IC §4-13-2-20(b)(14), Contractor agrees that if it fails to perform the maintenance required under this Contract, upon receipt of written notice from the State, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.

13. SUBCONTRACTOR PAYMENT: The Contractor herewith agrees to assume and does assume full and exclusive responsibility for the payment of subcontractors in compliance with IC 1971, 5-16-5.5-5; and this agreement is expressly made an obligation covered by the Contractor's performance bond, as required by IC 1971, 5-16-5.5-4, which said agreement of obligation of the surety shall not in any way be affected by the bankruptcy, insolvency, or breach of contract of the Contractor. The Contractor shall furnish to the Owner prior to any payment to said Contractor, a sworn statement and certification (DAPW 21A) executed by the

Contractor to the effect that each subcontractor has received his share of any and every previous payment to the Contractor. The making of an incorrect certification by the Contractor shall be considered a substantial breach of contract on the part of the Contractor which such breach the Owner may, in addition to all other remedies, withhold all payments not yet made and recover all payments previously made less that amount which has actually been paid to subcontractors by the Contractor to return all such payments previously made in such case, and this obligation shall likewise as above described be an obligation covered by the Contractor's performance bond.

14. CHANGED CONDITIONS: The Contractor shall promptly, and before such conditions are disturbed, notify the contracting officer in writing of: (1) subsurface or latent physical conditions at the site differing materially from those indicated in this contract, or (2) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract. The Contracting Officer shall promptly investigate the conditions, and if he finds that such conditions do so materially differ and cause an increase in the cost of (or the time required for), performance of this contract, an equitable adjustment shall be made, and the contract modified in writing. Federal funding support to any change or extra is subject to prior approval by the Chief, National Guard Bureau, or his duly authorized representative. Any claim of the Contractor for adjustment hereunder shall not be allowed unless he has provided notice as above required: Provided, that the Contracting Officer may, if he determines the facts so justify, consider and adjust any such claim asserted before the date of final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in Clause entitled DISPUTES.

15. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION:

a. Overtime requirements: No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborers or mechanics in any work week in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1-1/2 times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

b. Violation; liability for unpaid wages; liquidated damages: In the event of any violation of the provisions set forth in paragraph a. of this clause, the Contractor and any subcontractor responsible therefore shall be liable for unpaid wages. In addition, such Contractor or 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 employed in violation of the provisions set forth in paragraph a. of this clause 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 provisions set forth in paragraph a. of this clause.

c. Withholding for unpaid wages and liquidated damages: The Contracting Officer shall upon his or her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other federal contract with the same Prime Contractor, or any other Federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provisions set forth in paragraph b. of this clause.

d. Payrolls and basic records:

(1) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of contract work and shall preserve them for a period of 3 years from the completion of the contract for all laborers and mechanics working on the contract. Such records shall contain the name and address of

each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

(2) The records to be maintained under paragraph d.(1) of this clause shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit such representative to interview employees during working hours on the job.

e. Subcontracts: The Contractor or subcontractor shall insert in any subcontracts the provisions set forth in paragraph a. through e. of this clause and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The Prime Contractors shall be responsible for compliance by any subcontractor or lower tier subcontractor responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs a. through e. of this clause.

16. APPRENTICES AND TRAINEES:

a. 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 with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship agency recognized by the Bureau, or if a person is employed in his or her first ninety (90) days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a state apprenticeship agency (when appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeyman on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, 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 subcontractors 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 journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid in full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits shall be paid in accordance with that determination. In the event the 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.

b. 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 in full amount fringe benefits listed in 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 in 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 in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal Employment Opportunity: The utilization of apprentices, trainees, and journeymen under the clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246 and 29 CFR Part 30.

17. NOTICE TO THE GOVERNMENT OF LABOR DISPUTES:

a. If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

b. The Contractor agrees to insert the substance of this clause, including this paragraph b., in any subcontract to which a labor dispute may delay the timely performance of this contract; except that each subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify the next higher tier subcontractor or the prime Contractor, as the case may be, of all relevant information concerning the dispute.

18. DISPUTES CONCERNING LABOR STANDARDS: The United States Department of Labor has set forth in 29 CFR Parts 5, 6, and 7 procedures for disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of the contract. Disputes within the meaning of this clause includes disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

19. EQUAL EMPLOYMENT OPPORTUNITY:

a. If, during any 12-month period (including the 12 months proceeding the award of this contract), the Contractor has been or is awarded non-exempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs b.(1) through (11) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

b. During 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.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. This shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for

employment notices that explain this clause.

(4) The Contractor shall, in all solicitations or advertisement for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. Standard Form 100 (EE0-1), or any successor form, is the prescribed form to be filed within 30 days following the award, unless filed within 12 months preceding the date of award.

(8) The Contractor shall permit access to its books, records, and accounts by the contracting agency or the Office of Federal Contract Compliance Programs (OFCCP) for the purposes of investigation to ascertain the Contractor's compliance with the applicable rules, regulations, and orders.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of subparagraph b.(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11245, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the State of Indiana to enter into the litigation to protect the interests of the State of Indiana.

c. Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.

20. CERTIFICATION OF NONSEGREGATED FACILITIES:

a. "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

b. By the submission of this offer, the offeror, certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its

employees to perform their services at any location under its control where segregated facilities are maintained. The offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in the contract.

c. The offeror further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will:

(1) Obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;

(2) Retain the certifications in the files; and

(3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES. A Certification of Non-segregated Facilities must be submitted before the award of a subcontract under which the subcontractor will be subject to the Equal Opportunity Clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

NOTE: The penalty for making false statements in offers is prescribed in 19 U.S.C. 1001.

21. ENVIROMENTAL PROTECTION:

a. The Contractor/Vendor agrees that its performance under this contract shall comply with: the requirements of Section 114 of the Clean Air Act (42 U.S.C. 7414) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1319), that relate generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder; the Resources Conservation and Recovery Act (RCRA); the Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA); the National Environmental Policy Act (NEPA); and any applicable Federal, State or Local environmental regulation.

b. The Contractor/Vendor shall ensure that no facility used in its performance under this contract is listed on the Environmental Protection Agency (EPA) list of violating facilities pursuant to 40 CFR Part 15 without the concurrence of State. The Contractor/Vendor shall notify State of the receipt of any communication from EPA indicating that a facility to be or being used in its performance under this contract is under consideration for listing on the EPA list of violating facilities.

c. For the purpose of this section, State agrees that the Contractor/Vendor's obligations in Paragraphs a. and b. of this section above shall not apply to any armory, base, training site, or other facility or portion thereof, the operation and maintenance of which is funded under this contract, that is currently listed as a violating facility, on the effective date of this contract, pursuant to 40 CFR Part 15; nor, shall such listing be the basis for State's termination for cause of this contract or the State's disallowance of any cost otherwise allowable under this contract. The Contractor/Vendor and State agree to cooperate to remediate, as expeditiously as possible, for any facility the operation and maintenance of which is within the scope of this contract, the condition giving rise to the listing of any such facility as a violating facility according to applicable statutes, regulations, or other agreements subject to the availability of funds.

22. CLEAN AIR AND WATER:

a. "Air Act" as used in this clause, means the Clean Air Act (42 U.S.C. 7401 et seq.).

b. "Clean air standards", as used in this clause means:

(1) Any enforceable rules, regulations, guidelines, standards, limitations, orders, controls,

prohibitions, work practices, or other requirements contained in, issued under, or otherwise adopted under the Air Act or Executive Order 11738;

(2) An applicable implementation plan as described in section 110(d) of the Air Act (42 U.S.C. 7410(d));

(3) An approved implementation procedure or plan under section 111(c) or section 111(d) of the Air Act (42 U.S.C. 7411(c) or (d)); or

(4) An approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 7412(d)).

c. "Water Act", as used in this clause, means Clean Water Act (33 U.S.C. 1251 et seq.).

d. "Clean water standards", as used in this clause, means any enforceable limitation, control, condition, prohibition, standard, or other requirement promulgated under the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1317).

e. "Compliance", as used in this clause, means compliance with:

(1) Clean air or water standards; or

(2) A schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency, or an air or water pollution control agency under the requirements of the Air Act or Water Act and related regulation.

f. "Facility", as used in this clause, means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased or supervised by a Contractor or subcontractor, used in the performance of a contract or subcontract. When a location or site of operations includes more than one building, plant installation, or structure, the entire location or site shall be deemed a facility except when the Administrator, or a designee, of the Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

g. The Contractor agrees:

(1) To comply with all the requirements of section 114 of the Clean Air Act (42 U.S.C. 7414) and section 308 of the Clean Water Act (33 U.S.C. 1319) relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, and all regulations and guidelines issued to implement those acts before the award of this contract;

(2) That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of the facility from the listing;

(3) To use best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being performed; and

(4) To insert the substance of this clause into any nonexempt subcontract, including this subparagraph g. (4).

23. PROTECTION OF EXISTING VEGETATION, STRUCTURES, UTILITIES, AND IMPROVEMENTS:

a. The Contractor will preserve and protect all existing vegetation such as trees, shrubs, and grass on or adjacent to the site of work which is not to be removed and which does not unreasonably interfere with the construction work. Care will be taken in removing trees authorized for removal to avoid damage to vegetation to remain in place. Any limbs or branches of trees broken during such operations or by the careless operation of equipment or by workmen shall be trimmed with a clean cut and painted with an approved tree pruning compound as directed by the Contracting Officer.

b. The Contractor will protect from damage all existing improvements or utilities at or near the site of the work, the location of which is made known to him, and will repair or restore any damage to such facilities resulting from failure to comply with the requirements of this contract or the failure to exercise reasonable care in the performance of the work. If the Contractor fails or refuses to repair any such damage promptly, the Contracting Officer may have the necessary work performed and charge the cost thereof to the Contractor.

24. CLEANING UP: The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work area and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the Government. Upon completing the work, the Contractor shall leave the work area in a clean, neat and orderly condition satisfactory to the Contracting Officer. All wasted construction materials and rubbish will be removed from the construction site and disposed of at a facility authorized to receive such a classification of waste. All disposal operations will be in accordance with all local, state or federal rules ordinance, laws and regulation governing such activities.

25. OTHER CONTRACTS: The Government may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other Contractors and with Government employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other Contractor or by Government employees.

26. ACCESS TO RECORDS:

a. The Contractor and its subcontractors, if any shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract and for three (3) years from the date of final payment under this Contract, for inspection by the State, the National Guard Bureau, and the Comptroller General of the United States or any of their duly authorized designees. Copies shall be furnished at no cost to the State, the National Guard Bureau, and/or the Comptroller General of the United States if requested.

b. The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the State, the National Guard Bureau, the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three years after final payment under this subcontract, have access to and the right to examine any directly pertinent books, documents, papers and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (i) purchase orders not exceeding \$2,500 and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

27. ASSIGNMENTS; SUCCESSORS:

a. The Contractor binds its successors and assignees to all the terms and conditions of this contract. The Contractor shall not assign or subcontract the whole or any part of this Contract without the State's prior written consent. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the State, provided that the Contractor gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

b. In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret", "Secret" or "Confidential", be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same: Provided, that a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

28. ASSIGNMENT OF ANTITRUST CLAIMS: As part of the consideration for the award of this Contract, the Contractor assigns to the State all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

29. AUDITS:

a. The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC §5-11-1, *et seq.*, and audit guidelines specified by the State.

b. The State considers the Contractor to be a "vendor" for purposes of this Contract. However, if required by applicable provisions of the Office of Management and Budget Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations), following the expiration of this Contract the Contractor shall arrange for a financial and compliance audit of funds provided by the State pursuant to this Contract. Such audit is to be conducted by an independent public or certified public accountant (or as applicable, the Indiana State Board of Accounts), and performed in accordance with Indiana State Board of Accounts publication entitled "Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources," and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The Contractor is responsible for ensuring that the audit and any management letters are completed and forwarded to the State in accordance with the terms of this Contract. Audits conducted pursuant to this paragraph must be submitted no later than nine (9) months following the close of the Contractor's fiscal year. The Contractor agrees to provide the Indiana State Board of Accounts and the State an original of all financial and compliance audits. The audit shall be an audit of the actual entity, or distinct portion thereof that is the Contractor, and not of a parent, member, or Subsidiary Corporation of the Contractor, except to the extent such an expanded audit may be determined by the Indiana State Board of Accounts or the State to be in the best interests of the State. The audit shall include a statement from the Auditor that the Auditor has reviewed this Contract and that the Contractor is not out of compliance with the financial aspects of this Contract.

30. AUTHORITY TO BIND CONTRACTOR: The signatory for the Contractor represents that he/she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all

necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed, and accepted by the State..

31. CHANGES AND EXTRAS:

a. The Contracting Officer may at any time, in writing, and without notice to the sureties, order extras or make changes in the drawings and/or specifications of this contract, providing such extras or changes are within the general scope thereof. If such changes cause an increase or decrease in the services required under this contract, or in the time required for its performance, adjustments in compensation to the Contractor shall be determined by the State in the exercise of its honest and reasonable judgment, and the contract shall be modified in writing accordingly. Federal funding support for any change or extra is subject to prior approval by the Chief, National Guard Bureau, or his duly authorized representative. Any claim of the Contractor for adjustment under this Clause must be asserted in writing within 30 days after the date of receipt by the Contractor of the notification of extras or change. Provided, however, that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to the date of final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in Clause entitled DISPUTES. Nothing provided in this Clause, however, shall excuse the Contractor from proceeding with the prosecution of the work as changed. Except as otherwise herein provided, no charge for any extra work or material will be allowed.

b. The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the State. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

c. The value of any work involved in a change in the Work shall be determined in one or more of the following ways, in order of priority listed.

(1) by mutual acceptance of a lump sum. For all amounts over \$500 a complete listing of quantities and unit prices of materials and hours of labor with cost per hour, and with separate agreed percentages of any overhead and profit. The maximum aggregate increase for overhead and profit for any subcontractor or for the General Contractor performing his own work is fifteen (15) percent; the maximum increase for a General Contractor on work performed by a subcontractor is five (5) percent. For listings under \$500, list lump sum for each material, labor, overhead and profit,

(2) by unit prices named in the contract Documents or subsequently agreed upon, or,

(3) by cost and mutually acceptable fixed or percentage fee.

32. MODIFICATION PROPOSALS PRICE BREAKDOWN: The Contractor, in connection with any proposal he makes for a contract modification, shall furnish a price breakdown, itemized as required by the Contracting Officer. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all material, labor, equipment, subcontract, and overhead costs, as well as profit, and shall cover all work involved in the modification, whether such work was deleted, added or changed. Any modification claimed for subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification therefore shall also be furnished. The proposal, together with the price breakdown and time extension justification, shall be furnished by the date specified by the Contracting Officer.

33. COMPLIANCE WITH LAWS:

a. The Contractor shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or

regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.

b. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in IC § 4-2-6 *et seq.*, IC § 4-2-7, *et seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to this Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6, 4-2-7, 25-44-1-3, and under any other applicable laws.

c. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.

d. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this contract.

e. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes, outlined herein. A determination by IDOA shall be binding on the parties. Any payment that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC §5-17-5.

f. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.

g. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

h. Compliance with Telephone Solicitations Act: As required by IC 5-22-3-7:

(1).. The Contractor and any principals of the Contractor certify that (A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of (i) IC 24-4.7 [Telephone Solicitation Of Consumers], (ii) IC 24-5-12 [Telephone Solicitations] , or (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) the Contractor will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

(2). The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor: (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal

law; and (B) will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

i. Employment Eligibility Verification:

(1) The Contractor affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

(2) The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.

(3) The Contractor shall not knowingly employ of contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

(4) The Contractor shall require his/her/its subcontractors, who perform work under this contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

(5). The State may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

j. Disqualification of Contractors Dealing with the Government of Iran: As required by IC §5-22-16.5, the Contractor certifies that the Contractor is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC §5-22-16.5-14 including termination of this Contract, denial of future state contracts, as well as an imposition of a civil penalty.

34. CONDITION OF PAYMENT: All services provided by the Contractor under this Contract must be performed to the State's reasonable satisfaction, as determined at the discretion of the Contracting Officer and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of federal, state or local statute, ordinance rule or regulation.

35. CONFIDENTIALITY OF STATE INFORMATION

a. The Contractor understands and agrees that data, materials and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material and information gathered, based upon or disclosed to the Contractor for the purpose of this Contract, will not be disclosed to, or discussed with, third parties without the prior written consent of the State.

b. The parties acknowledge that the services to be performed by the Contractor for the State under this contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by the Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this contract.

36. DEBARMENT AND SUSPENSION:

a. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The term "principal" for the purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

b. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors, receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

37. DEFAULT BY STATE: If the State, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute measures to collect monies due up to and including the date of termination.

38. DISPUTES:

a. Should any disputes arise with respect to this Contract, the Contractor and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

b. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the State for such costs.

c. If a party to the contract is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the parties have ten (10) working days, unless the parties mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten (10) working days, a dissatisfied party will submit the dispute in writing according to the following procedure:

The parties agree to resolve such matters through submission of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor and the State within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the parties concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration or mediation for a determination. If a party is not satisfied with the Commissioner's ultimate decision, the dissatisfied party, may submit the dispute to an Indiana court of competent

jurisdiction.

c. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Contractor of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

39. MAINTAINING A DRUG-FREE WORKPLACE:

a. As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

b. In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

(1) Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establishing a drug-free awareness program to inform its employees of (a) the dangers of drug abuse in the workplace; (b) the Contractor's policy of maintaining a drug-free workplace; (c) any available drug counseling, rehabilitation and employee assistance programs; and (d) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

(3) Notifying all employees in the statement required by subparagraph 41.b. (1) above that as a condition of continued employment, the employee will (a) abide by the terms of the statement; and (b) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

(4) Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision 41.b. (3) (b) above or otherwise receiving actual notice of such conviction;

(5) Within thirty (30) days after receiving notice under subdivision 41.b.(3).(b) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (a) taking appropriate personnel action against the employee, up to and including termination; or (b) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

(6) Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs 41.b. (1) through 41.b. (5) above.

40. CONTRACTOR'S EMPLOYEE DRUG TESTING (From Public Law 160-2006):

IC 4-13-19 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 19. Drug Testing of Employees of Public Works Contractors

Sec. 1. This chapter applies only to a public works contract awarded after June 30, 2006.

Sec. 2. As used in this chapter, "bid" includes a quotation.

Sec. 3. (a) As used in this chapter, "contractor" refers to a person who:

- (1) submits a bid to do work under a public works contract; or
 - (2) does any work under a public works contract.
- (b) The term includes a subcontractor of a contractor.

Sec. 4. As used in this chapter, "public works contract" refers to:

- (1) a public works contract covered by IC 4-13.6;
- (2) a public works contract covered by IC 5-16 and entered into by a state agency; or
- (3) a state highway contract covered by IC 8-23-9;

when the estimated cost of the public works project is one hundred fifty thousand dollars (\$150,000) or more.

Sec. 5. (a) A solicitation for a public works contract must require each contractor that submits a bid for the work to submit with the bid a written plan for a program to test the contractor's employees for drugs.

(b) A public works contract may not be awarded to a contractor whose bid does not include a written plan for an employee drug testing program that complies with this chapter.

(c) A contractor that is subject to a collective bargaining agreement shall be treated as having an employee drug testing program that complies with this chapter if the collective bargaining agreement establishes an employee drug testing program that includes the following:

- (1) the program provides for the random testing of the contractor's employees.
- (2) The program contains a five (5) drug panel that tests for the substances identified in section 6(a) (3) of this chapter.
- (3) The program imposes disciplinary measures on an employee who fails a drug test. The disciplinary measures must include at a minimum, all the following:
 - (A) the employee is subject to suspension or immediate termination.
 - (B) The employee is not eligible for reinstatement until the employee tests negative on a five (5) drug panel test certified by a medical review officer.
 - (C) The employee is subject to unscheduled sporadic testing for at least one (1) year after reinstatement.
 - (D) The employee successfully completes a rehabilitation program recommended by a substance abuse professional if the employee fails more than one (1) drug test.

A copy of the relevant part of the collective bargaining agreement constitutes a written plan under this section.

Sec. 6. (a) A contractor's employee drug testing program must satisfy all of the following:

- (1) each of the contractor's employees must be subject to a drug test at least one (1) time each year.
- (2) Subject to subdivision (1), the contractor's employees must be tested randomly. At least two percent (2%) of the contractor's employees must be randomly selected each month for testing.
- (3) The program must contain at least a five (5) drug panel that tests for the following:
 - (A) Amphetamines.
 - (B) Cocaine.
 - (C) Opiates (2000 ng/ml).
 - (D) PCP.
 - (E) THC.

(4) The program must impose progressive discipline on an employee who fails a drug test. The discipline must have at least the following progression:

(A) After the first positive test, an employee must be:

- (i) suspended from work for thirty (30) days;
- (ii) directed to a program of treatment or rehabilitation; and
- (iii) subject to unannounced drug testing for one (1) year, beginning the day the employee returns to work.

(B) After a second positive test, an employee must be:

- (i) suspended from work for ninety (90) days;
- (ii) directed to a program of treatment or rehabilitation; and
- (iii) subject to unannounced drug testing for one (1) year, beginning the day the employee returns to work.

(C) After a third or subsequent positive test, an employee must be:

- (i) suspended from work for one (1) year;
- (ii) directed to a program of treatment or rehabilitation; and
- (iii) subject to unannounced drug testing for one (1) year, beginning the day the employee returns to work.

The program may require dismissal of the employee after any positive drug test or other discipline more severe than is described in this subdivision.

(b) An employer complies with the requirement of subsection (a) to direct an employee to a program of treatment or rehabilitation if the employer does either of the following:

(1) Advises the employee of any program of treatment or rehabilitation covered by insurance provided by the employer.

(2) If the employer does not provide insurance that covers drug treatment or rehabilitation programs, the employer advises the employee of agencies known to the employer that provide drug treatment or rehabilitation programs.

Sec. 7. (a) The public works contract must provide for the following:

(1) that the contractor implement the employee drug testing program described in the contractor's plan.

(2) Cancellation of the contract by the agency awarding the contract if the contractor:

- (A) fails to implement its employee drug testing program during the term of the contract;
- (B) fails to provide information regarding implementation of the contractor's employee drug testing program at the request of the agency; or
- (C) provides to the agency false information regarding the contractor's employee drug testing program.

(b) The provisions of the public works contract relating to cancellation of the contract by the agency awarding the contract apply to cancellation of the public works contract under this section.

41. EMPLOYMENT OPTION: If the State determines that it would be in the State's best interest to hire an employee of the Contractor, the Contractor will release the selected employee from any non-competition agreements that may be in effect. This release will be at no cost to the State or the employee.

42. FORCE MAJEURE: In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decree of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been affected may, by giving written notice, terminate this Contract.

43. FUNDING CANCELLATION: When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Director of the State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

44. GOVERNING LAWS: This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

45. HIPAA COMPLIANCE. If this Contract involves services, activities or products subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Contractor covenants that it will appropriately safeguard Protected Health Information (defined in 45 CFR 160.103), and agrees that it is subject to, and shall comply with, the provisions of 45 CFR 164 Subpart E regarding use and disclosure of Protected Health Information.

46. INDEMNIFICATION: The Contractor agrees to indemnify, defend and hold harmless the State, and its agents, officials and employees from all claims and suits including court costs, attorney's fees, and other expenses, caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. The State shall **not** provide such indemnification to the Contractor.

47. INDEPENDENT CONTRACTOR; WORKERS' COMPENSATION INSURANCE: The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees, and shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.

48. INFORMATION TECHNOLOGY ENTERPRISE ARCHITECTURE REQUIREMENTS: If the Contractor provides any information technology related products or services to the State, the Contractor shall comply with all IOT standards, policies and guidelines, which are online at <http://iot.in.gov/architecture/>. The Contractor specifically agrees that all hardware, software and services provided to or purchased by the State shall be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 794d) and IC §4-13.1-3. Any deviation from these architecture requirements must be approved in writing by IOT in advance. The State may terminate this Contract for default if the Contractor fails to cure a breach of this provision within a reasonable time.

49. INSURANCE:

a. The Contractor shall secure and keep in force during the term of this Contract, the following insurance coverage's, covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:

(1) Commercial General Liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits not less than \$700,000 per person and \$5,000,000 per occurrence. The State is to be named as an additional insured on a primary, non-contributory basis.

(2) Automobile Liability with minimum liability limits of \$700,000 per person and \$5,000,000

per occurrence. The State is to be named as an additional insured on a primary, non-contributory basis.

(3) Contractor will comply with any/all other insurance requirements listed in the specifications.

(4) The Contractor shall provide proof of such insurance coverage by tendering to the Contracting Officer a certificate of insurance prior to the commencement of this Contract and proof of Worker's Compensation Coverage meeting all statutory requirements of IC 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

b. The Contractor's insurance coverage must meet the following additional requirements:

(1) The insurer must have a certificate of authority issued by the Indiana Department of Insurance.

(2) Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.

(3) The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.

(4) The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the Contracting Officer.

c. Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

50. LICENSING STANDARDS

a. The Contractor, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the Contractor pursuant to this Contract. The State will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification or accreditation, the Contractor shall notify the State immediately and the State, at its option, may immediately terminate this contract.

b. Pursuant to I.C. 1971, 4-13-6-4-2, the Contractor and his employees, assistants and subcontractors shall be competent, reliable, and responsible parties acceptable to the Certification Board and the Contractor and subcontractors shall be prequalified to perform the work and furnish the services promised herein pursuant to Department of Administration Rule 3, effective March 3, 1982, IAC 2-12-1 through 2-28-5, Indiana Administrative Codes.

51. MERGER & MODIFICATION: This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, except by written agreement signed by all necessary parties.

52. MINORITY AND WOMEN’S BUSINESS ENTERPRISES COMPLIANCE:

a. Award of this Contract was based, in part, on the MBE/WBE participation plan. The following certified MBE or WBE subcontractors will be participating in this Contract:

MBE/WBE PHONE COMPANY NAME SCOPE OF PRODUCTS and/or SERVICES UTILIZATION DATE AMOUNT

b. A copy of each subcontractor agreement must be submitted to IDOA’s MBE/WBE Division within thirty (30) days of the effective date of this Contract. Failure to provide a copy of any subcontractor agreement will be deemed a violation of the rules governing MBE/WBE procurement, and may result in sanctions allowable under 25 IAC 5-7-8. Failure to provide any subcontractor agreement may also be considered a material breach of this Contract. The Contractor must obtain approval from IDOA’s MBE/WBE Division before changing the participation plan submitted in connection with this Contract.

53. NON-DISCRIMINATION:

a. Pursuant to the Indiana Civil Rights Law, specifically including IC §22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee’s or applicant’s race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law (“Protected Characteristics”). Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Contract, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

b. The State is a recipient of federal funds, and therefore, where applicable, Contractor and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246.

c. The Contractor further agrees to insert the foregoing provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

54. NOTICE TO PARTIES: Whenever any notice, statement or other communication is required under this Contract, it shall be sent by first class mail or via an established courier / delivery service to the following addresses, unless otherwise specifically advised.

a. Notices to the State shall be sent to:

Indiana National Guard Headquarters
Attn: Mary Carrico, State Contracting Officer
2002 South Holt Road, Bldg #5
Indianapolis, IN 46241-4839

b. Notices to the Contractor shall be sent to:

c. As required by IC 4-12-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the Indiana Auditor of State.

55. ORDER OF PRECEDENCE; INCORPORATION BY REFERENCE: Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) this Contract (2) attachments prepared by the State, (3) IFB # MDI-ANG-??-B-0???, (4) Contractor's response to IFB # MDI-ANG-??-B-0???, and (5) attachments prepared by the Contractor. All attachments, and all documents referred to in this paragraph are hereby incorporated fully by reference.

56. DRAWINGS AND OTHER DATA TO BECOME PROPERTY OF STATE:

a. All notes, designs, drawings, specifications, other technical data, records, programs, film, tape, articles, memoranda, and other materials not licensed by the Contractor prior to execution of this Contract, but developed under this Contract, shall be considered "work for hire" and the Contractor transfers any ownership claim to the State and all such materials will be the property of the State. Use of these materials, other than related to contract performance by the Contractor, without prior written consent of the State, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to these materials developed for or supplied by the State and used to develop or assist in the services provided while materials are in possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide the State full, immediate, and unrestricted access to the work during the term of this Contract.

b. All notes, designs, drawings, specifications, other technical data, records, programs, film, tape, articles, memoranda, and other materials concerning the project shall be delivered to the State whenever requested by the Contracting Officer, and furthermore, access to such data shall be restricted to trusted and duly authorized representatives of the State and the Contractor.

57. PENALTIES/INTEREST/ATTORNEY'S FEES:

a. The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC 5-17-5, IC 34-54-8, and IC 34-13-1.

b. Notwithstanding the provisions contained in IC 5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

58. PUBLIC RECORD: The Contractor acknowledges that the State will not treat this Contract as containing confidential information, and will post this Contract on its website as required by Executive Order 05-07. Use by the public of the information contained in this Contract shall not be considered an act of the State.

59. SEVERABILITY: The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

60. SUBSTANTIAL PERFORMANCE: This Contract shall be deemed to be substantially performed only when performed according to its terms and conditions and any written amendments or supplements.

61. TAXES: The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Contractor as a result of this Contract.

62. TERMINATION FOR CONVENIENCE OF THE GOVERNMENT: This Contract may be terminated, in whole or in part, by the State whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided, but in no case shall total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date.

63. TERMINATION FOR DEFAULT:

a. With the provision of thirty (30) days' notice to the Contractor, the State may terminate this Contract in whole or in part if the Contractor fails to:

(1) Correct or cure any breach of this Contract; the time to correct or cure the breach may be extended beyond thirty (30) days if the State determines progress is being made and the extension is agreed to by the parties;

(2) Deliver the supplies or perform the services within the time specified in this Contract or any extension;

(3) Make progress so as to endanger performance of this Contract; or

(4) Perform any of the other provisions of this Contract.

b. If the State terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

c. The State shall pay the contract price for completed supplies delivered and services accepted. The Contractor and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes Clause. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

d. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

64. Indiana Veteran's Business Enterprise Compliance. Award of this Contract was based, in part, on the Indiana Veteran's Business Enterprise ("IVBE") participation plan. The following IVBE subcontractors will be participating in this Contract:

VBE	PHONE	COMPANY NAME	SCOPE OF PRODUCTS and/or SERVICES	UTILIZATION	DATE	PERCENT

A copy of each subcontractor agreement shall be submitted to IDOA within thirty (30) days of the request. Failure to provide any subcontractor agreement may also be considered a material breach of this Contract. The Contractor must obtain approval from IDOA before changing the

IVBE participation plan submitted in connection with this Contract.

The Contractor shall report payments made to IVBE subcontractors under this Contract on a monthly basis. Monthly reports shall be made using the online audit tool, commonly referred to as "Pay Audit." IVBE subcontractor payments shall also be reported to IDOA as reasonably requested and in a format to be determined by IDOA.

65. WAIVER OF RIGHTS: No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor's negligent performance of any of the services furnished under this Contract.

66. MATERIAL AND WORKMANSHIP:

a. All equipment, material, and articles incorporated into the work covered by this contract shall be new and one of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in these specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.

b. The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this contract, or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. When directed to do so, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

c. The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

67. CONTRACTING OFFICER'S DECISIONS: The extent and character of the work to be done by the Contractor shall be subject to the general supervision, direction, control and approval of the Contracting Officer to whom the Contractor shall report and be responsible. In the event that there should be any dispute with regard to the extent and character of the work to be done, the decision of the Contracting Officer shall govern, but the Contractor shall have the right of appeal as provided in the Disputes Clause.

68. COVENANT AGAINST CONTINGENT FEES: The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government or State shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration

the full amount of such commission, percentage, brokerage, or contingent fee.

69. OFFICIALS NOT TO BENEFIT: No member of or delegate to Congress, or resident commissioner, or State Official or State employee shall be admitted to any share or part of this contract, or to any benefit that may arise there from, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

70. CONVICT LABOR: In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor.

71. ACCIDENT PREVENTION: The Contractor will maintain an accurate record of, and will report to the Contracting Officer in the manner and on the forms prescribed by the Contracting Officer, all causes of death, occupational disease and traumatic injury arising out of or in the course of employment on work under this contract.

72. DEFINITIONS: As used throughout this contract, the following terms shall have the meaning set forth below:

a. The term "Contracting Officer" means the person executing this contract on behalf of the State and any other officer or civilian employee who is properly designated contracting officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a contracting officer acting within the limits of his authority.

b. Unless otherwise indicated, the term "Government" in the clauses or provisions shall mean State Government.

c. The term "State" means the State, Territory, District of Columbia or the Commonwealth of Puerto Rico which is the party of this contract.

d. The term "Governor" means the Governor of the State or his duly appointed representative (other than the contracting officer).

e. The term "USPFO" means the United States Property and Fiscal Officer assigned to the State.

73. APPROVAL: This contract and any subsequent terminations, modifications, or change orders (including those resulting from disputes and settlements of disputes) shall be subject to the written approval of the Chief, National Guard Bureau, or his duly authorized representative, and shall not be binding until so approved.

74. GRATUITIES:

a. The State may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found, after notice and hearing, by the Secretary or Governor or the duly authorized representative or either, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor to any officer or employee of the State with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing, of such contract: Provided, that the existence of the facts upon which the Secretary or Governor or the duly authorized representative of either makes such findings shall be in issue and may be reviewed in any competent court.

b. In the event this contract is terminated as provided in paragraph a., hereof, the State shall be entitled (i) to pursue the same remedies against the Contractor as it would pursue in the event of a breach of the contract by the Contractor, and (ii) as a penalty in addition to any other damages of which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary or Governor or the

duly authorized representative of either) which shall be not less than 3 nor more than 10 times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee.

c. The rights and remedies of the State or the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

75. CONFLICT OF INTEREST CLAUSE:

a. As used in this section: "Immediate family" means the spouse and the unemancipated children of an individual. "Interested party," means:

- (1) The individual executing this Contract;
- (2) An individual who has an interest of three percent (3%) or more of Contractor, if Contractor is not an individual; or
- (3) Any member of the immediate family of an individual specified under subdivision (1) or (2).

b. As used in this section: "Department" means the Indiana Department of Administration. "Commission" means the State Ethics Commission.

c. The Department may cancel this Contract without recourse by Contractor if any interested party is an employee of the State of Indiana.

d. The Department will not exercise its right of cancellation under section c. above if the Contractor gives the Department an opinion by the Commission indicating that the existence of this contract and the employment by the State of Indiana of the interested party does not violate any statute or code relating to ethical conduct of state employees. The Department may take action, including cancellation of this Contract consistent with an opinion of the Commission obtained under this section.

e. Contractor has an affirmative obligation under this Contract to disclose to the Department when an interested party is or becomes an employee of the State of Indiana. The obligation under this section extends only to those facts that Contractor knows or reasonably could know.

76. WORK STANDARDS: The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

77. APPLICABLE FEDERAL LAWS AND REGULATIONS: The Contractor is required to abide by the following subparagraphs unless state laws or regulations offer more protection.

a. **Applicable Law:** This Contract is incidental to implementation of a federal program. Accordingly, this Contract shall be governed by and construed according to federal law as it may affect rights, remedies, and obligations of the United States.

b. **Governing Regulations:** To the extent not inconsistent with express terms of this Contract, the provisions of 32 CFR Part 33, Uniform Administrative Requirements for Grants and Cooperative Agreements, DoD Grant and Agreement Regulations (DoDGARS) (DoD 3210.6R) as amended, Title 2 Code of Federal Regulations (CFR) Part 225, and NGR 5-1, are hereby incorporated into this contract by reference as if fully set forth herein, shall govern this Contract.

c. **Officials Not to Benefit:** No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this agreement, or to any benefit arising from it, in accordance with 41 U.S.C. 22.

d. **Nondiscrimination:** The Contractor covenants and agrees that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with the Contractor's performance under this Contract. Accordingly, and to the extent applicable, the Contractor covenants and agrees to comply with the following national policies prohibiting discrimination:

(1) On the basis of race, color, or national origin, in Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), as implemented by DOD regulations 32 CFR Part 195.

(2) On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 [3 CFR, 1964-1965 Comp. p. 339], as implemented by Department of Labor regulations at 41 CFR Chapter 60;

(3) On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), as implemented by DoD regulations at 32 CFR Part 196.

(4) On the basis of age, in The Age Discrimination Act of 1975 (42 U.S.C. Section 6101 et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR Part 90.

(5) On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR Part 41 and DoD regulations at 32 CFR Part 56.

e. Lobbying:

(1) The Contractor covenants and agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency or a member of Congress in connection with any of the following covered federal actions: The awarding of any federal contract; the making of any federal grant; the making of any federal loan; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28) to implement provisions of Section 319 of Public Law 102-121 (31 U.S.C. § 1352) is incorporated by reference and the Contractor agrees to comply with provisions thereof, including amendments to the Interim Final Rule that may hereafter be issued.

f. **Drug-Free Work Place:** The Contractor covenants and agrees to comply with the requirements regarding drug-free workplace in Subpart B of 32 CFR Part 26, which implements sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

g. Environmental Standards.

(1) The Contractor covenants and agrees that its performance under this Agreement shall comply with:

(a) The requirements of Section 114 of the Clean Air Act (42 U.S.C. Section 7414);

(b) Section 308 of the Federal Water Pollution Control Act (33 U.S.C. Section 1319), that relates generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder;

- (c) The Resources Conservation and Recovery Act (RCRA);
- (d) The Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA);
- (e) The National Environmental Policy Act (NEPA);
- (f) The Solid Waste Disposal Act (SWDA);
- (g) The applicable provisions of the Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S.C. 1251, et seq.), as implemented by Executive Order 11738 and Environmental Protection Agency (EPA) rules at 40 CFR Part 31;
- (h) To identify any impact this award may have on the quality of the human environment and provide help as needed to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et seq.) and any applicable federal, state or local environmental regulation.

(2) In accordance with the EPA rules, the parties further agree that the Grantee shall also identify to the awarding agency (NGB) any impact this award may have on:

(a) The quality of the human environment, and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C 4321, et seq.) and to prepare Environment Impact Statements or other required environmental documentation. In such cases, the recipient agrees to take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process.

(b) Flood-prone areas, and provide help the agency may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas.

(c) Coastal zones, and provide help the agency may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), concerning protection of U.S. coastal resources.

(d) Coastal barriers, and provide help the agency may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et seq.), concerning preservation of barrier resources.

(e) Any existing or proposed component of the National Wild and Scenic Rivers System, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).

(f) Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C 300H-3).

(3) The Contractor must comply with all cultural resource laws and regulations, including the National Historic Preservation Act and the Archaeological Resource Protection Act. If any archaeological resources (i.e. "arrowheads;" stone tools; buried glass containers, crock ware, metal objects, or ceramic dishes; foundations, pier stones, burned earth, charcoal, etc.) or human remains are inadvertently discovered during the project, all work must stop immediately and the Indiana Army National Guard (INARNG) point of contact (POC) must be notified. Ground disturbance may only resume under the direction of the INARNG POC.

(a) Statutory Reference(s):

- Native American Graves Protection and Repatriation Act
- Archaeological Resources Protection Act
- National Historic Preservation Act
- Indiana Code 14-21-1

(b) Applicability: Typical actions that may trigger these requirements:

- field training exercises
- construction and maintenance
- activities such as digging, bulldozing, clearing or grubbing
- off-road traffic
- general observations (i.e., eroded areas, gullies, trails, etc.)

(c) Discovery of the following also will trigger these requirements:

- discovery of known or likely human remains
- unmarked graves
- Indian or historical artifacts
- archaeological features (e.g., charcoal stains, post molds, stone walls or concentrations of stone, storage pits, fire hearth features)
- paleontological remains (e.g., large fossilized mammal bones or teeth, other fossils in rock)
- foundations

(d) Actions: This section describes specific actions to be taken for inadvertent discovery. If Contractor, Sub-Contractor, field crews, or any other personnel performing duties in conjunction with this contract make an inadvertent discovery as described in (c) above, the following actions will be immediately implemented:

(i) Cease ground-disturbing activity when possible historical artifacts and features, human remains, or burials are observed or encountered.

(ii) Report any observations or discoveries of historical artifacts and features, human remains, burials, or features immediately to the unit commander or facility manager.

(iii) Secure the discovery location(s).

(e) Activity may not resume in area of discovery until cleared by the Indiana Army National Guard Cultural Resource Manager or CRM or the Contracting Officer. Contractor should anticipate a minimum of 30 days before clearance is received.

h. Preference for U.S. Flag Air Carriers: *(Any agreement under which international air travel may be supported by U.S. Government funds)* Travel supported by U.S. Government funds under this agreement shall use U.S flag air carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40119) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

i. Debarment and Suspension: The Contractor covenants and agrees to comply with the requirements regarding debarment and suspension in Subpart C of the OMB guidance in 2 CFR Part 190, as implemented by the DoD in 2 CFR Part 1125. The Contractor agrees to communicate the requirement to comply with Subpart C

to persons at the next lower tier with whom it enters into transactions that are “covered transactions” under Subpart B of 2 CFR Part 190 and the DoD implementation in 2 CFR Part 1125.

j. Buy American Act: The Contractor covenants and agrees that it will not expend any funds appropriated by Congress without complying with The Buy American Act (41 U.S.C. 10 et seq.). The Buy American Act gives preference to domestic end products and domestic construction material. In addition, the Memorandum of Understanding between the United States of America and the European Economic Community (EEC) on Government Procurement, and the North American Free Trade Agreement (NAFTA), provide that EEC and NAFTA end products and construction materials are exempted from application of the Buy American Act.

k. Relocation Assistance and Real Property Acquisition Policies: The Contractor covenants and assures that it will comply with 49 CFR part 24, which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.) and provides for fair and equitable treatment of persons displaced by Federally assisted programs or persons whose property is acquired as a result of such programs.

l. Copeland "Anti-Kickback" Act: *(All contracts and sub grants for construction or repair)* The Contractor covenants and agrees that it will comply with the Copeland "Anti-Kickback" Act (19 U.S.C. 874), as supplemented in Department of Labor regulations (29 CFR Part 3). As applied to this contract, the Copeland "Anti-Kickback" Act makes it unlawful to induce, by force, intimidation, threat of procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

m. Contract Work Hours and Safety Standards Act: The Contractor covenants and agrees that it will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 3701-3708), as supplemented by Department of Labor regulations (29 CFR Part 5). As applied to this contract, the Contract Work Hours and Safety Standards Act specifies that no laborer or mechanic doing any part of the work contemplated by a contract for an amount greater than \$100,000 shall be required or permitted to work more than 40 hours in any work week unless paid for all additional hours at not less than 1.5 times the basic rate of pay.

n. National Historic Preservation: *(Any construction, acquisition, modernization, or other activity that may impact a historic property.)* The Contractor covenants and agrees to identify to the awarding agency any property listed or eligible for listing on the National Register of Historic Places that will be affected by this award, and to provide any help the awarding agency may need, with respect to this award, to comply with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, et seq.), as implemented by the Advisory Council on Historic Preservation regulations at 36 CFR Part 800 and Executive Order 11593

(36 CFR Part 800 requires Grants Officers to get comments from the Advisory Council on Historic Preservation before proceeding with Federally assisted projects that may affect properties listed on or eligible for listing on the National Register of Historic Places.)

o. Equal Employment Opportunity: *(All construction contracts awarded in excess of \$10,000 by grantees and their contractors or sub grantees.)* The Contractor covenants and agrees to comply with Executive Order 11246 of September 24, 1965 entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60).

p. Cargo Preference: *(Any agreement under which international air travel may be supported by U.S. Government funds.)* The Contractor covenants and agrees that it will comply with the Cargo Preference Act of 1954 (46 USC Chapter 553), as implemented by Department of Transportation regulations at 46 CFR 381.7, which require that at least 50 percent of equipment, materials or commodities procured or otherwise obtained with U.S. Government funds under this Grant, and which may be transported by ocean vessel, shall be transported on privately owned U.S. flag commercial vessels, if available.

q. Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects: The Contractor covenants and agrees that it will comply with Executive Order 13202 of February 17, 2001, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects, as amended on April 6, 2001.

r. Central Contractor Registration and Universal Identifier Requirements: The Contractor covenants and agrees to comply with the Central Contractor Registration and Universal Identifier Requirements as indicated below:

A. Requirement for Central Contractor Registration (CCR): Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for Data Universal Numbering System (DUNS) Numbers: If you are authorized to make sub awards under this award, you:

1. Must notify potential sub recipients that no entity (see definition in paragraph C of this award term) may receive a sub award from you unless the entity has provided its DUNS number to you.
2. May not make a sub award to an entity unless the entity has provided its DUNS number to you.

C. Definitions: For purposes of this award term:

1. Central Contractor Registration (CCR) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).

2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

- a. A Governmental organization, which is a State, local government, or Indian Tribe;
 - b. A foreign public entity;
 - c. A domestic or foreign nonprofit organization;
 - d. A domestic or foreign for-profit organization; and
 - e. A Federal agency, but only as a subrecipient under an award or sub award to a non-Federal entity.
4. Sub award:

a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. ----.210 of the attachment to OMB Circular A-133, ``Audits of States, Local Governments, and Non-Profit Organizations").

c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. Subrecipient means an entity that:

a. Receives a subaward from you under this award; and

b. Is accountable to you for the use of the Federal funds provided by the subaward.

s. **Reporting Sub awards and Executive Compensation:** The Contractor covenants and agrees to comply with the Reporting Sub awards and Executive Compensation requirements indicated below:

a. Reporting of first-tier sub awards.

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

2. Where and when to report.

i. You must report each obligating action described in paragraph a.1 of this award term to <http://www.fsrc.gov>.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrc.gov> specify.

b. Reporting Total Compensation of Recipient Executives.

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

i. the total Federal funding authorized to date under this award is \$25,000 or more;

ii. in the preceding fiscal year, you received--

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and sub awards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and sub awards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. Where and when to report. You must report executive total compensation described in paragraph b.1 of this award term:

- i. As part of your registration profile at <http://www.ccr.gov>.
- ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if--

i. in the subrecipient's preceding fiscal year, the subrecipient received--

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and sub awards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and sub awards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1 of this award term:

- i. To the recipient.
- ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions: If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

i. Sub awards, and

ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

1. Entity means all of the following, as defined in 2 CFR part 25:

i. A Governmental organization, which is a State, local government, or Indian tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization;

iv. A domestic or foreign for-profit organization;

v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2. Executive means officers, managing partners, or any other employees in management positions.

3. Subaward:

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. ---- .210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. Subrecipient means an entity that:

i. Receives a subaward from you (the recipient) under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient' s preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings on deferred compensation which is not tax-qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

78. NON-COLLUSION AGREEMENT: The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof.

The rest of this page is left blank intentionally.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of this _____ day of

_____.

WITNESSES:

STATE OF INDIANA:

JAME A. CLAY
MSMgt USAF
Indiana Air National Guard
Terre Haute-Hulman Field

ESTHER KERR
Deputy Base Civil Engineer
Indiana Air National Guard
Terre Haute-Hulman Field

MARY J CARRICO
Director State Purchasing & Contracting
Adjutant General's Agency

Approved as to form and legality, this _____ day of _____.

JASON THOMPSON
General Counsel

NOTE: In case of corporation, witnesses not required. Corporate certificate on page 52 must be completed.
Type or print names under all signatures.

COMPANY NAME

SIGNED

OWNER/PRESIDENT/PARTNER

DATE _____

ATTEST: _____

VICE PRESIDENT/SEC. TREAS.

DATE _____

PARTNER SIGNATURE

DATE _____

NOTE: Contractor, if a corporation, should cause the following certificate to be executed, **provided that the same officer shall not execute both the contract and the certificate.**

CERTIFICATE

I, _____, certify that I am the _____ of the corporation named as contractor herein; that _____ who signed this contract on behalf of the contractor, was then _____ of said corporation; that said contract was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Subscribed and sworn to before me this _____ day of _____

Notary Public

My Commission Expires:

Resident of _____ County, _____

DRUG FREE WORKPLACE CERTIFICATION

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all contracts with and grants from the State of Indiana in excess of \$25,000. No award of a contract or grant shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000, shall be valid unless and until this certification has been fully executed by the Vendor and attached to the contract or agreement as part of the contract documents. False certification or violation of the certification may result in sanctions, including, but not limited to, suspension of contract payments, termination of the contract or agreement and/or debarment of contracting opportunities with the State for up to three (3) years.

The Contractor/Grantee certifies and agrees that it will provide a drug-free workplace by:

- (a) Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacturer, distribution, dispensing, possession or use of a controlled substance is prohibited in the Vendor's workplace and specifying the actions that will be taken against employees for violation of such prohibition; and
- (b) Establishing a drug-free awareness program to inform employees about (1) the dangers of drug abuse in the workplace; (2) the Vendor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace; and
- (c) Notifying all employees in the statement required by subparagraph (a) above that as a condition of continued employment the employee will (1) abide by the terms of the statement; and (2) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- (d) Notifying in writing the contracting State Agency and the Indiana Department of Administration within ten (10) days after receiving notice from an employee under subdivision (c) (2) above, or otherwise receiving actual notice of such conviction; and
- (e) Within thirty (30) days after receiving notice under subdivision (c) (2) above of conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and
- (f) Making a good faith effort to maintain a drug-free workplace through the implement of subparagraphs (a) through (e) above

THE UNDERSIGNED AFFIRMS, UNDER PENALTIES OF PERJURY, THAT HE OR SHE IS AUTHORIZED TO EXECUTE THIS CERTIFICATION ON BEHALF OF THE DESIGNATED ORGANIZATION.

Printed Name of Organization

Contract Number

Signature of Authorized Representative

Date

Printed Name and Title



NON-COLLUSION AFFIDAVIT
State Form 4391 (R4 / 1-00)

STATE OF: _____

COUNTY OF _____

} SS:

The undersigned, being duly sworn on oath says, that he is the contracting party, or that he is the representative, agent, member, or officer of the contracting party, that he has not, nor has any other member, employee, representative, agent or officer of the firm, company, corporation or partnership represented by him, directly or indirectly, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he has not received or paid, any sum of money or other consideration for the execution of the annexed contract other than that which appears upon the face of the contract.

Signature

Printed name

Title

Company

Before me, a Notary Public in and for said County and State personally appeared,
_____ ,

who acknowledged the truth of the statements in the foregoing affidavit on this _____ day of _____, 20 ____ .

		Signature of Notary Public
County of residence	Commission expiration date	Printed or typed name of Notary Public

CONTRACTOR'S BOND FOR CONSTRUCTION

KNOW ALL MEN BY THESE PRESENT, that _____
(Contractor)

_____ of _____
(Address) (City, State)

as principal and _____
(Bond Company)

(Address) (City, State) (Zip Code)

as surety, are firmly bound unto the State of Indiana in the penal sum of \$_____ Dollars, for the payment of which, will and truly be made, we bind ourselves, jointly and severally, and our joint and several heirs, executors, administrators and assigns, firmly by these present, this

_____ day of _____, 20_____.

THE CONDITIONS OF THE ABOVE OBLIGATION ARE SURE, THAT, WHEREAS the State of Indiana acting by and through the Indiana Air National Guard, has entered into a certain written contract dated _____ of _____

(Project Number and Description)

situated in _____ Indiana, in accordance with the plans and specifications approved and adopted by said Indiana Air National Guard, which are made a part of this bond.

NOW THEREFORE, if the said

(Contractor)

shall well and faithfully do and perform the same in all respects to the plans and specifications adopted by said Indiana Air National Guard, and according to the time, terms and conditions specified in said contract and incurred by him or any subcontractor in the prosecution of said work, including labor, service and materials furnished, then this obligation shall be void; otherwise to remain in full force, virtue and effect. This bond shall adhere to the requirements of I.C. 4-13.6-7-6 and I.C. 4-13.6-7-7.

IN WITNESS WHEREOF, we hereunto set our hands and seals this _____ day of _____, 20_____.

BY: _____ (Seal)
(Contractor)

BY: _____ (Seal)
(Bonding Company)

BY: _____
(Attorney-in-fact)

MASTER COOPERATIVE AGREEMENT - STATE CONTRACT PROVISIONS

1 April 1994

Revised 11 March 1997

1. **NONDISCRIMINATION:** The Contractor/Vendor covenants and agrees that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with the Contractor/Vendor's performance under this contract, on the ground of race, religion, color, national origin, sex or handicap. Accordingly and to the extent applicable, the Contractor/Vendor covenants and agrees to comply with the following:

a. Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), and DOD regulations (32 CFR Part 300) issued thereunder;

b. Executive Order 11246 and Department of Labor regulations issued thereunder (41 CFR Part 60);

c. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and DOD Regulations issued thereunder; and,

d. The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) and regulations issued thereunder (45 CFR Part 90).

2. **LOBBYING:**

a. The Contractor/Vendor covenants and agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; and, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. The Interim Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 282) to implement the provisions of Section 319 of Public Law 101-121 (31 U.S.C. 1352) is incorporated by reference and the Contractor/Vendor agrees to comply with all the provisions thereof, including any amendments to the Interim Final Rule that may hereafter be issued.

3. **DRUG-FREE WORK PLACE:**

a. The Contractor/Vendor covenants and agrees that it will comply with the provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.) and maintain a drug-free workplace.

b. The Final Rule, Government-Wide Requirements for Drug-Free Workplace (Grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart f) to implement the provisions of Drug-Free Work Place Act of 1988 is incorporated by reference and the Contractor/Vendor covenants and agrees to comply with all the provisions thereof, including any amendments to the Final Rule that may hereafter be issued.

4. **ENVIRONMENTAL PROTECTION:**

a. The Contractor/Vendor agrees that its performance under this contract shall comply with: the requirements of Section 114 of the Clean Air Act (42 U.S.C. 7414) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1319), that relate generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder; the Resources Conservation and Recovery Act (RCRA); the

Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA); the National

Environmental Policy Act (NEPA); and any applicable Federal, Contractor/Vendor or Local environmental regulation.

b. The Contractor/Vendor shall insure that no facility used in its performance under this contract is listed on the Environmental Protection Agency (EPA) list of violating facilities pursuant to 40 CFR Part 15 without the concurrence of the State. The Contractor/Vendor shall notify the State of the receipt of any communication from EPA indicating that a facility to be or being used in its performance under this contract is under consideration for listing on the EPA list of violating facilities. For the purpose of this section, the State agrees that the Contractor/Vendor's obligations in Paragraphs a. and b. of this section above shall not apply to any armory, base, training site, or other facility or portion thereof, the operation and maintenance of which is funded under this contract, that is currently listed as a violating facility, on the effective date of this contract, pursuant to 40 CFR Part 15; nor, shall such listing be the basis for State's termination for cause of this contract or the State's disallowance of any cost otherwise allowable under this contract.

The Contractor/Vendor and the State agree to cooperate to remediate, as expeditiously as possible, for any facility the operation and maintenance of which is within the scope of this contract, the condition giving rise to the listing of any such facility as a violating facility according to applicable statutes, regulations, or other agreements subject to the availability of funds.

5. USE OF UNITED STATES FLAG VESSELS:

a. To use privately-owned United States flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) of any equipment, material, or commodities that are both

(1) procured, contracted for, or otherwise obtained with funds made available by the State under this contract, and

(2) transported by ocean vessel, to the extent such vessels are available at fair and reasonable rates;

b. To furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (a) above to both the State and to the Division of National Cargo, Office of Market Development, U. S. Maritime Administration, Washington, D.C. 20590; and,

c. Subject to existing contracts, to insert the substance of the provisions of this section in all contracts issued pursuant to this to contract, and to cause such provisions to be inserted in all subcontracts issued pursuant to this contract, where the contract or subcontract is for \$100,000 or more and where there is a possibility of ocean transportation of procured equipment or materials.

6. DEBARMENT AND SUSPENSION:

a. Contractor/Vendors shall not make any award or permit any award (sub grant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension.

b. The Final Rule, Government wide Debarment and Suspension (Nonprocurement), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 25) to implement the provisions of Executive Order 12549, "Debarment and Suspension" is incorporated by reference and the Contractor/Vendor covenants and agrees to comply with all the provisions thereof, including any amendments to the Final Rule that may hereafter be issued.

7. **BUY AMERICAN ACT:** The State covenants and agrees that it will not expend any funds appropriated by Congress without complying with The Buy American Act (41 U.S.C. 10). The Buy American Act gives

preference to domestic end products and domestic construction material. In addition, the Memorandum of Understanding between the United States of American and the European Economic Community on Government Procurement, and the North American Free Trade Agreement (NAPHTHA), provide that E and NAPHTHA end products and construction materials are exempted from application of the Buy American Act.

8. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES:

The Contractor/Vendor covenants and agrees that it will comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C & 4601 et seq.) and regulations issued thereunder (49 CFR Part 24).

9. COPELAND "ANTI- KICKBACK" ACT:

The Contractor/Vendor covenants and agrees that it will comply with the Copeland "Anti-Kickback" Act (19 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). As applied to this agreement, the Copeland "Anti-Kickback" Act makes it unlawful to induce, by force, intimidation, threat or procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in any part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

10. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:

The Contractor/Vendor covenants and agrees that it will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). As applied to this agreement, the Contract Work Hours and Safety Standards Act specifies that no laborer or mechanic doing any part of the work contemplated by this agreement shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1 1/2 times the basic rate of pay. This Act is applicable to any construction contract awarded in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers.

CONTRACTOR'S CERTIFICATE OF INSURANCE

This certifies to the Addressee shown below that the following described policies, subject to their terms, conditions and exclusions, have been issued to:

COVERING (show project name and/or number and location)

Addressee:

KIND OF INSURANCE	POLICY NUMBER	INCEPTION DATE	DATE		LIMITS OF LIABILITY
			EXPIRATION DATE		
1. a. Workman's Comp. b. Employers' Lia.					\$ STATUTORY WORKMEN'S COMP.
					\$ ONE ACCIDENT AND AGGREGATE DISEASE
2. Comprehensive General Liability a. Bodily Injury Including Personal Injury					\$ Each Person - Premise and Operations
					\$ Each Person - Independent Contractors
					\$ Each Person - PRODUCTS INCLUDING COMPLETED OPERATIONS
					\$ Each Person - CONTRACTUAL
					\$ Each Occurrence -
					\$ Aggregate - PRODUCTS INCLUDING COMPLETED OPERATIONS
b. Property Damage					\$ Each Occurrence - Premises - Operational
					\$ Each Occurrence - Elevators
					\$ Each Occurrence - INDEPENDENT CONTRACTOR
					\$ Each Occurrence - PRODUCTS INCLUDING COMPLETED OPERATIONS
					\$ Each Occurrence - Contractual
					\$ Aggregate - \$ Aggregate - OPERATIONS PROTECTIVE PRODUCTS AND CONTRACTUAL
3. Comprehensive Automobile Liability					\$
					\$ Each Person -
a. Bodily Injury b. Property Damage					\$ Each Occurrence -
					\$ Each Accident
4. Builder's Risk					\$
5. Extended Coverage/ Umbrella					\$

UNDER GENERAL LIABILITY POLICY OR POLICIES

	YES	NO
1. Does Property Damage Liability Insurance shown include coverage for XC and U hazard?.....	_____	_____
2. Is Occurrence Basis Coverage provided under Property Damage Liability?.....	_____	_____
3. Is Broad Form Property Damage Coverage provided for this project?.....	_____	_____
4. Is Personal Injury Coverage Included?.....	_____	_____
5. Is coverage provided for Contractual Liability (including indemnification provision) assumed by insured?.....	_____	_____

UNDER AUTOMOBILE LIABILITY POLICY OR POLICIES

1. Does coverage shown above apply to non-owned and hired automobiles?.....	_____	_____
2. Is Occurrence Basis Coverage provided under Property Damage Liability?.....	_____	_____

In the event of cancellation, fifteen (15) days written notice shall be given to the party to whom this certificate is addressed.

NAME OF INSURANCE COMPANY

ADDRESS

SIGNATURE OF AUTHORIZED REP.

STATE OF INDIANA
INDIANA AIR NATIONAL GUARD
GENERAL CONDITIONS

ARTICLE 1 CONTRACT DOCUMENTS

1.1 Definitions:

1.1.1 The Contract Documents: The Contract Documents consist of the Agreement, the Instruction to Bidders, The Contractor's Proposal (Bid), the Conditions of the Contract (General and Supplementary), Drawings, Specifications, and Addenda issued prior to bidding, Change Orders, any written interpretation issued as a field order by the Project Manager pursuant to Article 1.2, and all field orders for minor changes in the Work by the Project Manager pursuant to Article 12.3.

1.1.2 The Contract: The Contract Documents form the Contract for the repairs. The Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral.

1.1.3 The Work: All labor, material, equipment, systems and services necessary to produce the result called for in the Contract Documents.

1.1.4 The Project: The Project is the total of the statement of work as prepared by the Project Manager of which the Work performed under the Contract Documents may be the whole or a part.

1.2 Execution, Correlation, Intent and Interpretations:

1.2.1 The Contract Documents shall be signed in not less than duplicate by the Owner and the Contractor.

1.2.2 By executing the Contract the Contractor represents that he has visited the site and correlated his observations with the requirements of the Contract Documents, and has no major question pertaining thereto.

1.2.3 The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the Documents is to include all labor, equipment, supervision and materials, for the proper execution and completion of the Work, and also to include those things that may be reasonably inferable from the Contract Documents as being necessary to produce the intended results. Words that have a well-known technical or trade meaning are used herein, in accordance with such recognized meaning.

1.2.4 Written interpretations necessary for the proper execution of the Work, in the form of drawings or otherwise, will be issued with reasonable promptness by the Project Manager. Such interpretations shall be consistent with and reasonably inferable from the Contract Documents, and may be issued by field order subject to Owner's approval.

1.3 Copies Furnished and Ownership:

1.3.1 The Contractor will be furnished a complete statement of work and any other information necessary for the execution of the Work.

ARTICLE 2 PROJECT MANAGER

2.1 Definition:

2.1.1. The Project Manager is the person or organization identified as Project Manager of the Project, and is referred to throughout the Contract Documents as if singular in number. The terms Project Manager, (and in certain projects State Contracting Officer), shall mean the Project Manager or his authorized representative.

2.2 Administration of the Contract:

2.2.1 The Project Manager will provide general administration of the Contract, including the functions hereinafter described.

2.2.2 Unless stated otherwise, the Project Manager shall be the Owner's representative during the construction phase. The Project Manager shall have authority to act on behalf of the Owner only to the extent expressly provided in the Contract Documents or otherwise in writing, which will be shown to the Contractor. The Project Manager will advise and consult with the Owner and all of the Owner's instructions to the Contractor shall be issued through the Project Manager, unless otherwise specified.

2.2.3 The Project Manager and State Inspector shall have access to the Work at all times wherever it is in storage, preparation and progress. The Contractor shall provide facilities for such access so that the Project Manager and Owner's Site Representative may perform their functions under the Contract Documents.

2.2.4 The Project Manager will make no less than weekly visits to the site when work is in progress to familiarize himself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. The Project Manager may not be required to make exhaustive or continuous on-site inspection to check the quality or quantity of the Work. On the basis of his on-site observations as Project Manager will keep the Owner informed of the progress of the Work, and will endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor.

2.2.5 Based on such observation and the Contractor's applications for payment, the Project Manager will determine the amount owed to the Contractor and will issue Certificates for Payment in such amounts.

2.2.6 The Project Manager will be, in the first instance, the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder. He will promptly render such interpretations as he may deem necessary for the proper execution or progress of the Work.

2.2.7 All interpretations and decisions of the Project Manager will be consistent with the intent of the Contract Documents. He will exercise his best efforts to insure faithful performance by the Contractor.

2.2.8 Claims, disputes and other matters in question relating to the execution or progress of the Work or interpretation of the Contract Documents shall be referred initially to the Project Manager for decision and be subject to written appeal within fifteen (15) days by the Contractor. The Project Manager shall submit his decision promptly in writing to the State Contracting Officer, Adjutant General's Agency, who shall have full authority to render the final and binding decision.

2.2.9 The Project Manager will have responsibility to recommend to the Owner the rejection of work which does not conform to the Contract Documents. Whenever the Project Manager considers it necessary or advisable, he shall recommend to the Owner the stoppage of the Work or any portion thereof, and to recommend special examination or testing of the Work (whether or not fabricated, installed, or completed).

2.2.10 The Project Manager will review and approve or take other appropriate action upon the Contractor's submittals such as shop drawings, product data and samples, but only for conformance with the Statement of Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The Project Managers approval of a specific item shall not indicate approval of all assembly of which the item is a component.

2.2.11 The Project Manager will prepare change orders in accordance with Article 12.

2.2.12 The Project Manager will conduct reviews to determine the dates of Substantial Completion and Final Completion, will receive and forward to the Owner for the Owner's review written warranties and related Documents required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of Paragraph 9.7.

2.2.13 The Project Manager, together with representatives from the Contractor and the State Contracting Officer will conduct a review of the Work approximately nine (9) months after the date of substantial

completion to determine any work not in compliance with the Contract Documents at that time. A list of items to be corrected or completed will be forwarded to the Contractor for corrective action prior to the expiration of the one year warranty period.

2.2.14 The duties, responsibilities and limitations of authority of the Project Manager as the State's representative during construction as set forth in Articles 1 through 14 of these General Conditions shall not be modified or extended without written consent.

2.2.1.5 The Project Manager will not be responsible for the acts or omissions of the Contractor, Subcontractor, or any of their superintendents, supervisory staffs, agents or employees, or any other persons performing any of the Work.

2.2.16 In case of the termination of the employment of the Project Manager, the Indiana Air National Guard shall appoint a Project Manager against whom the Contractor makes no reasonable objections, whose status under the Contract shall be that of Project Manager

ARTICLE 3 OWNER

3.1 Definition:

3.1.1 The Owner is the State of Indiana, represented by the Indiana Air National Guard acting through the Contracting Officer and the Contracting Officer's designated project manager(s).

3.2 Information and Service Required of the Owner:

3.2.1 The Owner will furnish, through the Project Manager, surveys, describing known physical characteristics, legal limits and utility locations for the property on which the Project is to be erected, if in the Owner's possession.

3.2.2 Information or services under the Owner's control shall be furnished by the Owner with promptness to avoid delay in the orderly progress of the Work.

3.2.3 The Owner shall issue all instructions to the Contractor through the Project Manager unless specified elsewhere in these documents.

3.2.4 If the Contractor fails to correct defective work as required by Article 13 or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner, by a written order may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Owner to stop the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Article 6.1.

3.3 Owner's Site Representative (Project Manager):

3.3.1 Notwithstanding the obligations of the Project Manager as Owner's representative during construction, the Owner may employ an on-site representative to observe the progress of the Work.

3.3.2 The Owner's Site Representative shall function as an observer only. He shall report his findings to the Project Manager for review and any required further action. The Owner's Site Representative is not authorized to make changes in the Work or to interpret the Contract Documents.

3.3.3 The Owner's Site Representative shall have at all times access to the Work wherever it is in storage, preparation and progress. The Project Manager may attend meetings at the site and he may review and approve the Contractor payment requests.

ARTICLE 4 CONTRACTOR

4.1 Definition:

4.1.1 The Contractor is the person or organization identified as such in the Agreement. He is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Contractor means the Contractor or his authorized representative.

4.2 Review of Contract Documents:

4.2.1 The Contractor shall carefully study and compare the Contract Documents and shall at once report to the Project Manager and the Owner any error, inconsistency or omission he may discover. The Contractor shall perform no portion of the Work at any time without Contract Documents or, where required, approved shop drawings, product data or samples for such portion of the Work.

4.3 Supervision and Construction Procedures:

4.3.1 The Contractor shall supervise and direct the Work, using his best skill and attention. He shall be solely responsible for the quality of the Work and for all construction techniques, sequences, and procedures, and for coordinating all portions of the Work.

4.3.2 The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Project Manager in administration of the Contract, or by inspections, tests or approvals required or performed under Paragraph 7.9 by persons other than the Contractor.

4.4 Labor and Materials:

4.4.1 Unless otherwise specified in Division 1, the Contractor shall provide and pay for all labor, material, equipment, tools, construction equipment, machinery, transportation, and other facilities and services necessary for the proper execution of the Work.

4.4.2 Unless otherwise specified in Division 1, the Contractor shall provide and pay for all electric current, water, heat, and telephone services and shall maintain necessary discipline to prevent waste.

4.4.3 If any item of work shall be the subject of a jurisdictional dispute as to the craft to be used for said work, the Contractor shall aid in such inter-craft resolution and if arbitrated, abide by the decision, holding the Owner free of involvement in the dispute, and if time is lost by the dispute, extra work days will only be considered through the provisions of Section 12.2. He will do whatever he can to eliminate any embarrassment to the Owner by picketing, etc.

4.4.4. The Contractor shall at all times enforce strict discipline and good order among his employees, and shall not employ on the Work any unfit person or any one employee unskilled in the Work assigned to him or unqualified as a tradesman in the trade involved.

4.5 Warranty and Guarantee:

4.5.1 The Contractor warrants and guarantees that all materials and equipment incorporated in the Project shall be new unless otherwise specified, and all work will be of the highest quality, free from faults and defects, and in strict conformance with the Contract Documents for a period of one year from the date of substantial completion. All work not so conforming to the Contract Documents may be considered defective. If required by the Project Manager or the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The warranties and guarantees provided in this Article and elsewhere in the Contract Documents shall be in addition to and not in limitation of any other warranty or guarantee or remedy called for by the Contract Documents or otherwise prescribed by law. The Contractor, together with the Project Manager and representatives from the Owner, shall review the Work approximately nine (9) months after the date of substantial completion to determine any work not in compliance with the Contract Documents. The Contractor shall correct such non-complying work prior to the expiration of the one year

warranty.

4.6 Permits, Fees and Notices:

4.6.1 The Contractor shall secure and pay for all permits, fees and licenses necessary for the execution of the Work.

4.6.2 The Contractor and Subcontractors must submit an "Exemption Certificate for Construction Contractors" to each supplier in order to obtain exemption from the Indiana Gross Tax (i.e., sales and use tax).

4.6.3 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and orders of any public authority bearing on the conduct of the Work. If he observes that any of the Contract Documents are at variance therewith in any respect, he shall promptly notify the Project Manager in writing, and any necessary changes shall be adjusted by change order. If he performs any work knowing it to be contrary to no such laws, ordinances, rules and regulations, and without such notice to the Project Manager, he shall bear all cost arising from such non-conformance.

4.7 Cash Allowances:

4.7.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. These allowances cover the net cost of the materials and equipment delivered and unloaded at the site which cost shall be determined by the Owner through proper procedures for receiving quotes or bids as required by law. The Contractor's handling costs on the site, labor, installation costs, overhead, profit, and other expenses shall be included in the Contract sum and not in the allowance. The Contractor shall cause the Work required by these allowances to be performed by such persons as the Project Manager may direct, but he will not be required to employ persons against whom he has a reasonable objection. If the net cost above, when determined, is more than or less than the allowance, the Contract Sum will be adjusted accordingly by change order.

4.8 Superintendent:

4.8.1 The Contractor shall keep on the Project, during the entire contract time, a competent superintendent and necessary assistants, all satisfactory to the Project Manager and Owner. The superintendent shall not be changed, except with the consent of the Project Manager, unless the superintendent proves to be unsatisfactory to the Contractor and ceases to be in his employ. The superintendent shall represent the Contractor and shall have full authority to act on his behalf. All communications given the superintendent shall be as binding as if given by the Contractor. Important communications shall be confirmed in writing.

4.9 Responsibility for Those Performing the Work:

4.9.1 The Contractor shall be responsible for the quality of the Work, for acts and omissions of all the Subcontractors, their superintendents, their supervisory staffs, agents, or employees and of all other persons performing any of the Work under a Contract with the Contractor.

4.10 Progress Schedule:

4.10.1 Unless otherwise indicated in Division 1, the Contractor, immediately after being awarded the Contract, shall prepare and submit for the Owner's approval a progress schedule for the Work in relation to the entire Project. This schedule in bar graph form, or other form approved by the Owner, shall indicate the dates for the starting and completion of the various stages of construction, and in addition, will state the contractual completion date. The contract completion date, based on the construction period stated in the Contractor's bid, shall not be changed by submission of a schedule that shows an early completion date, unless specifically authorized by change order. A more detailed schedule may be required elsewhere in the documents.

4.11 Record Documents at the Site:

4.11.1 The Contractor shall maintain for the Owner as part of the Contract one record copy of all drawings, specifications, addenda, shop drawings, change orders and other modifications at the site in good order, and marked to record all changes made during construction. These shall be available to the Project Manager and the Owner's Site Representative at all times while Work is in progress. All changes made during construction shall be recorded weekly and reviewed by the Owner's Site Representative or Project Manager before approval of each partial progress payment. The record documents shall be submitted to the Project Manager prior to the Contractor's final payment.

4.12 Shop Drawings and Samples:

4.12.1 Shop drawings are all drawings, diagrams, illustrations, schedules, brochures, and other data, which are prepared by the Contractor or any Subcontractor, manufacturer, supplier, or distributor, and which illustrate the Work.

4.12.2 The Contractor shall submit all shop drawings and samples required by the Contract or by the Project Manager in a timely manner, allowing sufficient time for the Project Manager's review so as not to cause any delay in the Work or in work by any other Contractor.

4.12.3 At the time of such submission, the Contractor shall furnish or verify all field measurements, field construction criteria, materials, catalog numbers, and the like and shall individually check, coordinate and stamp with his approval each submission, and shall in writing call the Project Manager's attention to any deviations in the shop drawings or samples from the requirements of the Contract Documents.

4.12.4 The Project Manager will check and approve, with reasonable promptness so as to cause no delay, these shop drawings and samples only for conformance with the design concept of the Project, and with the information given in the Contract Documents. The Project Manager's approval of a separate item will not indicate approval of the assembly in which the item functions.

4.12.5 The Project Manager's approval of shop drawings or samples shall not relieve the Contractor of responsibility for any deviation from the requirements of the Contract Documents unless the Contractor has in writing called the Project Manager's attention to such deviation at the time of submission and the Project Manager has given written approval to the specific deviation, nor shall this relieve the Contractor from errors or omissions in the shop drawings or samples.

4.12.6 No work requiring a shop drawing or sample submission shall be commenced until the submission has been approved by the Project Manager. All such work shall be in accordance with approved shop drawings and samples.

4.13 Use of Premises:

4.13.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents, and shall not unreasonably encumber the premises with any materials or equipment.

4.14 Cutting and Patching:

4.14.1 The Contractor shall do all cutting, fitting or patching of his work that may be required to make its several parts come together properly and shall not endanger any work by cutting, excavating, or otherwise altering the Work or any part of it. Costs caused by defective or ill-timed work shall be borne by the Contractor.

4.15 Cleaning Up:

4.15.1 The Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by his operations. At the completion of the Work, he shall remove all waste material and rubbish from and about the building as well as all his tools, scaffolding and surplus materials. Contractor shall clean all glass surfaces, lights, fixtures, ceilings, walls and shall leave the Work dusted, swept and wet mopped

clean, unless more exactly specified.

4.15.2 In case of dispute the Owner may remove the rubbish and charge the cost to the Contractor as the Project Manager shall determine to be just.

ARTICLE 5 SUBCONTRACTORS

5.1 Definition:

5.1.1 A Subcontractor is a person or entity who has a direct Contract with the Contractor to perform any of the Work at the site. The term Subcontractor is referred to throughout the Contract Document as if singular in number means a Subcontractor or his authorized representative. The term Subcontractor does not include any separate Contractor or his Subcontractors.

5.2 Award of Subcontracts and Other Contracts for Portions of the Work:

5.2.1 Unless otherwise required by the Contract, the Contractor, shall furnish to the Owner, with his bid on the prescribed form, the names of all persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work with an installed value of \$150,000.00 or more. The Project Manager will promptly reply to the Contractor in writing stating whether or not the Owner or the Project Manager, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Project Manager to reply within fourteen (14) days shall constitute notice of no reasonable objection.

5.2.2 The Contractor shall not subcontract with any such proposed person or entity to which the Owner or the Project Manager has made reasonable objection. The Contractor shall not be required to subcontract with anyone to whom he has a reasonable objection.

5.2.3 The Contractor and his subcontractors shall employ only licensed plumbers and shall provide to the Owner the names and license numbers of all plumbers engaged in the Work. The Contractor shall submit this documentation with any monthly progress payment request that includes plumbing labor.

5.2.4 If the Owner or the Project Manager has reasonable objection to any such proposed person or entity, the Contractor shall submit a substitute to whom the Owner or the Project Manager has no reasonable objection.

5.2.5 The Contractor shall make no substitution of any Subcontractor, person or entity previously selected, if the Owner or Project Manager makes reasonable objection to such substitution.

ARTICLE 6 SEPARATE CONTRACTS

6.1 Owner's Right to Let Separate Contracts:

6.1.1 The Owner reserves the right to let other contracts in connection with other portions of the Project under these or similar General Conditions.

6.1.2 When separate contracts are awarded for different portions of the Project, "the Contractor" in the Contract Documents in each case shall be the Contractor who signs each separate contract with the Owner.

6.1.3 When separate contracts are awarded for portions of the Project, the General Construction Contractor shall be responsible for the overall coordination of all separate contracts for the Project.

6.2 Mutual Responsibility of Contractors:

6.2.1 The Contractor shall afford each other Contractor reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and each shall properly connect and coordinate his work with all others as coordinated by the General Contractor.

6.2.2 If any part of the Contractor's Work depends on proper execution or results upon the work of any other separate Contractor, the Contractor shall inspect and promptly report to the Project Manager any discrepancies

or defects that shall cause his work to fail or be non-conforming. Failure of the Contractor to so inspect and report shall constitute an acceptance of the other Contractor's work as fit and proper for the reception of his work.

6.2.3 Should the Contractor cause damage to any separate Contractor on the Project, the General Contractor agrees, upon due notice, to settle with such other Contractor by agreement, if at all possible without involving the Owner. The Owner will be involved only after evidence is presented that sureties cannot settle the problem.

6.2.4 Any costs caused by defective or ill-timed work shall be borne by the party responsible therefor.

ARTICLE 7 MISCELLANEOUS PROVISIONS

7.1 Delinquent State Taxes (IC. 4-13-2-14.5): The Indiana Air National Guard may allow the Department of State Revenue access to the name of each person who is either:

- (1) bidding on a Contract to be awarded under this chapter; or
- (2) a Contractor or Subcontractor under this chapter.

If the Indiana Air National guard is notified by the Department of State Revenue that a bidder is on the most recent tax warrant list, a Contract may not be awarded to that bidder until the bidder provides a statement from the Department of State Revenue that the Bidder's delinquent tax liability has been satisfied. The Department of State Revenue may notify:

- (1) The Indiana Air National guard; and
- (2) The Auditor of State;

that a Contractor or Subcontractor under this chapter is on the most recent tax warrant list, including the amount owed in delinquent taxes. The Auditor of State shall deduct from the Contractor's or Subcontractor's payment the amount owed in delinquent taxes. The Auditor of State shall remit this amount to the Department of State Revenue and pay the remaining balance to the Contractor or Subcontractor.

7.2 Choice of Law:

7.2.1 The Contract shall be governed by the laws of the State of Indiana.

7.3 Assignment:

7.3.1 The Contractor shall not assign the Contract or sublet it as a whole without the written consent of the Owner, nor shall the Contractor assign any monies due or to become due to him hereunder, without the previous written consent of the Owner.

7.4 Written Notice:

7.4.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to an officer of the corporation for whom it was intended, or sent by registered or certified mail to the last business address known to him who gives the notice.

7.5 Claims for Damages:

7.5.1 Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the other party or any of his employees, agents or others for whose acts he is legally liable, claim shall be made in writing to such other party within seven (7) days of the first observance of such injury or damage.

7.6 Performance Bond and Labor and Material Payment Bond:

7.6.1 For projects advertised with an estimated base bid amount of seventy five thousand dollars (\$75,000) or more, the Contractor shall furnish and pay for an approved one hundred percent (100%) combination performance and payment bond. This bond shall adhere to the requirements of IC. 4-13.6-7-6 and IC. 4-13.6-7-7 as amended and shall cover the faithful performance of the Contract and the payment of all obligations arising thereunder, including reimbursement for any stored materials paid for but returned to material men, with such sureties as the Owner may approve. The combination bond shall remain in effect throughout the entire construction period, and in addition for a period of one year from the date of final acceptance. The Contractor shall deliver the required bonds to the Owner prior to execution of the Contract by the Owner unless authorized to the contrary in writing by the Owner. All bonds must be issued by bonding companies, which are licensed and approved by the Indiana Insurance Commission.

7.7 Owner's Right to Carry out the Work:

7.7.1 If the Contractor should default or neglect to carry out the Work properly or fail to perform any provision of the Contract, the Owner may, after giving seven (7) days' written notice to the Contractor, without prejudice to any other remedy it may have, make good such deficiencies. In such case, an appropriate change order shall be issued deducting the cost thereof including the cost of the Project Manager's additional service made necessary by such default, neglect or failure of the Contractor, from the payments then or thereafter due the Contractor, provided, however, that the Project Manager shall approve both such action and the amount charged to the Contractor. If such payments due to the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

7.8 Royalties and Patents:

7.8.1 The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from liability of any nature or fine including costs and expenses for or on account of any patented or unpatented invention, process, article or appliance manufactured or used in the performance of this Contract, including its use by the Owner.

7.9 Tests & Substitution of Materials:

7.9.1 If the Contract Documents, laws, ordinances, rules regulations, or orders of any public authority having jurisdiction require any work to be inspected, tested, or approved, the Contractor will give the Project Manager timely notice of its readiness and of the date fixed for such inspection, testing, or approval so that the Project Manager may observe the same. The Contractor shall bear all cost of such inspections, tests, and approvals unless otherwise provided.

7.9.2 If, after the commencement of the Work, the Project Manager, with approval of the Owner in writing, determines that the Work requires special inspection, testing, or approval for which subparagraph 7.9.1 does not provide, he will, upon written authorization from the Owner, order such special inspection, testing or approval. If such special inspection or test reveals a failure of the Work to fulfill the requirements of the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, the Contractor shall bear all costs thereof; otherwise the Owner shall bear such costs. An appropriate change order shall be issued.

7.9.3 Required certificates of inspection, testing or approval shall be secured by the Contractor and promptly delivered by him to the Project Manager.

7.9.4 Observations by the Project Manager of the inspections, tests, or approvals required by Article 7 will be promptly made, and where practicable at the source of supply at no additional cost to the Owner.

7.9.5 Neither the observations of the Project Manager in his administration of the Contract, nor inspections, tests or approvals by persons other than the Contractor shall relieve the Contractor from his obligations to perform the Work in accordance with the Contract Documents.

7.9.6 All building construction and work, alterations, repairs, plumbing, mechanical, and electrical installations and appliances connected therewith, shall comply with the Rules and Regulations of the Department of Fire and Building Services, State Board of Health, local ordinances, Rules for Licensure of Building Trades, and other statutory provisions pertaining to this class of work; such rules and regulations and local ordinances to be considered as a part of these specifications.

7.9.7 Where in these specifications, one or more certain materials, trade names, or articles of certain manufacture are mentioned, it is done for the express purpose of establishing a basis of durability and efficiency and not for the purpose of limiting competition. Approval of other acceptable products for those specified may be obtained by requesting to the Project Manager no later than fourteen (14) days in advance of bid date with all documentation required for the Project Manager to evaluate any approval. If approval is granted, the subject product will be added by addendum.

7.9.8 Should there be a reason for change of materials after award of the Contract, the following criteria shall apply:

- a. Original material no longer manufactured.
- b. Delivery not possible within time specified for job, and/or
- c. Unavailability due to causes beyond the control of the Contractor.

7.9.9 After agreement by the Project Manager and the Owner that a change is necessary, the Contractor shall present a request for substitution to the Project Manager. The burden of proof of the merit of the proposed substitute is upon the Contractor. The decision of the Project Manager and the Owner regarding the substitution shall be final.

7.10 Certificate of Qualification:

7.10.21 When the total of the Contract sum exceeds Seventy Five Thousand Dollars, (\$75,000.00) the Contractor must perform at least twenty (20) percent of the total Contract Sum of the Work with his own forces. The Contractor shall submit copies of his payroll records, if requested by the Owner, showing the hours, rates and total costs for all personnel on his payroll detailed to the degree to ensure compliance with this paragraph and any Wage Determination provisions.

7.11 Appropriation:

7.11.1 The Contract specifically limits payments to be made in accordance with appropriations made and funds made available under Federal laws and/or laws of the State of Indiana.

7.12 Wage Determination (as applicable):

7.12.4 The Contractor shall provide (and require each Subcontractor to provide) weekly payroll records listing employees engaged in work on the site for the week and the hourly rates for base pay and benefits paid to each employee listed. The payroll record form shall include statement by the Contractor/Subcontractor certifying the accuracy and completeness of the information provided. Payroll records shall be maintained by the Contractor during the course of the Work until the end of the required warranty period.

7.13 Out Of State Contractors:

7.13.1 Out Of State Corporations must be authorized to do business in the State, IC. Title 23 prior to submitting bids. Forms may be obtained by contacting the Secretary of State, State of Indiana, Indianapolis, Indiana.

7.14 Material Delivery:

7.14.1 Shipments of material to be used by the Contractor or any Subcontractor under this Contract should be delivered to the job site only during the regular working hours of the Contractor or Subcontractor. If a delivery is made during other than the normal working hours of the Contractor or Subcontractor, his

authorized agent must be on duty to receive such material. No employee of the Owner is authorized to receive any shipments designated for the Contractor or Subcontractor.

7.15 Weather:

7.15.1 The Contractor shall at all times provide protection against weather, rain, wind, storms, frost or heat, so as to maintain all work, materials, apparatus and fixtures free from injury or damage. At the end of the day's work, all new work likely to be damaged shall be covered.

7.15.2 During cold weather, the Contractor shall protect all work from damage. If low temperature makes it impossible to continue operations safely, in spite of cold weather precaution, the Contractor shall cease work and shall so notify the Owner and Project Manager.

7.15.3 Any work damaged by failure to provide protection as required above, shall be removed and replaced with new work at the Contractor's expense.

7.15.4 The Contractor shall provide and maintain on the premises watertight storage shed (or sheds) for storage of all materials, which might be damaged by exposure to weather.

7.16 Fire Hazards:

7.16.1 Wherever and whenever any burning, welding, cutting or soldering operation is in progress, or equipment is in use, or any work involving a fire hazard, is performed, the Contractor responsible for such operation shall have at all times acceptable fire extinguisher or protection within five (5) feet of the operation.

7.17 Dismissal:

7.17.1 Any foreman or Workman employed by the Contractor or by any Subcontractor who, in the opinion of the Contracting Officer, State Armory Board and/or the Project Manager, does not perform his work in a proper and skillful manner, or is disrespectful, intemperate, disorderly, intoxicated or otherwise objectionable Page shall at the written request of any of the above, be forthwith discharged by the Contractor or Subcontractor employing such foreman or workman and he shall not be employed again on any portion of the Work without the written consent of the Contracting Officer, State Armory Board and the Project Manager. Should the Contractor fail to furnish suitable and sufficient machinery, equipment or personnel for the proper prosecution of the Work, the Owner or Project Manager may withhold all payments that are, or may become, due or may suspend the Work until such orders are upheld.

ARTICLE 8 TIME

8.1 Definitions:

8.1.1 Unless otherwise provided, the Contract Time is the period of time allotted in the Contract Documents for Substantial Completion of the Work as defined herein, including authorized adjustments thereto.

8.1.2 The date of commencement of the Work is the date established in a notice to proceed. If there is no notice to proceed, it shall be the date of the Attorney General's signature on the Owner-Contractor Agreement or such other date as may be established therein.

8.1.3 The Date of Substantial Completion of the Work, or designated portion thereof, is the date certified by the State Contracting Officer, Adjutant General's Agency, when construction is sufficiently complete, in accordance with the Contract Documents, so that the Owner may occupy or utilize the Work, or designated portion thereof, for the use for which it is intended.

8.1.4 The term day as used in the Contract Documents shall mean calendar day unless otherwise specifically designated.

8.2 Progress and Completion:

8.2.1 All time limits stated in the Contract Documents are of the essence of the Contract.

8.2.2 The Contractor shall begin the Work on the date of commencement as defined herein. He shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

8.2.3 The Owner fully expects the Contractor to employ any and all means necessary to complete the Work within the Contract Time. Conduct of the Owner's affairs, such as unforeseen site conditions or delay in processing change orders, shall not be viewed as justification for delaying the Project unless the Owner can be shown to have breached the Contract. Contractor must employ all reasonable means to execute the Project in a timely manner and in conformance with the Contract Documents even if the Contractor or Project Manager seek legal remedy against Owner for claim of damage.

8.3 Delays and Extensions of Time:

8.3.1 If the Contractor is delayed at any time in the progress of the Work by any act or neglect of the Owner or the Project Manager, or by any employee of either, or by any separate Contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in transportation, adverse weather conditions not reasonable to anticipate, unavoidable casualties, or any causes beyond the Contractor's control, or by delay authorized by the Owner pending arbitration, or by any other cause which the Project Manager determines may justify the delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Project Manager and Owner may determine.

8.3.2 Claims for extension of time shall be made in writing to the Project Manager. In case of a continuing delay only one claim is necessary. The Contractor shall provide an estimate of the probable effect of such delay on the progress of the Work.

8.3.3 If no agreement is made stating the dates upon which interpretations as provided in Article 2.2 shall be furnished, then no claim for delay shall be allowed on account of failure to furnish such interpretations until fifteen days after written request is made for them, and not unless such claim is reasonable.

8.3.4 This Paragraph 8.3 does not exclude the recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

9.1 Contract Sum:

9.1.1 The Contract Sum is the total amount payable by the Owner for the performance of the Work under the Contract Documents.

9.2 Schedule of Values:

9.2.1 Before the first application for payment, the Contractor shall submit to the Project Manager a schedule of various parts of the Work, including quantities if required by the Owner, aggregating the total Contract Sum, divided so as to facilitate payments to Subcontractors in accordance with Article 5.3, made out in such form as the Project Manager and the Contractor may agree upon, and supported by such data to substantiate its correctness as the Project Manager may require. Each item in the schedule of values shall include its proper share of overhead, profit, and other general charges. This schedule, when approved by the Project Manager, shall be used as a basis for the Contractor's Applications for Progress and Final Payments.

9.2.2 Before the first application for payment, the Contractor shall select a monthly billing date, upon which he will terminate his monthly accumulation of charges.

9.3 Progress Payments:

9.3.1 Completed Work: The Contractor shall submit to the Project Manager an itemized Application for Payment, supported by such data substantiating the Contractor's right to payment as the Project Manager may direct. The Owner shall make payments on account of the Contract, upon issuance of Certificates of Payment certified by the Project Manager and the Owner's Representative, for labor and materials incorporated into the Work at the rate of ninety four (94%) percent of such value until fifty (50%) percent of the value of Work is completed. After fifty (50%) percent, no further retainage will be deducted. The Contracting Officer, Adjutant General's Agency has the option to require that three (3%) percent of the value of the Work be retained throughout the duration of the entire Contract. The retainage schedule shall be determined prior to award of Contract. Retainage may be paid with final payment at the discretion of the State Armory Board, but shall not be paid in any event until a minimum of sixty one days (61) days after all work is completed.

9.3.2 Materials Stored: Payments may be made on account for materials or equipment not incorporated in the Work, but delivered and suitably stored at the site. With written approval of the Owner, materials may be stored at another location other than the Work site if properly identified as the property of the Owner and properly protected. Storage of material at the place of business of the vendor is not acceptable (25 IAC 2-9-2). Such payments shall be conditional upon the submission by the Contractor of one of the following: 1) receipts marked by the supplier as paid; 2) supplier's final waiver of lien listing specific materials involved; 3) invoice with copy of canceled check showing payment; or 4) such other evidence of payment as the Owner may require in lieu thereof to establish ownership of all items except those listed as miscellaneous materials below. For the aggregate of miscellaneous stored materials for which payment is requested and above proof of payment is not available, a complete list will be provided along with the affidavit of payment for stored materials. Upon certification by the Owner's representative that the listed materials are suitably stored, payment can be made. Miscellaneous materials are defined as pipe, fittings, wire, conduit, etc., normally stored as stock items in Contractor's warehouse. For materials stored other than at the construction site applicable insurance and transportation to the site shall be provided by the Contractor.

9.3.3 In no instance shall the payments exceed ninety-seven (97%) percent of the net value of material or equipment stored. As stored materials are incorporated into the Work, the value shall be removed from the total value of stored materials requested in successive payments. Proof of ownership through one of the above methods will be required for additional materials. When, in the judgment of the Owner, retainage for completed work is not sufficient in relation to excessive amounts requested for stored materials or equipment, the Owner may elect to place the retainage for such materials or equipment in escrow. This retainage shall apply as a credit toward retainage due to be held for completed work on future payments and in no case shall payment retainage, under 9.3.1 exceed three (3%) percent of Contract Sum.

9.3.4 The Contractor warrants that title to all work, materials and equipment covered by an Application for Payment will pass to the Owner either by incorporation in the construction or upon the receipt by the Contractor of payment, whichever occurs first, free and clear of all liens, claims security interest or encumbrances, hereinafter referred to in this Article 9 as "liens"; and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor, or by any other person performing work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

9.3.5 The Contractor shall accompany each application for payment request with a certification that he paid to all Subcontractors (fabricators), and/or suppliers, within ten (10) days of receipt of payment that pro-rata amount of funds he has received from the Owner for the value of work or services (fabricated materials or equipment) performed by the Subcontractor (supplied by fabricator) contained in previous progress payments. The Contractor's inclusion of a value of subcontract work in his progress pay estimate is prima facie evidence of acceptance of work having such a value; therefore, if the Owner receives a certification from a Subcontractor that he has not been paid such amounts as were included in the Contractor's partial billing and subsequently paid to the Contractor by the Owner, then the Owner will hold all subsequent partial payment requests until satisfactory evidence is received from the Subcontractor that he has been paid such amounts presented to the Owner by the Contractor, paid to the Contractor by the Owner, and not distributed by the Contractor to the Subcontractor. The making of an incorrect certification of either partial payment or final payment may be considered by the Owner to be a breach of contract, and it may exercise all of its prerogatives set out in the Contract in addition to the remedies for falsifying an affidavit. Such an action could result in a suspension of qualification with the State Certification Board for a period of up to two (2) years.

9.4 Certificates for Payment:

9.4.1 When the Contractor has made application for payment as above, the Project Manager will issue a Certificate of Payment to the Owner for such amount as he determines to be properly due, or state in writing his reasons for withholding a certificate as provided in Articles 9.5.1.

9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Project Manager to the Owner, based on the Project Manager's and the State Representative's observations at the site as provided in Article 2.2.4, and the data comprising the Application for Payment, that the Work has progressed to the point indicated, that to the best of his knowledge, information and belief, the quality of work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole upon substantial completion, to the results of any subsequent tests called for in the Contract documents, to minor deviations correctable prior to the next certificate for payment and to any specific qualifications stated in his certificate), and that the Contractor is entitled to payment in the amount certified.

9.4.3 The Project Manager's final Certificate for Payment will constitute a further representation that the conditions precedent to the Contractor's being entitled to final payment as set forth in Article 9.7 have been fulfilled. However, by issuing a Certificate, the Project Manager shall not thereby be deemed to represent that he has made any examination to ascertain how, or for what purpose, the Contractor has used the monies paid on account of Contract Sum.

9.4.4 The Owner shall make payment as soon as the fiscal procedure of the Owner can process same after receipt from the Project Manager of the Certificate for Payment. The fiscal procedure by the State can include, but not be limited to, review by the Owner's using agency, verification of the Certificate by the Owner's Site Representative, review for accuracy of form and calculation by the Owner's accountant, review by Adjutant General's Agency and State Contracting Officer and others.

9.4.5 No certificate for a progress payment nor progress payment for partial or entire occupancy of the Project by the Owner shall constitute an acceptance of work not in accordance with the Contract Documents.

9.4.6 Pursuant to IC. 4-13.6-7-2 all Contract awards of One Hundred Fifty Thousand Dollars (\$150,000) or above, the State shall withhold retainage funds for this Contract. Funds shall be held until the State Armory Board and all other necessary parties have agreed that all Work is complete. The State will NOT establish an escrow account for the purpose of withholding retainage funds.

9.5 Payments Withheld:

9.5.1 The Project Manager (or Owner) will not approve an application in whole or in part, if in their opinion, they are unable to make representations to the Owner as provided in Article 9.4. The Project Manager (or Owner) will not approve Application for Payment or, because of subsequent inspections, may nullify the whole or any part of the Certificate for Payment previously issued to such extent as may be necessary in his opinion to protect the Owner from loss because of:

- a. defective work not remedied,
- b. claim filed or reasonable evidence indicating probable filing of claims,
- c. failure of the Contractor to make payments properly to Subcontractors or for materials, equipment or labor,
- d. reasonable doubt that the Contract can be completed for the unpaid balance,
- e. damage to another Contractor,
- f. reasonable indication that the Owner may be damaged by delay in receiving use of the work as scheduled, or,
- g. unsatisfactory prosecution of the Work by the Contractor.

9.5.2 When the above grounds are removed, payment shall be processed for amounts withheld.

9.6 Failure of Payment:

9.6.1 If the Project Manager should fail to issue any Certificate for Payment, through no fault of the Contractor, or if the Owner should fail to pay the Contractor in a reasonable time considering the fiscal procedures of the State for processing same after receipt from the Project Manager the amount certified by the Project Manager, then the Contractor may, after seven (7) additional days, give written notice to the Owner and Project Manager, that work will stop until payment of the amount owing has been received.

9.7 Substantial Completion and Final Payment:

9.7.1. When advised by the Contractor that the Work or a designated portion thereof is substantially complete, the Project Manager, the Owner, and the Contractor shall determine jointly by inspection that the Work is substantially complete. If they determine that the Work is substantially complete, the Project Manager shall then prepare a Certificate of Substantial Completion with an accompanying list of incomplete items of work (punch list), and submit it to the Contractor for his signature and subsequent forwarding for approval by the State Armory Board. The Certificate shall fix the date of Substantial Completion and shall state the responsibilities of the Owner and the Contractor for maintenance, heat, utilities and insurance.

9.7.2 Upon approval of the above, and notice that the Work is ready for final acceptance, the Project Manager, the Contractor, and the Owner will promptly make final review, and when they find the Work acceptable under the Contract and the Contract fully performed, the Project Manager shall promptly submit the final Certificate for Payment with all other required documents, showing that the Work has been completed in accordance with the terms and conditions of the Contract, and that the entire balance in said final certificate, is due and payable.

*Only the Contracting Officer, Adjutant General's Agency, or their agent having authority in writing may sign for the Owner.

9.7.3.1 Neither the final payment nor any part of the retained percentage shall become due until the Contractor shall submit to the Project Manager releases or waivers of all liens arising out of the Contract; an affidavit that the releases and waivers include all the labor, materials, and equipment for which a lien could be filed and that all payrolls, material bills, and other indebtedness connected with the Work for which the Owner or its property might in any way be responsible have been paid or otherwise satisfied; and such other data establishing payment or satisfaction of all such obligations as the Owner may require. If any such lien or claim remains unpaid, the Contractor shall refund to the Owner all monies that the latter may be compelled to pay in discharging such lien or claim, including all costs.

9.7.4 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor, and the Project Manager so confirms, the Owner shall, upon certificate of the Project Manager, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted, or such portion as may be available from funds not already released to an escrow agent pursuant to IC 4-13.6-7. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

9.7.5 The making of final payment shall constitute a waiver of all claims by the Owner except those arising from:

- a. unsettled liens,
- b. faulty work appearing after Substantial Completion,
- c. failure of the Work to comply with the requirements of the Contract Documents,
- d. terms of any special guarantees required by the Contract Documents

9.7.6 If upon Substantial Completion of the Work there are any remaining uncompleted minor items, the Owner shall withhold from retainage, until those items are completed, an amount equal to four hundred percent (400%) of the value of each item as determined by the Project Manager or Owner.

9.7.7 The acceptance of final payment shall constitute a waiver of all claims by the Contractor, except those previously made in writing and still unsettled and covered by other agreed arrangements.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

10.1 Safety Precautions and Programs:

10.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

10.2 Safety of Person and Property:

10.2.1 The Contractor shall take all necessary precautions for the safety of, and will provide all necessary protection to prevent damage, injury, or loss to:

- a. all employees on the Project and all other persons who may be affected thereby,
- b. all the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, and,
- c. other property at the site or adjacent thereto, including trees, shrubs, lawns, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

10.2.2 The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. He shall erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent utilities.

10.2.3 All damage or loss to all property specified herein caused directly or indirectly, in whole or in part, by the Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, shall be remedied by the Contractor, except damage or loss attributable solely to faulty Contract Documents or to the acts or omissions of the Owner, or Project Manager or their employees, or for those whose acts either of them may be liable.

10.2.4 The Contractor shall designate a responsible member of his organization on the Work whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent, unless otherwise designated in writing by the Contractor to the Owner and the Project Manager.

10.2.5 When the use or storage of explosives or other hazardous materials or equipment is necessary for the prosecution of the Work, the Contractor shall carry on such activities under the supervision of properly qualified personnel.

10.2.6 The Contractor shall not overload, or permit any part of the Work to be loaded so as to endanger its safety.

10.2.7 All excavations creating a trench of five (5) or more feet in depth shall strictly adhere to the shoring and other safety requirements called for and described under IOSHA Regulation 29 C.F.R. 1926, Subpart "P" for trench safety systems.

10.3 Emergencies:

10.3.1 In an emergency affecting the safety of persons or property, the Contractor shall act, at his discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor because of emergency work shall be determined as provided for in Article 12, Changes in the Work, and he shall notify the Owner of such a decision within seven (7) days of the event giving rise to such claim.

ARTICLE 11 INSURANCE

11.1 General Requirements for Insurance:

11.1.1 The Contractor will be required to furnish to the Owner, evidence that he has complied with all items of insurance listed herein. All insurance policies/certificates shall be on file with the Owner prior to release of the signed Contract and commencement of work.

11.1.2 The Contractor shall purchase and maintain with a company or companies licensed to do business in Indiana, such insurance as will protect him from claims set forth below, arising out of or resulting from the Contractor's operations under the Contract, whether such operations be by the Contractor or by any Subcontractor or anyone directly or indirectly employed by any of them:

- a. claims under Workmen's Compensation Acts and other employee benefit acts;
- b. claims for damages because of bodily injury, personal injury, occupational sickness disease, or death of his employees;
- c. claims for damages because of bodily injury, personal injury, sickness, disease or death of any person other than his employees;
- d. claims for damages to tangible property, including loss of use thereof

11.1.3 This insurance shall be written for not less than any limits of liability specified herein, or required by law, whichever is greater. Policies or certificates of insurance, acceptable to the Owner, shall be filed with the Owner prior to execution of the Contract. These Certificates shall contain a provision that coverage's afforded under the policies will be for the life of the Work.

11.1.4 Policies (certificates) shall show name and complete address of the Company, expiration date or dates, and policy number or numbers. Policies shall not be canceled until at least fifteen (15) days prior written notice has been given to the Owner and acknowledged by the Owner in writing.

11.2 Property Insurance:

11.2.1 The Contractor shall furnish and maintain, at the Contractor's expense, Fire, Extended Coverage, Vandalism, and Malicious Mischief Insurance, (Builder's Risk), in the sum of 100% of the Contract amount.

Builder's risk insurance shall cover the structure on/in which the Work of this Contract is to be done including items of labor and material connected therewith, whether in or adjacent to the structure insured; material in place or to be used as part of the permanent construction, including surplus materials; shanties, protective fences, bridges, or temporary structures; miscellaneous materials and supplies incident to the Work; scaffolding, staging, towers, forms, and equipment, if included in the cost of the Work. This insurance need not cover any tools owned by mechanics, or any tools, equipment, scaffolding, staging, towers, and forms owned or rented by the Contractor, the capital value of which is not included in the cost of the Work.

11.2.2 Any loss under this Article 11.2 is to be adjusted with the Owner, and made payable to the Owner as trustee for the insured, as their interests may appear.

11.2.3 The contractor shall file a copy of all policies with the Owner upon request.

11.3 Liability Insurance:

11.3.1 The Contractor shall carry in full force and effect, during the period of Contractual operations, insurance necessary to comply with the requirements of Indiana Workmen's Compensation Act of the State of Indiana. Also, the Contractor shall carry in full force and effect, during the period of Contractual operations, Occupations Diseases Insurance, as set out in the Indiana Workmen's Occupational Diseases Act, and shall file with the Owner,

Indiana Industrial Board Form 18A showing that the said Workmen's Compensation and Occupational Diseases Insurance are in force during the period of Contractual operations. The Contractor shall use his insurance carriers to furnish certificates for Compensation and Occupational Diseases Insurance to the Owner, showing names of companies, expiration date(s) and policy numbers. If an expiration date on any of these policies occurs prior to the completion and acceptance of the Project, an addendum certificate shall be furnished showing the new expiration date.

11.3.2 The Contractor shall take out and maintain during the life of this Contract such Public Liability and Property Damage Insurance as shall protect him and any Subcontractor performing work covered by this Contract from claims for damage or personal injury, including accidental death, as well as claims for property damage which may arise from operations under this Contract, whether such operations be by himself or by any Subcontractor, or by anyone directly or indirectly employed by either of them; and shall purchase for and furnish to the State Armory Board, an OWNER'S PROTECTIVE LIABILITY POLICY with limits of \$-5,000,000 per occurrence including liability for both bodily injury and property damage. NOTE: Contractual coverage for the same limits may be substituted in lieu of the OWNER'S PROTECTIVE LIABILITY POLICY. All liability insurance shall be written on the comprehensive general liability form. An umbrella liability policy is not required. However, if the Contractor has an Umbrella Excess Liability Policy with a limit of \$5,000,000 or more, it shall be permissible to reduce the limits of liability set forth in the schedule below. The minimum amounts of such insurance shall be as follows:

FORM OF INSURANCE	BODILY INJURY LIABILITY	PROPERTY DAMAGE LIABILITY
Contractor's Public Liability	\$5,000,000	\$5,000,000
Contractor's Protective Liability	\$5,000,000	\$5,000,000
Automobile Liability (Owned Equipment)	\$5,000,000	\$5,000,000
Automobile Liability (Non-Owned Equipment)	\$5,000,000	\$5,000,000
Owner's Protective Liability or Contractual		\$5,000,000 (both)

11.3.3 Boiler and Machinery Explosion Insurance shall be required when the Work includes boiler, other pressure vessels or steam piping installation or repair.

ALL INSURANCE COMPANIES WRITING INSURANCE TO MEET THESE REQUIREMENTS SHALL HOLD A CERTIFICATE OF AUTHORITY IN THE STATE OF INDIANA OR BE ON THE APPROVED LIST OF SURPLUS LINES CARRIERS.

ARTICLE 12 CHANGES IN THE WORK

12.1 Change Orders:

12.1.1 The Owner, without invalidating the Contract, may order changes in the Work consisting of additions, deletions, or modifications, with the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order, and shall be executed under the applicable conditions of the Contract Documents.

12.1.2 A Change Order is a written order to the Contractor compiled and reviewed by the Project Manager, prepared by the Owner and then signed by the Owner and the Contractor. The order is issued after the execution of the Contract, authorizing a change in the Work, and documenting any adjustment in the Contract Sum and/or the Contract Time. The Contract Sum may be changed only by change order.

12.1.3 The value of any work involved in a change in the Work shall be determined in one or more of the following ways, in order of priority listed.

a. by mutual acceptance of a lump sum. For all amounts over \$500, the Contractor shall provide a complete listing of quantities and unit prices of materials, hours of labor with cost per hour, and separate agreed percentages for any overhead and profit. The maximum aggregate increase for overhead and profit (including all home office and field office overhead) for any Subcontractor, or for the Contractor performing his own Work, is fifteen (15%) percent; the maximum increase for a Contractor on Work performed by a Subcontractor is five (5%) percent. If the cost of performance and payment bond(s) is shown as a separate line item in the Contractor's schedule of values for the project, then an increase will be permitted to provide for the additional cost of the bond(s). If the cost of the bond(s) is not indicated on the Contractor's schedule of values for the Project, any increase in cost for bond(s) shall be included in the Contractor's allowed overhead. For listings under \$500, list lump sum for each item, or,

b. by unit prices named in the Contract or subsequently agreed upon, or,

c. by cost plus a mutually acceptable fixed or percentage fee.

12.1.4 Should conditions be encountered below the surface of the ground that are:

a. at variance with the conditions indicated by the Contract Documents, and

b. different than could be expected after a reasonable viewing of the site by the bidders, and

c. not evident from available soil samples, then the Contract Sum may be equitably adjusted by Change Order upon claim by Contractor made within a reasonable time after the first observance of the conditions.

12.1.5 If the Contractor claims that any written interpretation issued pursuant to Article 1.2 or any written order for a minor change issued pursuant to Article 12.3 involves additional cost or time, the Contractor shall make such claim as provided in Article 12.2.

12.2 Claims for Additional Cost or Time:

12.2.1 If the Contractor wishes to make a claim under the provisions of the Contract Documents for an increase in the Contract Sum or an extension in the Contract Time, he shall give the Project Manager written notice thereof within fifteen (15) days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor and authority received in writing from the Owner before proceeding to execute the Work, except in an emergency endangering life or property. No such claim shall be valid unless so made. Any approved change in the Contract Sum or Contract Time resulting from such claim shall be incorporated in a Change Order, initiated by the Project Manager and executed by the Owner. If the Project Manager does not initiate or the Owner execute a Change Order within a reasonable time in response to the request, such lack of action shall be construed as prima facie evidence of rejection of the request. For the purpose of this section "reasonable time" is expected not to exceed 30 days after receipt by the Owner.

12.3 Minor Changes in the Work:

12.3.1 The Project Manager shall have authority, with Owner's approval, to order minor changes in the Work not involving an increase in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such change may be affected by written field order, with copy transmitted to the Owner. Such minor changes need not be approved by the Owner, however, the Owner may provide written approval of any substitution of significant materials or equipment.

12.4 Field Orders:

12.4.1 The Project Manager may issue written field orders which interpret the Contract Documents in accordance with Article 1.2.4 without change in Contract Sum or Contract Time. The Contractor shall carry out such field orders promptly. The Project Manager shall be transmit copies of field orders to the Owner.

ARTICLE 13 EXAMINATION AND CORRECTION OF WORK

13.1 Examination of Work:

13.1.1 If any portion of the Work should be covered contrary to the request of the Project Manager or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Project Manager, be uncovered for his observation and shall be replaced at the Contractor's expense.

13.1.2 Examination of questioned Work may be ordered by the Project Manager with the approval of the Owner, and if so ordered the Work must be uncovered by the Contractor. If such work be found in accordance with the Contract Documents, the cost of re-examination and replacement shall, by appropriate change order, be charged to the Owner. If such work be found not in accordance with the Contract Documents, the Contractor shall pay such costs, unless it be found that the defect in the Work was caused by a separate Contractor employed as provided in Article 6 and in that event, the separate Contractor shall pay such costs.

13.2 Correction of Work before Substantial Completion:

13.2.1 The Contractor shall promptly remove from the site all work rejected by the Project Manager as failing to conform to the Contract Documents, whether or not incorporated in the Project, and the Contractor shall promptly replace and re-execute his own work in accordance with the Contract Documents and without cost to the Owner and shall bear the cost of repair to or replacement of all work of separate Contractors destroyed or damaged by such removal or replacement.

13.2.2 If the Contractor does not remove such rejected work within a reasonable time, fixed by written notice from the Project Manager, the Owner may remove and store the material at the expense of the Contractor. If the Contractor does not agree to pay or credit the Contract with the cost of such removal within ten days thereafter, the Owner may acquire a lien upon such property and materials. If proceeds of lien foreclosure do not cover all costs which the Owner has then borne, the difference shall be deducted from the amount to be paid to the Contractor.

13.3 Correction of Work after Substantial Completion:

13.3.1 The Contractor shall correct all faults and deficiencies in the Work which appear within one year of the date of substantial completion or such longer period of time as may be prescribed by the terms of any special guarantees called for by the Contract Documents, and he shall pay for all damage to other work caused thereby.

The Contractor shall remove all defective work where necessary.

13.3.2 If the Contractor does not correct such faulty or defective work and remove defective work where necessary, within a reasonable time fixed by the Project Manager in writing, the Owner may do the corrective work and remove the defective Work, as described in 13.2 above.

13.3.3 All costs attributable to correcting and removing faulty or defective work shall be borne by the Contractor.

13.3.4 The obligations of the Contractor under this Article 13.3 shall be in addition to and not a limitation of any obligations imposed upon him by special guarantees called for by the Contract Documents or otherwise prescribed by law.

ARTICLE 14 TERMINATION OF THE CONTRACT

14.1 Termination by the Contractor:

14.1.1 If the Work is stopped for a period of thirty days under an order of any court or other public authority through no act or fault of the Contractor or of anyone employed by the Contractor, or if the Work should be stopped for a period of thirty days by the Contractor for the Project Manager's failure to issue a Certificate for Payment as provided in Article 9.6, or for the Owner's failure to make payment thereon as provided in said Article, then the Contractor may, upon seven days' written notice to the Owner and the Project Manager, terminate the Contract and recover from the Owner, in satisfaction of all claims of the Contractor, payment for all work executed, except those items involved in Project Manager's failure to issue Certificate, or Owner's

failure to make payment.

14.2 Termination by the Owner:

14.2.1 If the Contractor should be adjudged bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if he should fail to make prompt payment to Subcontractors for materials or labor, or persistently disregard laws, ordinances, rules, regulations or orders of any public authority or otherwise be guilty of a substantial violation of a provision of the Contract Documents, then the Owner, upon the certification by the Project Manager that sufficient cause exists to justify such action, may without prejudice to any right or remedy against the Contractor or his surety and after giving the Contractor and his surety seven days written notice, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor and finish the Work by whatever method the Owner deems expedient. In such case the Contractor shall not be entitled to receive any further payment until the Work is completed, and an accounting made as set out below.

14.2.2 If the unpaid balance of the Contract sum exceeds the cost of finishing the Work, including compensation for the Project Manager's additional services such excess shall be paid to the Contractor. If such cost exceeds such unpaid balance, the Contractor shall pay the difference to the Owner. The cost incurred by the Owner as herein provided shall be certified by the Project Manager.

Minority and Women Owned Business Participation

All contractors bidding on this project are required to exhibit their best effort to include the participation of minority and women owned firms in the subcontracting of this project. Currently, the State expects prime contractors to subcontract 7% of the total project to minority-owned firms and 5% to women-owned firms. These firms must be certified with the State of Indiana. Further information about the MBE and WBE programs, including a list of all certified vendors, can be found at www.in.gov/idoa/2352.htm , or you may call the Office of Minority and Women's Business Enterprise at (317) 232-3061. Firms that are unable to attain the participation goal must submit an Application for MBE/WBE Program Waiver with the bid packet.

SUPPLEMENT TO THE GENERAL CONDITIONS
FOR MINORITY BUSINESS ENTERPRISE PROGRAM

01 MINORITY BUSINESS ENTERPRISE PROGRAM

It is the intent and objective of this Minority Business Enterprise Program to encourage and assist in the participation of racial minority owned businesses as contractors, or as joint venture partners and/or subcontractors with non-minority contractors, as established by I.C. 4-13-16.5-2, Governor's Commission on Minority Business Development.

Non-minority contractors bidding this project are required to exhibit their best effort to include a minority participation in the value of this work equal to seven percent (7%) of the total dollar amount of the bid.

The non-minority contractor is, therefore, strongly encouraged to contract with minority firms and to provide for minority participation in either of two ways.

- A. The bid of certified Joint Venture between non-minority and racial minority contractor. All parties to the joint venture shall have a participating financial interest.
- B. Bid of certified non-minority contractor, in which racial minority sub-contractors, and/or suppliers shall be awarded a target of seven percent (7%) of the total dollar amount of the bid.

02 JOINT VENTURE

A Joint Venture shall become certified by the Certification Board of the Department of Administration to bid this project before the bid date.

- A. A Contractor who cannot become certified as an individual firm may be certified as a member of a certified joint venture.
- B. Certification as a joint venture is temporary and limited to this project only.

A bid by a Joint Venture shall be signed by all parties to the Joint Venture.

03 MINORITY BUSINESS ENTERPRISE VENTURE ELIGIBILITY STANDARDS AND PROCEDURES FOR CONTRACTORS AND SUBCONTRACTORS CERTIFICATION

All firms owned by individuals classified under the designated racial minority groups may apply for certification as a minority business. The designated minority groups include Afro Americans, Hispanic Americans, Asian Americans, and other racial minority groups. In order to be classified as an M/WBE, at least fifty-one percent (51%) of the business must be owned by minorities and they must control the management and operation of the business. The services that may be provided to the State include contracting, sub-contracting, supplying, and/or professional consulting services.

04 OWNERSHIP

The Minority & Women's Business Development Division will determine whether a firm is fifty-one percent (51%) owned and controlled by minorities. The following standards are used in making this assessment:

- A. Bona Fide minority group members will be established on the basis of the individual's claim that one is a member of a minority group and is so regarded by that particular minority community. However, the Minority Business Development Division may not accept this claim if it determines that the claim is invalid.

State Form 37804R6

- B. An eligible MBE/WBE will be an independent business. The ownership and control by minorities will be real, substantial, and continuing. The minority owners will enjoy the customary incidents of ownership and will share in the risks and profits commensurate with their ownership interests, as demonstrated by an examination of the substance rather than form or arrangements. Recognition of the business as a separate entity for tax or corporate purposes is not necessarily sufficient for recognition as an M/WBE. In determining whether a potential M/WBE is an independent business, all relevant factors will be considered, including the date the business was established, the adequacy of its resource for the contract work, and the degree to which financial, equipment leasing, and other relationships with non-minority firms vary from industry practice.
- C. The minority owners shall possess the power to direct or cause the direction of the management and policies of the firm to make day-to-day as well as major decisions on matters of management, policy and operations. The firm will not be subject to any formal or informal restrictions which limit the customary discretion of the minority owners. There will be no restrictions through, for example, by law provisions, partnership agreements, or charter requirements for cumulative voting rights or that prevents the minority owners, without the cooperation or vote of any owner who is not a minority, from making a business decision of the firm.
- D. If the owners of the firm who are not minorities are disproportionately responsible for the operation of the firm, then the firm is not controlled by minorities and will not be considered an MBE. Where the actual management of the firm is contracted out to individuals other than the owner, those persons who have the ultimate power to hire and fire the managers can, for the purpose of this program, be considered as controlling the business.

- E. All securities which constitute ownership and/or control of a corporation for purpose of establishing it as an MBE must be held directly by minorities. No securities held in trust, or by any guardian for a minor, will be considered as held by minority in determining the ownership or control of a corporation.
- F. The contributions of capital or expertise by the minority will be considered in determining the ownership or control of a corporation.

Certification as a qualified Joint Venture shall be in effect until final completion of the contract, and Shall Be for That Contract Only. Certification may be revoked by the Certification Board for just cause after written notification. Any changes to the percent of participation, responsibilities of joint venture partners or any other conditions which could affect certification status shall be reported to the Certification Board within seven (7) days.

The Certification Board reserves the right to require a personal interview with appropriate officials when considering certification status. No contracts shall be entered into as a joint venture until certification has been verified by the Certification Board.

05 PROCEDURES TO INSURE THAT MBE'S HAVE AN OPPORTUNITY TO COMPETE FOR CONTRACTS AND SUBCONTRACTS

The State Armory Board expects contractors to exercise affirmative action in pursuing firms eligible to compete for subcontracting opportunities. The following assistance will be provided through cooperative arrangements with the State Armory Board and the Governor's Commission on Minority Business Development.

- A. Arrange bid periods and bid dates so as to facilitate maximum M/WBE participation.
- B. Assist bidders in the identification of certified M/WBE firms for contracts and subcontracts.
- C. Assist bidders and M/WBE's in the certification and verification processes as deemed necessary by the State Armory Board or the Governor's Commission on Minority Business Development.

State Form 37804R6

D. Provide M/WBE Program Waivers when application of M/WBE Program goals is not feasible because of the lack of availability of qualified minority business enterprises in a particular trade or field. Bidders who have experienced difficulty in locating Minority & Women's Business Enterprises are advised to contact the Minority & Women's Business Development Office before the bid date at (317)-232-3061 and/or to submit with the bid packet a completed Application for M/WBE Program Waiver, complete with full, verifiable documentation of their efforts to locate and employ "bona fide" M/WBE concerns for this project.

06 GUIDELINES FOR M/WBE SUBCONTRACTOR PLANS AND APPLICATION FOR M/WBE PROGRAM WAIVER

- A. In cases where the bidder has arranged to subcontract seven percent (7%) or more of the project value to minority business enterprises and/or five percent (5%) or more of the project value to women's business enterprises, a completed M/WBE Subcontractor Plan shall be submitted, along with the other required bid documents, with the bid packet. The completed plan shall include the following information; the name of the firm(s) to be employed, the phone number of the firm(s), the name of a contact person employed by the firm(s), the work the firm(s) will perform and a contract amount for those services. The bidder is advised that purchases from M/WBE suppliers are acceptable. The maximum allowable credit for such purchases will be limited to two-and-one-half percent (2.5%) of the project value.
- B. In cases where the bidder has been unable to arrange to subcontract seven percent (7%) of the project value to minority business enterprises and/or five percent (5%) of project value to women's business enterprises but has been able to arrange to subcontract some of the project's value to minority and/or women's business enterprises, both a completed M/WBE Subcontractor Plan and a completed Application for M/WBE Program Waiver shall be submitted with the bid packet. All forms are to be completed as described in the preceding paragraph.
- C. In cases where the bidder has been unable to arrange to any subcontract with a minority or women's business enterprise and/or in cases where no minority or women's business enterprises participation is expected to occur, a completed Application for M/WBE Program Waiver shall be submitted, along with the other required bid documents, with the bid packet. The application shall be use to demonstrate the bidder's efforts to employ minority business enterprises on the project. The application shall include the following information; the name of the M/WBE firms(s) that the bidder has contacted or been contacted by, the type of contract(s) or communication(s) and an explanation of the results obtained (i.e. "price not competitive, unable to contact, no response, etc.) the bidder is advised that the State Armory Board reserves the right to verify and seek further clarification of any information submitted.
- D. The bidder is advised that compliance with these guidelines is considered to be a demonstration of the bidder's responsiveness and responsibility and shall be, in addition to the offered price, a supplemental element of bid evaluations. Therefore, all statements shall be complete, legible, true and correct and shall not omit material facts. Failure to provide completed and accurate M/WBE Subcontractor Plans and/or Application for M/WBE Program Waivers, or both, may be the basis for rejection of the bid.
- E. When evaluating M/WBE Subcontractor Plans and Application for M/WBE Program Waivers, the State Armory Board will reserve the right to verify that the information supplied on the forms is accurate and correct. By the submittal of this bid, the bidder acknowledges the right of the State Armory Board to ensure compliance to its Minority & Women's Business Enterprise Program and thereby, agrees to provide upon request, earnest, diligent and prompt cooperation in the State Armory Board's verification process.

State Form 37804R6

- F. In cases where the State Armory Board concludes that the M/WBE Subcontractor Plan and/or the

Application for M/WBE Program Waiver may be deficient, then the Owner may require consultation with, or clarification from, the Bidder, or the State Armory Board may reject the bid.

- G. In cases where the State Armory Board concludes that the M/WBE Subcontractor Plan and/or the Application for M/WBE Program Waiver is deficient as a result of misrepresentation by the bidder, or in cases where the State Armory Board has determined that the bidder has not cooperated with its efforts to verify the submitted documentation, the bidder will be deemed to be non-responsive and the bid in question may be rejected.
- H. In cases where the original M/WBE Subcontractor Plan and/or Application for M/WBE Program Waiver has been accepted and the bidder has been awarded the contract but subsequent information indicates that the M/WBE Subcontractor Plan and/or Application for M/WBE Program Waiver is deficient, the State Armory Board will reserve the right to request the substitution for any M/WBE whose submittal's, certification, self-declaration and/or qualifications are determined to be the cause for the deficiency.
- I. In cases where the successful bidder has determined that there is a need to be released from the submitted M/WBE Subcontractor Plan, a letter stating the reasons for the requested release must be submitted to the Owner for approval. Examples of these circumstances might include cases where an M/WBE has failed to perform, filed for bankruptcy, etc. Under these conditions, the letter must be received and approved prior to the release of the subcontractor.
- J. Specific questions about these guidelines or requests for M/WBE contractor listing should be addressed to the Minority & Women's Business Development Division of the Indiana Department of Administration at the address listed below:

Minority Business Development Division
Indiana Department of Administration
Indiana Government Center South W469
402 West Washington Street
Indianapolis, Indiana 46204
Tel: (317) 232-3061
Fax: (317) 233-6921
E-mail: mwbe@idoa.in.gov

07. COMPLIANCE MONITORING AND ENFORCEMENT

- A. Bidders are advised that any contractor who knowingly or intentionally misrepresents the truth about either the status of a firm that is being presented to the owner as an M/WBE or who misrepresents the level of the nature of the amount to be subcontracted to the M/WBE is in breach of contract and may suffer penalties pursuant to Indiana Code 5-16-6.5.
- B. Bidders are also advised that any contractor who knowingly or intentionally misrepresents the truth about his/her status as an M/WBE or who misrepresents the level or the nature of the amount subcontracted to his/her firm is in breach of contract and may suffer penalties pursuant to Indiana Code 35-44-2-1.
- C. The Office of the Attorney General provides legal services to the M/WBE Liaison Officer, the Public Works Division, the State Armory Board, and the Certification Board in areas of legal documents, contracting procedures, and dispute resolution.

State Form 37804R6

- D. Source Documents for Identifying Minority Owned Businesses:

Indiana Business Diversity Council, Inc.

2126 North Meridian Street
Indianapolis, Indiana, 46202
(317) 921-2678
Contact: Michelle House
madhouse@inbdc.org

Minority and Women's Enterprises Division

Indiana Department of Administration
Room W469, Indiana Government Center South
402 W. Washington Street
Indianapolis, Indiana 46204
(317) 232-3061
email: mwbe@idoa.in.gov

Certification Board

Department of Administration
Room W467, Indiana Government Center South
402 W. Washington Street
Indianapolis, Indiana, 46204
(317) 232-3005
Contact: Tracy Cross

SCORE

8500 Keystone Crossing, Suite 401
Indianapolis, Indiana 46240
(317) 226-7264
Contact: Reg Duvall
email: score@indyscore.org

Indianapolis Black Chamber of Commerce

3921 North Meridian Street, Suite 230
Indianapolis, Indiana 46208
(317) 924-9840
Contact: Jesse L. Moore, Jr.
Web site: www.indianapolisbcc.org

Indianapolis Urban League

777 Indiana Avenue
Indianapolis, Indiana 46202
(317) 693-7603
Contact: Pambana Uishi
Web site: www.indplsul.org

State of Indiana

Adjutant General's Agency
Stout Field, 2002 S. Holt Road
Indianapolis, Indiana, 46241-4839
(317) 247-3252

CONTRACTOR'S
A F F I D A V I T
FOR PARTIAL PAYMENTS
State Armory Board Projects

STATE OF _____)

) SS:

COUNTY OF _____)

_____)
Project and/or Contract Number

Personally appeared before me, the undersigned notary public in and for said county and state,

_____ being duly sworn, under oath, says:

- 1) That (s)he is the _____ of the company or business named as vendor and/or contractor in the attached invoiced-voucher, dated the _____ day of _____, 20_____, based on Project/Contract # _____;
- 2) That all bills or claims from subcontractors, material men and laborers employed or furnishing supplies and/or equipment, for or in connection with this contract have been paid their prorata share of previous payments;
- 3) That no liens of any nature have been filed by any subcontractor, material men or laborers in connection with the contract.

Signed _____

Printed Name _____

Firm Name _____

_____)
(must be signed by principal or organization)

STATE OF _____)

) SS:

COUNTY OF _____)

_____ personally appeared before me, a Notary Public, in and for said County and State, this _____ day of _____, 20_____, after being duly sworn upon his oath, says that the facts alleged in the foregoing affidavit are true.

My Commission Expires:
_____)

NOTARY PUBLIC – SIGNATURE

NOTARY PUBLIC- PRINTED NAME

(SEAL)

State Form 4317R1

CONTRACTOR'S
A F F I D A V I T
FOR FINAL PAYMENT
State Armory Board Projects

STATE OF _____)

) SS:

COUNTY OF _____)

_____)
Project and/or Contract Number

Personally appeared before me, the undersigned notary public in and for said county and state,

_____ being duly sworn, under oath, says:

- 1) That (s)he is the _____ of the company or business named as vendor and/or contractor in the attached invoice-voucher, dated the _____ day of _____, 20_____, based on Project/Contract # _____;
- 2) That all bills or claims from subcontractors, material men and laborers employed or furnishing supplies and/or equipment, for or in connection with this contract have been paid in full;
- 3) That no liens of any nature have been filed by any subcontractor, material men or laborers in connection with the contract.

Signed _____

Printed Name _____

Firm Name _____

(must be signed by principal or organization)

STATE OF _____)

) SS:

COUNTY OF _____)

_____ personally appeared before me, a Notary Public, in and for said County and State, this _____ day of _____, 20_____, after being duly sworn upon his oath, says that the facts alleged in the foregoing affidavit are true.

My Commission Expires:

NOTARY PUBLIC – SIGNATURE

NOTARY PUBLIC PRINTED NAME

(SEAL)

State Form 2316R2

AFFIDAVIT OF PAYMENT FOR STORED MATERIALS

_____, who being first duly sworn upon oath, states that he is _____ of Corporation partnership sold proprietorship or joint venture, having its principal place of business at _____, and consisting of the following, to wit (if separate pages are provided, sign and notarize each page)

PLEASE LIST ITEMS OF STORED MATERIALS SEPARATELY

ITEM NO	DESCRIPTION MATERIAL STORED	SCHEDULE VALUE	STORED MATERIALS		STORED BALANCE MATERIAL STORED
			Previous Application	This Application	
A.	B.	C.	E.	F.	G.
	SUBTOTAL OR TOTAL				

Additional Space Available on Reverse Side

I affirm under the penalties of perjury that the foregoing affidavit is true.

STATE OF _____)
) SS:
 COUNTY OF _____) (Must be signed by principal of organization)

_____ Personally appeared before me, a Notary Public, in and for said County and State, this ____ day of _____, 20__, after being duly sworn upon his oath that the facts alleged in the foregoing affidavit are true.

 NOTARY PUBLIC SIGNATURE

 NOTARY PUBLIC PRINTED NAME

My Commission Expires: _____

INDEX TO FEDERAL ACQUISITION REGULATION
PROVISIONS AND CLAUSES WHICH ARE
INCORPORATED BY REFERENCE

These provisions and Clauses are incorporated into this Contract to the same extent as would be the case if each were reprinted here in its entirety.

CLAUSE NUMBER	TITLE
14.404-3	Notice to Bidders of Rejections of All Bids
52.203-7	Anti-Kickback Procedures
52.204-3	Taxpayer Identification
*52.210-7000	Brand Name or Equal
*52.212-12	Suspension of Work
*52.212-14	Stop Work Order – Facilities
52.214-3	Amendments to Invitation for Bid
52.214-4	False Statements in Bids
52.222-4	Contract Work Hours and Safety Standards Act - Overtime Compensation
52.222-27	Affirmative Action Compliance Requirements for Construction
*52.223-1	Clean Air and Water Certification
52.223-5	Pollution Prevention & Right to know Information
52.223-6	Drug – Free Workplace
52.224-1	Privacy Act Notification
52.224-2	Privacy Act
52.2228-5	Insurance – Work on a Government Installation
52.229-3	Federal, State and Local Taxes
52.229-9000	Indiana Sales and Use Tax
52.232-18	Availability of Funds
52.232-23	Assignment of Claims
52.236-5	Material and Workmanship
52.236-11	Use and Possession, Prior to Completion

52.236-13	Accident Prevention
52.236-14	Availability and Use of Utility Services
52.236-15	Schedules for Construction Contracts
52.236-17	Layout of Work
*52.236-7005	Salvage Material and Equipment
*52.236-7006	Misplaced Material
*52.236-7008	Superintendence of Subcontractors
*52.236-7011	Airfield Safety Precautions
52.237-1	Site Visit
52.237-2	Protection of Government Buildings, Equipment and Vegetation
52.245-2	Government Property (Fixed Price Contracts)
52.245-3	Identification of Government Furnished Property
52.246-21	Warranty of Construction
52.249-10	Default (Fixed Price Construction)

14.404-3 -- Notice to Bidders of Rejection of All Bids.

When it is determined necessary to reject all bids, the contracting officer shall notify each bidder that all bids have been rejected and shall state the reason for such action.

52.203-7 -- Anti-Kickback Procedures (Jul 1995)

As prescribed in 3.502-3, insert the following clause:

Anti-Kickback Procedures (Jul 1995)

(a) Definitions.

“Kickback,” as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

“Person,” as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

“Prime contract,” as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

“Prime Contractor” as used in this clause, means a person who has entered into a prime contract with the United States.

“Prime Contractor employee,” as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

“Subcontract,” as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

“Subcontractor,” as used in this clause,

(1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and

(2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

“Subcontractor employee,” as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C.51-58) (the Act), prohibits any person from—

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c)(1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

(3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may(i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or(ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision © (4) (ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision ©(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including subparagraph © (5) but accepting subparagraph © (1), in all subcontracts under this contract which exceed \$100,000.

(End of Clause)

52.204-3 -- Taxpayer Identification (Oct 1998)

As prescribed in 4.905, insert the following provision:

Taxpayer Identification (Oct 1998)

(a) Definitions.

“Common parent”, as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

“Taxpayer Identification Number (TIN)”, as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offeror’s must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C.7701(c) and 3325(d), reporting requirements of 26 U.S.C.6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror’s relationship with the Government (31 U.S.C.7701© (3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror’s TIN.

(d) Taxpayer Identification Number (TIN).

TIN: _____

TIN has been applied for.

TIN is not required because:

Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal Government.

(e) Type of organization.

Sole proprietorship;

Partnership;

Corporate entity (not tax-exempt);

Corporate entity (tax-exempt);

Government entity (Federal, State, or local);

Foreign government;

International organization per 26 CFR 1.6049-4;

Other _____

(f) Common parent.

Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

Name and TIN of common parent:

Name _____

TIN _____

(End of Provision)

52.210-7000 – Brand Name or Equal

If terms called for by this Invitation for Bids have been identified in the Schedule by a “brand name or equal” description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory .Bid offering “equal” products including products of the brand name manufacturer other than the one described by brand name will be considered for award if such products are clearly identified in the bids and are determined by the Government to meet the fully salient characteristics requirements referenced in the Invitation for Bids.

- (2) If the bidder proposes to modify a product so as to make it conform to the requirements of the Invitation for Bids, he shall (i) include in his bid a clear description of such proposed modifications, and (ii) clearly mark any descriptive material to show the proposed modifications.

52.212-12 Suspension of Work

As prescribed in 12.505(a), insert the following clause in solicitations and contracts when a fixed-price construction or architect-engineer contract is contemplated:

SUSPENSION OF WORK (APR 1984)

- (a) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the Government.
- (b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed or interrupted (1) by an act of the Contracting Officer in the administration of this contract. or (2) By the Contracting Officer’s failure to act within the time specified in this contract (or within a

(End of Clause)

52.12-14 - STOP WORK ORDER FACILITIES

As prescribed in 12.505(c), insert the following clause. The “90-day” period stated in the clause may be reduced to less than 90 days.

STOP WORK ORDER FACILITIES (AUG 1989)

- (a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the acquisition, construction, or installation work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall, at Government expense, immediately comply with its terms and take all reasonable steps to minimize the incurrence of cost allocable to the work covered by the order during the period of work stoppage Within a period of 90 days after a stop-work order is delivered to the Contractor, or within any extension of that which the parties shall have agreed, the Contracting Officer shall either-

- (1) Cancel the stop-work order; or
 - (2) Terminate the work covered by the order as provided in the Termination of Work clause of this contract.
- (b) If a stop-work order issued under this clause is cancelled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery completion schedule, the estimated cost, or both, and the contract shall be modified, in writing, accordingly, if

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and;

(2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

- (c) If a stop-work order is not cancelled and the work covered by the order is terminated, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- (d) An appropriate equitable adjustment may be made in any related contract of the Contractor that provided for adjustment and is affected by any stop-work order under this clause. The Government shall not be liable to the Contractor for damages or loss of profits because of a stop-work order issued under this clause.

(End of Clause)

52.214-3 -- Amendments to Invitations for Bids (Dec 1989)

As prescribed in 14.201-6 (b) (1), insert the following provision:

Amendments to Invitations for Bids (Dec 1989)

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Bidders shall acknowledge receipt of any amendment to this solicitation

(1) by signing and returning the amendment,

(2) by identifying the amendment number and date in the space provided for this purpose on the form for submitting a bid,

(3) by letter or telegram, or

(4) by facsimile, if facsimile bids are authorized in the solicitation.

The Government must receive the acknowledgment by the time and at the place specified for receipt of bids.

(End of Provision)

52.214-4 -- False Statements in Bids (Apr 1984)

As prescribed in 14.201-6 (b) (2), insert the following provision in all invitations for bids:

False Statements in Bids (Apr 1984)

Bidders must provide full, accurate, and complete information as required by this solicitation and its attachments. The penalty for making false statements in bids is prescribed in 18 U.S.C.1001.

(End of Provision)

52.222-4 -- Contract Work Hours and Safety Standards Act—Overtime Compensation (Sept 2000)

As prescribed in 441450525:22.305, insert the following clause:

Contract Work Hours and Safety Standards Act—Overtime Compensation (Sept 2000)

- (a) Overtime requirements. No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 441450520:22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and ½ times the basic rate of pay for each hour worked over 40 hours.
- (b) Violation; liability for unpaid wages; liquidated damages. The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying overtime wages required by the Contract Work Hours and Safety Standards Act.
- (c) Withholding for unpaid wages and liquidated damages. The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or Federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act.
- (d) Payrolls and basic records.
 - (1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
 - (2) The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.
- (e) Subcontracts. The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts exceeding \$100,000 and require subcontractors to include these provisions in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

(End of Clause)

52.222-27 -- Affirmative Action Compliance Requirements for Construction (Feb 1999)

As prescribed in 22.810 (f), insert the following clause:

Affirmative Action Compliance Requirements for Construction (Feb 1999)

- (a) Definitions. “Covered area,” as used in this clause, means the geographical area described in the solicitation for this contract.
“Director,” as used in this clause, means the Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority.

“Employer’s identification number,” as used in this clause, means the Federal Social Security number used on the employer’s quarterly federal tax return, U.S. Treasury Department Form 941.

“Minority,” as used in this clause, means—

- (1) **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) **Asian and Pacific Islander** (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);
 - (3) **Black** (all persons having origins in any of the black African racial groups not of Hispanic origin); and
 - (4) **Hispanic** (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race).
- (b) If the Contractor, or a subcontractor at any tier, subcontracts a portion of the work involving any construction trade, each such subcontract in excess of \$10,000 shall include this clause and the Notice containing the goals for minority and female participation stated in the solicitation for this contract.
- (c) If the Contractor is participating in a Hometown Plan (41 CFR 60-4) approved by the U.S. Department of Labor in a covered area, either individually or through an association, its affirmative action obligations on all work in the plan area (including goals) shall comply with the plan for those trades that have unions participating in the plan. Contractors must be able to demonstrate participation in, and compliance with, the provisions of the plan. Each Contractor or subcontractor participating in an approved plan is also required to comply with its obligations under the Equal Opportunity clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good-faith performance by other Contractors or subcontractors toward a goal in an approved plan does not excuse any Contractor’s or subcontractor’s failure to make good-faith efforts to achieve the plan’s goals.
- (d) The Contractor shall implement the affirmative action procedures in subparagraphs (g)(1) through (16) of this clause. The goals stated in the solicitation for this contract are expressed as percentages of the total hours of employment and training of minority and female utilization that the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for the geographical area where that work is actually performed. The Contractor is expected to make substantially uniform progress toward its goals in each craft.
- (e) Neither the terms nor conditions of any collective bargaining agreement, nor the failure by a union with which the Contractor has a collective bargaining agreement, to refer minorities or women shall excuse the Contractor’s obligations under this clause, Executive Order 11246, as amended, or the regulations thereunder.
- (f) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, 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.
- (g) The Contractor shall take affirmative action to ensure equal employment opportunity. The evaluation of the Contractor’s compliance with this clause shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and implement affirmative action steps at least as extensive as the following:

- (1) Ensure a working environment free of harassment, intimidation, and coercion at all sites and in all facilities where the Contractor's employees are assigned to work. The Contractor, if possible, will assign two or more women to each construction project. The Contractor shall ensure that foremen, superintendents, and other onsite 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 these sites or facilities.
- (2) Establish and maintain a current list of sources for minority and female recruitment. Provide written notification to minority and female recruitment sources and community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- (3) Establish and maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant, referrals of minorities or females from unions, recruitment sources, or community organizations, and the action taken with respect to each individual. If an individual was sent to the union hiring hall for referral and not referred back to the Contractor by the union or, if referred back, not employed by the Contractor, this shall be documented in the file, along with whatever additional actions the Contractor may have taken.
- (4) Immediately notify the Deputy Assistant Secretary when the union or unions with which the Contractor has a collective bargaining agreement has not referred back to the Contractor a minority 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 area that expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under subparagraph (g)(2) of this clause.
- (6) Disseminate the Contractor's equal employment policy by—
 - (i) Providing notice of the policy to unions and to training, recruitment, and outreach programs, and requesting their cooperation in assisting the Contractor in meeting its contract obligations;
 - (ii) Including the policy in any policy manual and in collective bargaining agreements;
 - (iii) Publicizing the policy in the company newspaper, annual report, etc.;
 - (iv) Reviewing the policy with all management personnel and with all minority and female employees at least once a year; and
 - (v) Posting the policy on bulletin boards accessible to employees at each location where construction work is performed.
- (7) Review, at least annually, the Contractor's equal employment policy and affirmative action obligations with all employees having responsibility for hiring, assignment, layoff, termination, or other employment decisions. Conduct review of this policy with all on-site supervisory personnel before initiating construction work at a 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 equal employment policy externally by including it in any advertising in the news media, specifically including minority and female news media. Provide written notification to, and discuss this policy with, other Contractors and subcontractors with which the Contractor does or anticipates doing business.
- (9) Direct recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than 1 month before the date for acceptance of applications for

- apprenticeship or training by any recruitment source, 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 minority persons and women. Where reasonable, provide after-school, summer, and vacation employment to minority and female youth both on the site and in other areas of the Contractor's workforce.
 - (11) Validate all tests and other selection requirements where required 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. Encourage these employees to seek or to prepare for, through appropriate training, etc., opportunities for promotion.
 - (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 Contractor's obligations under this contract are being carried out.
 - (14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user rest rooms and necessary dressing or sleeping areas shall be provided to assure privacy between the sexes.
 - (15) Maintain a record of solicitations for subcontracts for minority and female construction contractors and suppliers, including circulation of solicitations to 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 equal employment policy and affirmative action obligations.
- (h) The Contractor is encouraged to participate in voluntary associations that may assist in fulfilling one or more of the affirmative action obligations contained in subparagraphs (g)(1) through (16) of this clause. The efforts of a contractor association, joint contractor-union, contractor-community, or similar group of which the contractor is a member and participant may be asserted as fulfilling one or more of its obligations under subparagraphs (g)(1) through (16) of this clause, provided the Contractor—
- (1) Actively participates in the group;
 - (2) Makes every effort to ensure that the group has a positive impact on the employment of minorities and women in the industry;
 - (3) Ensures that concrete benefits of the program are reflected in the Contractor's minority and female workforce participation;
 - (4) Makes a good-faith effort to meet its individual goals and timetables; and
 - (5) Can provide access to documentation that demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply is the Contractor's, and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
- (i) A single goal for minorities and a separate single goal for women shall be established. The Contractor 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 Executive Order 11246, as amended, if a particular group is employed in a substantially disparate manner.
- (j) The Contractor shall not use goals or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- (k) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts under Executive Order 11246, as amended.
- (l) The Contractor shall carry out such sanctions and penalties for violation of this clause and of the Equal Opportunity clause, including suspension, termination, and cancellation of existing subcontracts, as may be imposed or ordered under Executive Order 11246, as amended, and its implementing regulations, by the OFCCP. Any failure to carry out these sanctions and penalties as ordered shall be a violation of this clause and Executive Order 11246, as amended.

- (m) The Contractor in fulfilling its obligations under this clause shall implement affirmative action procedures at least as extensive as those prescribed in paragraph (g) of this clause, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of Executive Order 11246, as amended, the implementing regulations, or this clause, the Deputy Assistant Secretary shall take action as prescribed in 41 CFR 60-4.8.
- (n) The Contractor shall designate a responsible official to—
- (1) Monitor all employment-related activity to ensure that the Contractor's equal employment policy is being carried out;
 - (2) Submit reports as may be required by the Government; and
 - (3) Keep records that shall at least include for each employee the name, address, telephone number, construction trade, union affiliation (if any), employee identification number, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, separate records are not required to be maintained.
- (o) Nothing contained herein shall be construed as a limitation upon the application of other laws that establish different standards of compliance or upon the 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).
- (End of Clause)

52.223-1 Clean Air and Water Certification

As prescribed in 23.105(a), insert the following provision in solicitation containing the clause at 52.223-2, Clean Air and Water.

Clean Air and Water Certification (Apr 1984)

The Offeror certifies that –

- (a) Any facility to be used in the performance of this proposed contract is * is not* listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
- (b) The Offeror will immediately notify the Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the EPA, indicating that any facility that the Offeror proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and
- (c) The Offeror will include a certification substantially the same as this certification, including this paragraph (c), in every non-exempt subcontract.

(End of Provision)

52.223-5 -- Pollution Prevention and Right-to-Know Information (Apr 1998)

As prescribed in 440401979:23.1005, insert the following clause:

Pollution Prevention and Right-to-Know Information (Apr 1998)

- (a) Executive Order 12856 of August 3, 1993, requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C.11001-11050) and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C.13101-13109).
- (b) The Contractor shall provide all information needed by the Federal facility to comply with the emergency planning reporting requirements of Section 302 of EPCRA; the emergency notice requirements of Section 304 of EPCRA; the list of Material Safety Data Sheets required by

Section 311 of EPCRA; the emergency and hazardous chemical inventory forms of Section 312 of EPCRA; the toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction and recycling information required by Section 6607 of PPA; and the toxic chemical reduction goals requirements of Section 3-302 of Executive Order 12856.

(End of Clause)

52.223-6 -- Drug-Free Workplace (Jan 1997)

As prescribed in 440401948:23.505, insert the following clause:

Drug-Free Workplace (Jan 1997)

(a) Definitions. As used in this clause—

“Controlled substance” means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C.812) and as further defined in regulation at 21 CFR 1308.11 -- 1308.15.

“Conviction” means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

“Criminal drug statute” means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

“Drug-free workplace” means the site(s) for the performance of work done by the Contractor in connection with a specific contract at which employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

“Employee” means an employee of a Contractor directly engaged in the performance of work under a Government contract. “Directly engaged” is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

“Individual” means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall—within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration—

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor’s workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug-free awareness program to inform such employees about—

- (i) The dangers of drug abuse in the workplace;
- (ii) The Contractor’s policy of maintaining a drug-free workplace;
- (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will—

- (i) Abide by the terms of the statement; and
 - (ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;
- (5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
- (6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
- (i) Taking appropriate personnel action against such employee, up to and including termination; or
 - (ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
- (7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b) (1) through (b) (6) of this clause.
- (c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.
- (d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 440401949:23.506, render the Contractor subject to suspension of contract payments, termination of the contract or default, and suspension or debarment.
- (End of Clause)

52.224-1 -- Privacy Act Notification (Apr 1984)

As prescribed in 439353352:24.104, insert the following clause in solicitations and contracts, when the design, development, or operation of a system of records on individuals is required to accomplish an agency function:

Privacy Act Notification (Apr 1984)

The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 (5 U.S.C.552a) and applicable agency regulations. Violation of the Act may involve the imposition of criminal penalties.

(End of Clause)

52.224-2 -- Privacy Act (Apr 1984)

As prescribed in 439353352:24.104, insert the following clause in solicitations and contracts, when the design, development, or operation of a system of records on individuals is required to accomplish an agency function:

Privacy Act (Apr 1984)

- (a) The Contractor agrees to—
 - (1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies—

- (i) The systems of records; and
 - (ii) The design, development, or operation work that the contractor is to perform;
 - 2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a system of records on individuals that is subject to the Act; and
 - (3) Include this clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a system of records.
- (b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor is considered to be an employee of the agency.
- (c)
- (1) "Operation of a system of records," as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.
 - (2) "Record," as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.
 - (3) "System of records on individuals," as used in this clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(End of Clause)

52.228-5 -- Insurance—Work on a Government Installation (Jan 1997)

As prescribed in 435159103:28.310, insert the following clause:

Insurance—Work on a Government Installation (Jan 1997)

- (a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.
- (b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective—
 - (1) For such period as the laws of the State in which this contract is to be performed prescribe; or
 - (2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.
- (c) The Contractor shall insert the substance of this clause, including this paragraph ©, in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the

contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

(End of Clause)

52.229-3 -- Federal, State, and Local Taxes (Jan 1991)

As prescribed in 434110485:29.401-3, insert the following clause:

Federal, State, and Local Taxes (Jan 1991)

- (a) **“Contract date,”** as used in this clause, means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

“All applicable Federal, State, and local taxes and duties,” as used in this clause, means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

“After-imposed Federal tax,” as used in this clause, means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

“After-relieved Federal tax,” as used in this clause, means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

- (b) The contract price includes all applicable Federal, State, and local taxes and duties.
- (c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.
- (d) The contract price shall be decreased by the amount of any after-relieved Federal tax.
- (e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.
- (f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.
- (g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.
- (h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

(End of Clause)

52.229-9000 – Indiana Sales and Use Tax (Jan 1971)

INDIANA SALES AND USE TAX (JAN 1971)

- (a) This contract is a construction which contains separate amounts applicable to the performance of the services and the furnishing of the materials as defined in State of Indiana, Department of Revenue Circular ST-21 (Revised) dated 1 July 1969. Notwithstanding any other provisions of this contract, the contract price

does not include any amount for Indiana Sales and Use Tax on materials to be incorporated by the contractor or any Subcontractor into the structure or improvement to real estate. The contractor or any subcontractor should provide his supplier with a State of Indiana General Exemption Certificate (Form ST – 105) with respect to such property.

52.232-18 -- Availability of Funds (Apr 1984)

As prescribed in 430971916:32.705-1(a), insert the following clause in solicitations and contracts if the contract will be chargeable to funds of the new fiscal year and the contracting action is to be initiated before the funds are available:

Availability of Funds (Apr 1984)

Funds are not presently available for this contract. The Government's obligation under this contract is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are made available to the Contracting Officer for this contract and until the Contractor receives notice of such availability, to be confirmed in writing by the Contracting Officer.

(End of Clause)

52.232-23 -- Assignment of Claims (Jan 1986)

As prescribed in 430972937:32.806(a) (1), insert the following clause:

Assignment of Claims (Jan 1986)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C.3727, 41 U.S.C.15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

(End of Clause)

52.236-5 -- Material and Workmanship (Apr 1984)

As prescribed in 426770475:36.505, insert the following clause:

Material and Workmanship (Apr 1984)

(a) All equipment, material, and articles incorporated into the work covered by this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.(b) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and

rating of the machinery and mechanical and other equipment. When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. When directed to do so, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

(c) All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may require, in writing, that the Contractor remove from the work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.
(End of Clause)

52.236-11 -- Use and Possession Prior to Completion (Apr 1984)

As prescribed in 426770481:36.511, insert the following clause:

Use and Possession Prior to Completion (Apr 1984)

(a) The Government shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the Government intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Government's possession or use shall not be deemed an acceptance of any work under the contract.

(b) While the Government has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the work resulting from the Government's possession or use, notwithstanding the terms of the clause in this contract entitled "Permits and Responsibilities." If prior possession or use by the Government delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

(End of Clause)

52.236-13 -- Accident Prevention (Nov 1991)

As prescribed in 426770483:36.513, insert the following clause:

Accident Prevention (Nov 1991)

(a) The Contractor shall provide and maintain work environments and procedures which will—

- (1) Safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities;
- (2) Avoid interruptions of Government operations and delays in project completion dates; and
- (3) Control costs in the performance of this contract.

(b) For these purposes on contracts for construction or dismantling, demolition, or removal of improvements, the Contractor shall—

- (1) Provide appropriate safety barricades, signs, and signal lights;
- (2) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910; and
- (3) Ensure that any additional measures the Contracting Officer determines to be reasonably necessary for the purposes are taken.

(c) If this contract is for construction or dismantling, demolition or removal of improvements with any Department of Defense agency or component, the Contractor shall comply with all pertinent provisions of the latest version of U.S. Army Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, in effect on the date of the solicitation.

(d) Whenever the Contracting Officer becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or Government personnel, the Contracting Officer shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any stop work order issued under this clause.

(e) The Contractor shall insert this clause, including this paragraph (e), with appropriate changes in the designation of the parties, in subcontracts.

(End of Clause)

Alternate I (Nov 1991). If the contract will involve (a) work of a long duration or hazardous nature, or (b) performance on a Government facility that on the advice of technical representatives involves hazardous materials or operations that might endanger the safety of the public and/or Government personnel or property, add the following paragraph (f) to the basic clause:

(f) Before commencing the work, the Contractor shall—

(1) Submit a written proposed plan for implementing this clause. The plan shall include an analysis of the significant hazards to life, limb, and property inherent in contract work performance and a plan for controlling these hazards; and

(2) Meet with representatives of the Contracting Officer to discuss and develop a mutual understanding relative to administration of the overall safety program.

52.236-14 -- Availability and Use of Utility Services (Apr 1984)

As prescribed in 426770484:36.514, insert the following clause in solicitations and contracts when a fixed-price construction contract or a fixed-price dismantling, demolition, or removal of improvements contract is contemplated, the contract is to be performed on Government sites when the contracting officer decides

- a. that the existing utility system is adequate for the needs of both the Government and the contractor, and
- b. furnishing it is in the Government's interest. When this clause is used, the contracting officer shall list the available utilities in the contract.

Availability and Use of Utility Services (Apr 1984)

(a) The Government shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies, as specified in the contract. Unless otherwise provided in the contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the Government or, where the utility is produced by the Government, at reasonable rates determined by the Contracting Officer. The Contractor shall carefully conserve any utilities furnished without charge.

(b) The Contractor, at its expense and in a workmanlike manner satisfactory to the Contracting Officer, shall install and maintain all necessary temporary connections and distribution lines, and all meters required

to measure the amount of each utility used for the purpose of determining charges. Before final acceptance of the work by the Government, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.
(End of Clause)

52.236-15 -- Schedules for Construction Contracts (Apr 1984)

As prescribed in 426770485:36.515, insert the following clause:

Schedules for Construction Contracts (Apr 1984)

(a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as directed by the Contracting Officer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the Government. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract.
(End of Clause)

52.236-17 -- Layout of Work (Apr 1984)

As prescribed in 426770487:36.517, insert the following clause in solicitations and contracts when a fixed-price construction contract is contemplated and use of this clause is appropriate due to a need for accurate work layout and for siting verification during work performance:

Layout of Work (Apr 1984)

The Contractor shall lay out its work from Government established base lines and bench marks indicated on the drawings, and shall be responsible for all measurements in connection with the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the work. The Contractor shall be responsible for executing the work to the lines and grades that may be established or indicated by the Contracting Officer. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Contracting Officer may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.
(End of Clause)

52.236-7005 - - Salvage Material and Equipment

As prescribed at 36.572-2, insert the following clause:

Salvage Materials and Equipment (Jan 1965)

The contractor shall maintain adequate property control records for all materials or equipment specified to be salvaged. These records may be in accordance with the Contractor's system of property control, if approved by the property administrator. The Contractor shall be responsible for the adequate storage and protection of all salvaged materials and equipment and shall replace, at no cost to the Government, all salvage materials and equipment which are broken and damaged during salvage operations as the result of his negligence, or while in his care.

(End of Clause)

52.236-7006 - - Misplaced Material

As prescribed at 36.573-3, insert the following clause;

Misplace Material (Jan 1965)

Should the Contractor, during the process of the work, lose, dump, throw overboard, sink or misplace any material, plant, machinery, or appliance, which in the opinion of the Contracting Officer may be dangerous to or obstruct navigation, the Contractor shall recover and remove the same with the utmost dispatch. The Contractor shall give immediate notice, with description and location of such obstructions, to the Contracting Officer or inspector, and when required shall mark or buoy such obstructions until the same are removed. Should he refuse, neglect, or delay compliance with the above requirements, such obstructions may be removed by the Contracting Officer, and the cost of such removal may be deducted from any money due or to become due the Contractor, or may be recovered under his bond. The liability of Contractor for the removal of a vessel wrecked or sunk shall be limited to that provided in Section 15, 19 and 20 of the Rover and Harbor Act of March 3, 1899 (33 U.S.C. 410 et seq)

52.236-7008 - - Superintendence of Subcontractors

As prescribed at 36.572-5, insert the following clause

Superintendence of Subcontractors (Jan 1965)

(a) The Contractor shall be required to furnish the following, in addition to the superintendence required by FAR clause at 52.236-6 entitled "SUPERINTENDANCE BY THE CONTRACTOR";

(i) If more than 50% and less than 70% of the value of the work is subcontracted, one superintendent shall be provided at the site and on the contractor's payroll to be responsible for coordinating, directing, inspecting and expediting the subcontract work.

(ii) If 70% or more of the value of the work is subcontracted, the contractor shall be required to furnish two such superintendents to be responsible for coordinating directing, inspecting and expediting the subcontract work.

(b) If the Contracting Officer, at any time after 50% of the subcontracting work has been completed, finds that satisfactory progress is being made, he may waiver all or part of the above requirements for additional superintendence subject to the right of the Contracting Officer to reinstate such requirements if at any time during the progress of the remaining work he finds that satisfactory progress is not being made.
(End of Clause)

52.236-7011 - - Airfield Safety Precautions

Airfield Safety Precautions (Apr 1968)

(a) The operation of all ground equipment (mobile or stationery), the placement of all materials, and the performance of all work, upon and in the vicinity of all airfields, shall be done in accordance with this clause. The requirements of this clause are in addition to any other safety requirements of the contract.

- (b) For purpose of this clause the following definitions shall apply.
- (1) "Landing Areas" means the following:
- (i) the primary surfaces which are comprised of the surface of the runways, the runway shoulders, and the lateral safety zones (the length of each primary surface is the same as the runway length; the width of each primary surface is 2,000 feet (1,000 feet on each side of the runway centerline); (see footnote at end of clause)
 - (ii) the "clean zone" beyond the ends of each runway, i.e. the extension of the "primary surface" for a distance of 1,000 feet beyond each end of the runway;
 - (iii) all taxiways plus the lateral clearance zones along each sides of the length of the taxiways (the outer edge of each lateral clearance zone is laterally 250 feet from the far or opposite edge of the taxiways, i.e. a 70 foot wide taxiway would have a combined width of taxiway and lateral clearance zones of 425 feet); and
 - (iv) all air craft parking aprons plus the area 125 feet in width extending beyond each edge all around the aprons.
- (2) "Safety precaution areas" means those portions of approach departure clearance zones and transitional zones where placement of objects incident to contract performance might result in vertical projections at or above the approach-departure clearance surface of the transitional surface.
- (A) The "approach-departure clearance surface": is an extension of the primary surface and the clear zone at each end of each runway, for a distance of 50,000 feet, first along an inclined (glide angle) and then along a horizontal plane, both flaring symmetrically about the runway centerline extended. The inclined plane (glide angle) begins in the clean zone 200 feet past the end of the runway (and continuous upward at a slope of 50:1, one foot vertically for each 50 feet horizontally) to an elevation of 500 feet above the established airfield elevation; at that point the plane becomes horizontal, continuing at the same uniform elevation to the point of 50,000 feet longitudinally from the beginning of the inclined plane (GLIDE ANGLE) is the same as the width of the clear zone; thence it flares uniformly, reaching the maximum width of 16,000 feet at the end.
- (B) The "approach-departure clearance zone" is the ground area under the approach-departure clearance surface.
- (C) The "transitional surface" is a sideways extension of all primary surfaces, clear zones, and approach-departure clearance surfaces along inclined planes. The inclined plane in each case begins at the edge of the surface. The slope of the inclined plane is 7:1 (one foot vertically for each seven feet horizontally), and it continues to the point of intersection with the inner horizontal surface which is the horizontal plane 150 feet above the established airfield elevation) or the outer horizontal surface (which is the horizontal plane 500 feet above the established airfield elevation), whichever is applicable.
- (D) The "transitional zone" is the ground area under the transitional surface. (It adjoins the primary surface, clean zone and approach-departure clearance zone).
- (c) The Contractor shall report to the Contracting Officer before initiating any work shall notify him of proposed changes of locations and operations.
- (d) Neither equipment nor personnel

52.237-1 -- Site Visit (Apr 1984)

As prescribed in 425721870:37.110(a), insert the following provision:

Site Visit (Apr 1984)

(a) Offeror's or bidders are urged and expected to inspect the site where services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the cost of contract

performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the site constitute grounds for a claim after contract award.

(End of Provision)

52.237-2 -- Protection of Government Buildings, Equipment, and Vegetation (Apr 1984)

As prescribed in 425721870:37.110(b), insert the following clause in solicitations and contracts for services to be performed on Government installations, unless a construction contract is contemplated:

Protection of Government Buildings, Equipment, and Vegetation (Apr 1984)

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price.

(End of Clause)

52.245-2 -- Government Property (Fixed-Price Contracts) (Dec 1989)

As prescribed in 417333258:45.106(b) (1), insert the following clause:

Government Property (Fixed-Price Contracts) (Dec 1989)

(a) *Government-furnished property.*

- (1) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the Government-furnished property described in the Schedule or specifications together with any related data and information that the Contractor may request and is reasonably required for the intended use of the property (hereinafter referred to as "Government-furnished property").
- (2) The delivery or performance dates for this contract are based upon the expectation that Government-furnished property suitable for use (except for property furnished "as is") will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates.
- (3) If Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt of it, notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either repair, modify, return, or otherwise dispose of the property. After completing the directed action and upon written request of the Contractor, the Contracting Officer shall make an equitable adjustment as provided in paragraph (h) of this clause.
- (4) If Government-furnished property is not delivered to the Contractor by the required time, the Contracting Officer shall, upon the Contractor's timely written request, make a determination of the delay, if any, caused the Contractor and shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(b) *Changes in Government-furnished property.*

- (1) The Contracting Officer may, by written notice,
 - (i) decrease the Government-furnished property provided or to be provided under this contract, or
 - (ii) substitute other Government-furnished property for the property to be provided by the Government, or to be acquired by the Contractor for the Government, under this contract.

The Contractor shall promptly take such action as the Contracting Officer may direct regarding the removal, shipment, or disposal of the property covered by such notice.

- (2) Upon the Contractor's written request, the Contracting Officer shall make an equitable adjustment to the contract in accordance with paragraph (h) of this clause, if the Government has agreed in the Schedule to make the property available for performing this contract and there is any—
 - (i) Decrease or substitution in this property pursuant to subparagraph (b)(1) of this clause; or
 - (ii) Withdrawal of authority to use this property, if provided under any other contract or lease.

(c) *Title in Government property.*

- (1) The Government shall retain title to all Government-furnished property.
- (2) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. However, special tooling accountable to this contract is subject to the provisions of the Special Tooling clause and is not subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.
- (3) Title to each item of facilities and special test equipment acquired by the Contractor for the Government under this contract shall pass to and vest in the Government when its use in performing this contract commences or when the Government has paid for it, whichever is earlier, whether or not title previously vested in the Government.
- (4) If this contract contains a provision directing the Contractor to purchase material for which the Government will reimburse the Contractor as a direct item of cost under this contract—
 - (i) Title to material purchased from a vendor shall pass to and vest in the Government upon the vendor's delivery of such material; and
 - (ii) Title to all other material shall pass to and vest in the Government upon—
 - (A) Issuance of the material for use in contract performance;
 - (B) Commencement of processing of the material or its use in contract performance; or
 - (C) Reimbursement of the cost of the material by the Government, whichever occurs first

- (d) *Use of Government property.* The Government property shall be used only for performing this contract, unless otherwise provided in this contract or approved by the Contracting Officer.

(e) *Property administration.*

- (1) The Contractor shall be responsible and accountable for all Government property provided under this contract and shall comply with Federal Acquisition Regulation (FAR) Subpart 45.5, as in effect on the date of this contract.
- (2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound industrial practice and the applicable provisions of Subpart 45.5 of the FAR.
- (3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Contractor shall make such repairs as the Government directs. However, if the Contractor cannot effect such repairs within the time required, the Contractor shall dispose of the property as directed by the Contracting Officer. When any property for which the Government is responsible is replaced or repaired, the Contracting Officer shall make an equitable adjustment in accordance with paragraph (h) of this clause.

- (4) The Contractor represents that the contract price does not include any amount for repairs or replacement for which the Government is responsible. Repair or replacement of property for which the Contractor is responsible shall be accomplished by the Contractor at its own expense.
- (f) *Access.* The Government and all its designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.
- (g) *Risk of loss.* Unless otherwise provided in this contract, the Contractor assumes the risk of, and shall be responsible for, any loss or destruction of, or damage to, Government property upon its delivery to the Contractor or upon passage of title to the Government under paragraph (c) of this clause. However, the Contractor is not responsible for reasonable wear and tear to Government property or for Government property properly consumed in performing this contract.
- (h) *Equitable adjustment.* When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, the Contracting Officer may initiate an equitable adjustment in favor of the Government. The right to an equitable adjustment shall be the Contractor's exclusive remedy. The Government shall not be liable to suit for breach of contract for—
- (1) Any delay in delivery of Government-furnished property;
 - (2) Delivery of Government-furnished property in a condition not suitable for its intended use;
 - (3) A decrease in or substitution of Government-furnished property; or
 - (4) Failure to repair or replace Government property for which the Government is responsible.
- (i) *Final accounting and disposition of Government property.* Upon completing this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government property (including any resulting scrap) not consumed in performing this contract or delivered to the Government. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid to the Government as the Contracting Officer directs.
- (j) *Abandonment and restoration of Contractor's premises.* Unless otherwise provided herein, the Government—
- (1) May abandon any Government property in place, at which time all obligations of the Government regarding such abandoned property shall cease; and
 - (2) Has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or upon contract completion). However, if the Government-furnished property (listed in the Schedule or specifications) is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.
- (k) *Communications.* All communications under this clause shall be in writing.
- (l) *Overseas contracts.* If this contract is to be performed outside of the United States of America, its territories, or possessions, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

(End of Clause)

Alternate I (Apr 1984). As prescribed in 45.106(b)(2), substitute the following paragraph (g) for paragraph (g) of the basic clause:

(g) *Limited risk of loss.*

- (1) The term “Contractor’s managerial personnel”, as used in this paragraph (g), means the Contractor’s directors, officers, and any of the Contractor’s managers, superintendents, or equivalent representatives who have supervision or direction of—
 - (i) All or substantially all of the Contractor’s business;
 - (ii) All or substantially all of the Contractor’s operation at any one plant, laboratory, or separate location at which the contract is being performed; or
 - (iii) A separate and complete major industrial operation connected with performing this contract.
- (2) The Contractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this contract (or, if an educational or nonprofit organization, for expenses incidental to such loss, destruction, or damage), except as provided in subparagraphs (3) and (4) below.
- (3) The contractor shall be responsible for loss or destruction of, or damage to, the Government property provided under this contract (including expenses incidental to such loss, destruction, or damage) --
 - (i) That results from a risk expressly required to be insured under this contract, but only to the extent of the insurance required to be purchased and maintained, or to the extent of insurance actually purchased and maintained, whichever is greater;
 - (ii) That results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement;
 - (iii) For which the Contractor is otherwise responsible under the express terms of this contract;
 - (iv) That results from willful misconduct or lack of good faith on the part of the Contractor’s managerial personnel; or
 - (v) That results from a failure on the part of the Contractor, due to willful misconduct or lack of good faith on the part of the Contractor’s managerial personnel, to establish and administer a program or system for the control, use, protection, preservation, maintenance, and repair of Government property as required by paragraph (e) of this clause.
- (4)
 - (i) If the Contractor fails to act as provided in subdivision (g) (3) (v) above, after being notified (by certified mail addressed to one of the Contractor’s managerial personnel) of the Government’s disapproval, withdrawal of approval, or non-acceptance of the system or program, it shall be conclusively presumed that such failure was due to willful misconduct or lack of good faith on the part of the Contractor’s managerial personnel.
 - (ii) Furthermore, any loss or destruction of, or damage to, the Government property shall be presumed to have resulted from such failure unless the Contractor can establish by clear and convincing evidence that such loss, destruction, or damage—
 - (A) Did not result from the Contractor’s failure to maintain an approved program or system; or
 - (B) Occurred while an approved program or system was maintained by the Contractor.
- (5) If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of, or damage to, the property as set forth above. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of, or damage, to the property while in the subcontractor’s possession or control, except to the extent that the subcontract, with the advance approval of the Contracting Officer, relieves the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all

Government property in as good condition as when received, except for reasonable wear and tear or for its use in accordance with the provisions of the prime contract.

- (6) Upon loss or destruction of, or damage to, Government property provided under this contract, the Contractor shall so notify the Contracting Officer and shall communicate with the loss and salvage organization, if any, designated by the Contracting Officer. With the assistance of any such organization, the Contractor shall take all reasonable action to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the affected Government property in the best possible order, and furnish to the Contracting Officer a statement of—
 - (i) The lost, destroyed, or damaged Government property;
 - (ii) The time and origin of the loss, destruction, or damage;
 - (iii) All known interests in commingled property of which the Government property is a part; and
 - (iv) The insurance, if any, covering any part of or interest in such commingled property.
- (7) The Contractor shall repair, renovate, and take such other action with respect to damaged Government property as the Contracting Officer directs. If the Government property is destroyed or damaged beyond practical repair, or is damaged and so commingled or combined with property of others (including the Contractor's) that separation is impractical, the Contractor may, with the approval of and subject to any conditions imposed by the Contracting Officer, sell such property for the account of the Government. Such sales may be made in order to minimize the loss to the Government, to permit the resumption of business, or to accomplish a similar purpose. The Contractor shall be entitled to an equitable adjustment in the contract price for the expenditures made in performing the obligations under this subparagraph (g) (7) in accordance with paragraph (h) of this clause. However, the Government may directly reimburse the loss and salvage organization for any of their charges. The Contracting Officer shall give due regard to the Contractor's liability under this paragraph (g) when making any such equitable adjustment.
- (8) The Contractor represents that it is not including in the price, and agrees it will not hereafter include in any price to the Government, any charge or reserve for insurance (including any self-insurance fund or reserve) covering loss or destruction of, or damage to, Government property, except to the extent that the Government may have expressly required the Contractor to carry such insurance under another provision of this contract.
- (9) In the event the Contractor is reimbursed or otherwise compensated for any loss or destruction of, or damage to, the Government property, the Contractor shall use the proceeds to repair, renovate, or replace the lost, destroyed, or damaged Government property or shall otherwise credit the proceeds to or equitably reimburse the Government, as directed by the Contracting Officer.
- (10) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss or destruction of, or damage to, Government property. Upon the request of the Contracting Officer, the Contractor shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of, or damage to, Government property, the Contractor shall enforce for the benefit of the Government the liability of the subcontractor for such loss, destruction, or damage.

Alternate II (Jul 1985). As prescribed in 417333258:45.106(b)(3), substitute the following paragraphs (c) and (g) for paragraphs (c) and (g) of the basic clause:

(c) *Title in Government property.*

- (1) The Government shall retain title to all Government-furnished property.
- (2) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. Title to Government property shall not be

affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

- (3) Title to each item of facilities, special test equipment, and special tooling (other than that subject to a special tooling clause) acquired by the Contractor for the Government under this contract shall pass to and vest in the Government when its use in performing this contract commences, or when the Government has paid for it, whichever is earlier, whether or not title previously vested in the Government.
- (4) Title to equipment (and other tangible personal property) purchased with funds available for research and having an acquisition cost of less than \$5,000 shall vest in the Contractor upon acquisition or as soon thereafter as feasible; provided, that the Contractor obtained the Contracting Officer's approval before each acquisition. Title to equipment purchased with funds available for research and having an acquisition cost of \$5,000 or more shall vest as set forth in the contract. If title to equipment vests in the Contractor under this subparagraph ©(4), the Contractor agrees that no charge will be made to the Government for any depreciation, amortization, or use under any existing or future Government contract or subcontract thereunder. The Contractor shall furnish the Contracting Officer a list of all equipment to which title is vested in the Contractor under this subparagraph © (4) within 10 days following the end of the calendar quarter during which it was received.
- (5) Vesting title under this paragraph © is subject to civil rights legislation, 42 U.S.C.2000d. Before title is vested any by signing this contract, the Contractor accepts and agrees that—

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this contemplated financial assistance (title to equipment).

* * * * *

g) *Limited risk of loss.*

- (1) The term "Contractor's managerial personnel", as used in this paragraph (g), means the Contractor's directors, officers, and any of the Contractor's managers, superintendents, or equivalent representatives who have supervision or direction of—
 - (i) All or substantially all of the Contractor's business;
 - (ii) All or substantially all of the Contractor's operation at any one plant, laboratory, or separate location at which the contract is being performed; or
 - (iii) A separate and complete major industrial operation connected with performing this contract.
- (2) The Contractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this contract (or, if an educational or nonprofit organization, for expenses incidental to such loss, destruction, or damage), except as provided in subparagraphs (3) and (4) below.
- (3) The contractor shall be responsible for loss or destruction of, or damage to, the Government property provided under this contract (including expenses incidental to such loss, destruction, or damage) --
 - (i) That results from a risk expressly required to be insured under this contract, but only to the extent of the insurance required to be purchased and maintained, or to the extent of insurance actually purchased and maintained, whichever is greater;
 - (ii) That results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement;
 - (iii) For which the Contractor is otherwise responsible under the express terms of this contract;
 - (iv) That results from willful misconduct or lack of good faith on the part of the Contractor's managerial personnel; or
 - (v) That results from a failure on the part of the Contractor, due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel, to establish and administer a

program or system for the control, use, protection, preservation, maintenance, and repair of Government property as required by paragraph (e) of this clause.

- (4)
- (i) If the Contractor fails to act as provided in subdivision (g) (3) (v) above, after being notified (by certified mail addressed to one of the Contractor's managerial personnel) of the Government's disapproval, withdrawal of approval, or non-acceptance of the system or program, it shall be conclusively presumed that such failure was due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel.
 - (ii) Furthermore, any loss or destruction of, or damage to, the Government property shall be presumed to have resulted from such failure unless the Contractor can establish by clear and convincing evidence that such loss, destruction, or damage
 - (A) Did not result from the Contractor's failure to maintain an approved program or system; or
 - (B) Occurred while an approved program or system was maintained by the Contractor.
- (5) If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of, or damage to, the property as set forth above. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of, or damage, to the property while in the subcontractor's possession or control, except to the extent that the subcontract, with the advance approval of the Contracting Officer, relieves the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for its use in accordance with the provisions of the prime contract.
- (6) Upon loss or destruction of, or damage to, Government property provided under this contract, the Contractor shall so notify the Contracting Officer and shall communicate with the loss and salvage organization, if any, designated by the Contracting Officer. With the assistance of any such organization, the Contractor shall take all reasonable action to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the affected Government property in the best possible order, and furnish to the Contracting Officer a statement of—
- (i) The lost, destroyed, or damaged Government property;
 - (ii) The time and origin of the loss, destruction, or damage;
 - (iii) All known interests in commingled property of which the Government property is a part; and
 - (iv) The insurance, if any, covering any part of or interest in such commingled property.
- (7) The Contractor shall repair, renovate, and take such other action with respect to damaged Government property as the Contracting Officer directs. If the Government property is destroyed or damaged beyond practical repair, or is damaged and so commingled or combined with property of others (including the Contractor's) that separation is impractical, the Contractor may, with the approval of and subject to any conditions imposed by the Contracting Officer, sell such property for the account of the Government. Such sales may be made in order to minimize the loss to the Government, to permit the resumption of business, or to accomplish a similar purpose. The Contractor shall be entitled to an equitable adjustment in the contract price for the expenditures made in performing the obligations under this subparagraph (g)(7) in accordance with paragraph (h) of this clause. However, the Government may directly reimburse the loss and salvage organization for any of their charges. The Contracting Officer shall give due regard to the Contractor's liability under this paragraph (g) when making any such equitable adjustment.
- (8) The Contractor represents that it is not including in the price, and agrees it will not hereafter include in any price to the Government, any charge or reserve for insurance (including any self-insurance fund or reserve) covering loss or destruction of, or damage to, Government property, except to the extent that the Government may have expressly required the Contractor to carry such insurance under another provision of this contract.

- (9) In the event the Contractor is reimbursed or otherwise compensated for any loss or destruction of, or damage to, the Government property, the Contractor shall use the proceeds to repair, renovate, or replace the lost, destroyed, or damaged Government property or shall otherwise credit the proceeds to or equitably reimburse the Government, as directed by the Contracting Officer.
- (10) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss or destruction of, or damage to, Government property. Upon the request of the Contracting Officer, the Contractor shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of, or damage to, Government property, the Contractor shall enforce for the benefit of the Government the liability of the subcontractor for such loss, destruction, or damage.

52.245-3 -- Identification of Government-Furnished Property (Apr 1984)

As prescribed in 417333258:45.106©, insert the following clause, in addition to the clause at 410040324:52.245-2, Government Property (Fixed-Price Contracts), in solicitations and contracts when a fixed-price construction contract is contemplated under which the Government is to furnish Government property f.o.b. railroad cars at a specified destination or f.o.b. truck at the project site. The contract Schedule shall specify the point of delivery and may include special terms and conditions covering installation, preparation for operation, or equipment testing by the Government or by another contractor.

Identification of Government-Furnished Property (Apr 1984)

- (a) The Government will furnish to the Contractor the property identified in the Schedule to be incorporated or installed into the work or used in performing the contract. The listed property will be furnished f.o.b. railroad cars at the place specified in the contract Schedule or f.o.b. truck at the project site. The Contractor is required to accept delivery, pay any demurrage or detention charges, and unload and transport the property to the job site at its own expense. When the property is delivered, the Contractor shall verify its quantity and condition and acknowledge receipt in writing to the Contracting Officer. The Contractor shall also report in writing to the Contracting Officer within 24 hours of delivery any damage to or shortage of the property as received. All such property shall be installed or incorporated into the work at the expense of the Contractor, unless otherwise indicated in this contract.
- (b) Each item of property to be furnished under this clause shall be identified in the Schedule by quantity, item, and description.

(End of Clause)

52.246-21 -- Warranty of Construction (Mar 1994)

As prescribed in 416284733:46.710(e) (1), the contracting officer may insert a clause substantially as follows in solicitations and contracts when a fixed-price construction contract (see 416284728:46.705©) is contemplated, and the use of a warranty clause has been approved under agency procedures:

Warranty of Construction (Mar 1994)

- (a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (i) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.
- (b) This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If the Government takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date the Government takes possession.
- (c) The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Government-owned or controlled real or personal property, when that damage is the result of—

- (1) The Contractor's failure to conform to contract requirements; or
 - (2) Any defect of equipment, material, workmanship, or design furnished.
- (d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.
 - (e) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.
 - (f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the Government shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.
 - (g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall—
 - (1) Obtain all warranties that would be given in normal commercial practice;
 - (2) Require all warranties to be executed, in writing, for the benefit of the Government, if directed by the Contracting Officer; and
 - (3) Enforce all warranties for the benefit of the Government, if directed by the Contracting Officer.
 - (h) In the event the Contractor's warranty under paragraph (b) of this clause has expired, the Government may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.
 - (i) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the Government nor for the repair of any damage that results from any defect in Government-furnished material or design.
 - (j) This warranty shall not limit the Government's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.
- (End of Clause)

Alternate I (Apr 1984). If the Government specifies in the contract the use of any equipment by "brand name and model," the contracting officer may add a paragraph substantially the same as the following paragraph (k) to the basic clause:

- (k) Defects in design or manufacture of equipment specified by the Government on a "brand name and model" basis, shall not be included in this warranty. In this event, the Contractor shall require any subcontractors, manufacturers, or suppliers thereof to execute their warranties, in writing, directly to the Government.

52.249-10 -- Default (Fixed-Price Construction) (Apr 1984)

As prescribed in 413139034:49.504© (1), insert the following clause:

Default (Fixed-Price Construction) (Apr 1984)

- (a) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.
- (b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if—

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include—

- (i) Acts of God or of the public enemy,
- (ii) Acts of the Government in either its sovereign or contractual capacity,
- (iii) Acts of another Contractor in the performance of a contract with the Government,

(iv) Fires,

(v) Floods,

(vi) Epidemics,

(vii) Quarantine restrictions,

(viii) Strikes,

(ix) Freight embargoes,

(x) Unusually severe weather, or

(xi) Delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes clause.

(c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Government.

(d) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of Clause)

Alternate I (Apr 1984). If the contract is for dismantling, demolition, or removal of improvements, substitute the following paragraph (a) for paragraph (a) of the basic clause:

(a)

- (1) If the Contractor refuses or fails to prosecute the work, or any separable part, with the diligence that will insure its completion within the time specified in this contract, including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work or the part of the work that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work.
- (2) If title to property is vested in the Contractor under this contract, it shall re-vest in the Government regardless of any other clause of this contract, except for property that the Contractor has disposed of by bona fide sale or removed from the site.
- (3) The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the

Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

Alternate II (Apr 1984). If the contract is to be awarded during a period of national emergency, subparagraph (b)(1) below may be substituted for subparagraph (b)(1) of the basic clause:

- (1) The delay in completing the work arises from causes other than normal weather beyond the control and without the fault or negligence of the Contractor. Examples of such causes include—
 - (i) Acts of God or of the public enemy,
 - (ii) Acts of the Government in either its sovereign or contractual capacity,
 - (iii) Acts of another Contractor in the performance of a contract with the Government,
 - (iv) Fires,
 - (v) Floods,
 - (vi) Epidemics,
 - (vii) Quarantine restrictions,
 - (viii) Strikes,
 - (ix) Freight embargoes,
 - (x) Unusually severe weather, or
 - (xi) Delays of subcontractors or suppliers at any tier arising from causes other than normal weather beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

Alternate III (Apr 1984). If the contract is for dismantling, demolition, or removal of improvements and is to be awarded during a period of national emergency, substitute the following paragraph (a) for paragraph (a) of the basic clause. The following subparagraph (b) (1) may be substituted for subparagraph (b) (1) of the basic clause:

- (a)
 - (1) If the Contractor refuses or fails to prosecute the work, or any separable part, with the diligence that will insure its completion within the time specified in this contract, including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work or the part of the work that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work.
 - (2) If title to property is vested in the Contractor under this contract, it shall revert in the Government regardless of any other clause of this contract, except for property that the Contractor has disposed of by bona fide sale or removed from the site.
 - (3) The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.
- (b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if—
 - (1) The delay in completing the work arises from causes other than normal weather beyond the control and without the fault or negligence of the Contractor. Examples of such causes include—
 - (i) Acts of God or of the public enemy,
 - (ii) Acts of the Government in either its sovereign or contractual capacity,
 - (iii) Acts of another Contractor in the performance of a contract with the Government,
 - (iv) Fires,
 - (v) Floods,

- (vi) Epidemics,
- (vii) Quarantine restrictions,
- (viii) Strikes,
- (ix) Freight embargoes,
- (x) Unusually severe weather, or
- (xi) Delays of subcontractors or suppliers at any tier arising from causes other than normal weather beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

LABOR REPORTS:

The Contractor shall promptly furnish, and shall cause any subcontractor to furnish in like manner, within seven days after the regular payment date of each weekly payroll, to the Contracting Officer, a copy of such payroll together with a sworn affidavit with respect to the wages paid each of its employees (which shall not be deemed to apply to persons in classifications higher than laborers and mechanics and those who are the immediate supervisors of such employees) engaged on the work. The Contractor shall also prepare and furnish such labor reports as may be required by the Department of Labor.

STATEWIDE CLASSIFICATIONS AND DESCRIPTIONS FOR DETERMINING
RATES FOR BUILDING CONSTRUCTION

In determining rates for classifications, consideration will be given to the historic nature of the work and prevailing practices within an area. These classifications are for determining rates, not jurisdiction.

1. ASBESTOS WORKERS

Applies and removes all insulation materials on all mechanical structures, pipes, boilers, ducts, flues, breechings, etc.; application of damming and fireproofing materials for penetration seals.

2. ASBESTOS ABATEMENT – SKILLED

Supervisor/Competent person supervises asbestos abatement workers and/or constructs the containment areas.

3. ASBESTOS – ABATEMENT – (MECHANICAL SYSTEMS WHICH REMAIN IN PLACE

Cuts and removes asbestos material from mechanical systems, (pipes, boilers, ducts, flues, breechings, etc.); constructs or erects scaffolding; seals off work area with sheets of plastic visqueen or any material; sets up air monitors and negative air machines; sets up clean rooms; wets asbestos with a wetting agent; double bags, seals and marks asbestos debris; removes bags of asbestos debris from the contaminated area; cleans up the sealed off area; cleans all mechanical systems and scaffolding; disassembles scaffolding; takes down sheets of plastic visqueen and prepares same for disposal.

4. ASBESTOS ABATEMENT – (NON-MECHANICAL)

Removes asbestos material from non-mechanical systems, (floors, ceilings, walls, etc.) and mechanical systems (boilers, ducts, flues, breechings, etc.) which are being scrapped.

5. BOILERMAKER

Assembles, erects and repairs boilers and related equipment, attachments and accessories. Include laying out, cutting, fitting and bolting, welding or riveting heavy metal plates, boiler tubes and castings, and all other work associated with the erection and repair of boilers and related equipment.

6. BRICKLAYER

Lays building materials such as brick, structural tile, concrete cinder, glass, gypsum, terra cotta block (except stone) to construct or repair walls, partitions, arches, and other structures. Measures distance from reference points and marks guidelines on working surface to lay out work. Spreads and applies mortar, removes excess mortar, finishes mortar. Breaks bricks to fit spaces too small for whole brick, fastens brick or terra cotta veneer to face of structures with tie wires embedded in mortar between bricks or in anchor holes in veneer brick, and all other work associated with the laying of building materials such as; brick, structural tile, concrete cinder, glass, gypsum and terra cotta block (except stone).

7. CARPENTER

Constructs, erects, installs and repairs structures and fixtures of wood, plywood and wallboard. Studies blueprints, selects specified type of lumber or other materials, prepares layout, marks cutting and assembly lines, shapes materials to prescribed measurements, assembles cut and shaped materials and fastens them together, verifies trueness of structure with plumb bob and carpenter's level, erects framework for structures and lays sub flooring, builds stairs, lays out and installs partitions and cabinet work, covers sub floor with building paper to keep out moisture and lays hardwood, parquet and wood strip block floors by nailing to sub floor or cementing to mastic or asphalt base, applies shock-absorbing, sound-deadening and decorative paneling to ceilings and walls, fits and installs prefabricated window frames, doors and doorframes, weather stripping, interior and exterior trim, installs finish hardware such as locks, letter drops and kick plates, constructs forms and wooden chutes for pouring concrete, erects scaffolding and ladders for assembling structures above ground level, and all other work associated with the construction, erection, installation or repair of structures and fixtures of wood, plywood, and wallboard.

8. CARPETLAYER

Lays carpet, rugs and linoleum including measuring, cutting, sewing, and trimming carpet to fit along wall edges, openings and projections; installs composition, plastics, Venetian blinds; install carpet on walls, ceiling and any composition base tile or linoleum and any other accessory to carpet.

9. CEMENT MASON – SKILLED

All concrete construction, including foremanship of the same, such as buildings, silos, elevators, smoke stacks, curbs, and gutters, sidewalks, and roofs, or mass or reinforced concrete slabs and flat surfaces of cement. The operation and control of all types of vacuum mats used in the drying of cement floors in preparing same for finish, the operation of power driven floats and troweling machines. The finishing or washing of all concrete construction, using any color pigment when mixed with cement, in any other form—mosaic and nail coat whether done by brush, broom, trowel, float, or any other process including operation of machine scoring floors, or any other purpose they may be used for in connection with Cement Mason's Trade. The rodding, spreading, and tamping of all concrete and the spreading and finishing of all top materials, sills, coping, steps, stairs, and risers, running all cement, and plastic material 6" base or less shall be the work for Cement Mason, all preparatory work on concrete construction, the setting of screeds of lumber, metal or other materials to determine the proper grade of concrete, when used to serve as forms, such as 2 by 4's or other plain pieces of materials, when held in place by stakes and or spreaders shall be done by Cement Masons. Any bulkhead that is one single board in height, and that has no key attached or which is not notched or fitted shall be set and braced or staked by

Cement Mason, providing it is used as a screed. The pointing and patching and caulking around all steel and metal window frames that touch concrete. The operation of all gas or electric powered concrete saws when used for cutting a definite line where new concrete must be joined to old concrete. For any decorative purposes. The setting or nailing of all expansion joint materials when used for the purpose of grading concrete when taking place of a screed.

The finishing of gypsum material roof. The spreading and finishing of latex materials when used for patching and leveling floors. All dry packing, grouting and finishing in connection with setting all machinery such as engines, pumps, generators, air compressors, tanks, leveling plates, etc., that is set on concrete foundations. All prefabricated and pre-stressed concrete construction; including the supervision of same, such as sidewalks, steps, floor slabs, beams, joists, walls, and columns, also the screeding, finishing, rubbing, grouting, pointing and patching of same. The straight edging and, or finishing of all foundations and walls when poured to a definite grade.

When troweling in hardeners of all concrete where chemicals are used.

The spreading, screeding, darbying, trowel finishing of all types of magnesium oxychloride cement composition floors shall be the work of the magnetite composition cement mason, including all types of oxychloride granolithic or terrazzo composition floors, hand grinding or machine grinding, the preparation of all sub-floor surfaces, bonding, the preparation and installation of ground or base courses, steps and cove base.

The waterproofing of all work included in this classification such as ironite, hydrocide or mastic and any similar products, regardless of the tools used or the method of application, or color of materials used and regardless of the type of base these materials may be applied to. The placing and bedding of all perforated metal tile in concrete or grout.

10. DRYWALL FINISHER

Points, tapes, finishes and sands all joints, nail holes, corner beads and blemishes on drywall surfaces, regardless of the type of materials or tools used; applies decorative textures to all surfaces.

11. DRYWALL INSTALLER

Installs plasterboard or other wall board to ceilings and interior walls of building, installs horizontal and vertical metal studs for attachment of wall board on interior walls, cuts angle iron and channel iron from ceiling using wire, scribes measurements on wallboard, cuts wallboard to size, cuts out openings for electrical and other outlets, nails wallboard to wall and ceiling supports, trims rough edges from wallboard to maintain even joints, nails prefabricated metal pieces around windows and doors and between dissimilar materials to protect drywall edges, and all other work associated with the installation of plasterboard or other wallboard to ceilings and interior walls.

12. ELECTRICIAN

Plans layout, installs, repairs, and handles in its entirety, wiring, electrical fixtures, apparatus, and control equipment not covered within the scope of Sound and Communication; measures, cuts, bends, threads, assembles, devise, and perform means for the installation of, and installs all conduit and raceways; pulls wiring through conduit, and on/in any structure so designed to support electrical wiring; installs controls and distribution apparatus such as switches, relays, panels, programmable computers, receptacles, etc.; connects power cables and branch circuits to equipment, and installs grounding wiring and/or devices; tests continuity of circuits too insure electrical compatibility and safety components; observes functioning of installed equipment to detect hazards and/or performs need for adjustments; locates, relocates, replaces, and all other work associated with the installation and repairing of wiring, electrical fixtures, apparatus, and control equipment.

13. ELEVATOR CONSTRUCTION

Assembles, handles and installs electric and hydraulic freight and passenger elevators, escalators, and dumbwaiters, determining layout and electrical connections from blueprints, pay out location of framework, counterbalance rails, motor pump, cylinder and plunger foundations, drills holes on concrete or structural steel members, secures anchor bolts or welds brackets to support rails and framework, verifies alignment with plum bob and level, cuts prefabricated sections of framework, rails and other elevator components to specified dimensions, installs cables, counterweights, pumps, motor foundations, escalator drives, guide rails, elevator entrances and sills, elevator cars and control panels, connects electrical wiring to control panels and electric motors, installs conduit to all electrical control devices,

safety and control devices, positions electric motor equipment on top of elevator shaft using hoists and cable slings, and all other work associated with the assembly and installation of electric and hydraulic freight and passenger elevators, escalators and dumbwaiters; the performance of any and all repair, maintenance, adjusting, contract service, and/or on-call classification of work.

14. GLAZIER

Installs glass in windows, skylights, store fronts and display cases, or on surfaces such as building fronts, interior walls, ceilings and tabletops; marks outline or pattern on glass, cuts glass, breaks off excess glass, fastens glass panes into wood sash with glazier's points, spreads and smoothes putty around edge of panes with knife to seal joints, installs mirrors or structural glass on building fronts, walls, ceilings or tables, bolts metal hinges, handles, locks and other hardware to prefabricated glass doors, set glass doors into frame and fits hinges, may install metal window and door frames into which glass panels are to be fitted, may press plastic adhesive film to glass or spray glass with tinting solution to prevent light glare, may install stained glass windows, may assemble and install metal framed glass enclosures for showers, and all other work associated with the installation of glass in windows, skylights, store fronts and display cases or on surfaces such as; building fronts, interior walls, ceilings and tabletops.

15. HOD CARRIER

Mixes and conveys mortar and bricks and tends mason. Builds scaffolds and places planks for masons.

16. IRONWORKER

Erects, installs, handles, secures, plumbs, and aligns girders, columns, trusses, and other structural steel members to form completed structures and frameworks, as well as all associated sheeting and decking; installs reinforcing steel for concrete and does all rigging and handling required; erects, installs, secures, plumbs, and aligns pre-cast and/or pre-stressed concrete girders, columns, trusses, and other structural type members and loads and unloads same; installs and secures chain link fence; does hooking on to, and hoisting and placing on the foundation, all heavy machinery and all heavy electrical equipment.

17. LABORER – SKILLED

Working foreman who oversees the duties of all workers classified as laborers; blasting, shooting, scaling, bottom work on installation, sheeting, hand trenching for sewer, air, water, and conduit lines. Drillers and shooters for explosives, laborer specialists.

18. LABORER – SEMI-SKILLED

The tending of masons and plasterers, shall consist of preparation of all materials and the handling and conveying by hand of materials to the point of erection or installation; scaffold erection, planking, bolting, lining, leveling, bracing, and total dismantling of same. This includes staging, signing, and hanging scaffolds. The cutting, burning or otherwise cutting all steel structural beams, pipes, supports, and other building components related to demolition; jackhammer, burner, air tools, cement, vibrator, and grinder; hand work on hazardous waste; work on installation and sheeting. Unloads and distributes fence and pours concrete posts.

19. LABORER – UNSKILLED

Unless excluded otherwise the tending of Building Construction Crafts shall consist of the preparation and handling, of materials to the point of erection or installation and the hand loading, unloading, handling and distribution of materials; hand digging of all ditches for any purpose, the hand excavation of all piers, foundations, holes, and trenches, mixing and pouring of concrete and related work; concrete, bituminous concrete or aggregates for walls, footings, foundations, floors, and for any other construction; all vibrating, spreading, flowing, puddling of aggregates by hand; wrecking, stripping, dismantling and handling concrete forms and false work. Handling of creosote lumber, hand held earth compactors, motor driven wheelbarrows and concrete buggies, pump crete assemblers, cement, lime or silica clay handlers, pneumatic spikes screed man or screw operator on asphalt paver and chain saw operator, manhole erectors, hand cutting of streets and surfaces for sewers, air lines, water lines and conduit joints on gravity sever and sub-surface to the building line with the exception of traditional plumbing and pipefitting work in Section 28 and 30. Rakes asphalt; any general labor on building construction not designated to any other classification of work including but not limited to digging, shoveling, hand leveling dirt and gravel, hand lifting and carrying or holding building materials, tools and supplies; clean tools, materials and work areas; and may assist in tearing down forms that are being scrapped; clears, fills, backfills, grades, and landscapes by hand all sites; traffic control. Portable temporary heat. Rodman.

20. MILLWRIGHT

Installs machinery and equipment according to layout plans, blueprints and other drawings in industrial establishment, reads blueprints and schematic drawings to determine work procedures. Dismantles machines, moves machinery and equipment, assembles and installs equipment such as shafting, conveyors and tram rails, constructs foundation for machines using hand tools and building materials such as wood, cement and steel. Aligns machines and equipment, assembles machines and bots, welds, rivets or otherwise fastens them to foundation or other structures, may operate engine lathe to grind, file and turn machine parts to dimensional specifications, may repair and lubricate machines and equipment.

21. OPERATING ENGINEERS

Operates all power equipment irrespective of motive of power associated with or incidental to construction work of the following nature: building (commercial, industrial, etc.), quarries, mining, underground utilities (gas, oil, water, sewer, etc.), dredging, wrecking, demolition, and hazardous waste operations. Power equipment shall include, but not be limited to, all hoisting, excavating, drilling, and portable electric equipment such as; pumps, generators, welders, compressors, and boilers. Operating Engineers shall also erect, dismantle, repair and maintain all power equipment.

Group I.

Air Compressors 600 Cu. Ft. and over, Two Air Compressors, Apsco Paver, Asphalt Plant Engineers or Pug Mill, Back Filler, Backhoe, Barber Green Loader, Boiler Operator, Boom Tractor, Boom or Winch Truck, Boring Machine, Brush Mulcher, Bulldozer, Bilk Cement Plant, CMI or Similar Type Machine, Cableways, Central Mix Plant Engineer, Chair Cart (Self-Propelled), Cherry Picker, Chip Spreader, Concrete or Asphalt Milling Machine, Concrete Mixers with Skip, Concrete Plant Engineers, Concrete Pump, Concrete Spreader, Curing Machine, Derricks, Ditching Machine 6” and over, Ditching Machine with Dual Attachment, Draglines, Dredge Engineers, Dredge Operator, Dredging Equipment, Drilling Machine, including Well Testing, Caissons, Shaft or any similar type Drilling Machine, Electric Overhead Cranes, Elevating Machine, Engine or Rock Crusher Plant, Euclid Loader, Farm Tractor with Attachment, Finish Machine, Forklift (except when used for landscaping work), Formless Paver, Freezing Operator, Gradall, Gravel Processing Machine, Head Equipment Greasers, Helicopter Crew (3), Hydra Ax, Hydra Crane, Incinerator Operator, Loaders, Lull (or similar type machine), Marine Scoops,

Mechanics, Mesh Placer, Mixer over 14S Capacity, Motor Patrol, Mudcat, One Drum Hoists with Tower or Boom, Pavement Breaker (Self-Propelled), Paver Operator, Paint Machine, Pile Driver (Skid or Crawler), Pipe Bending Machine, Pipe Cleaning Machine, Pipe Wrapping Machine, 4 Post Lift System (Power Lift or similar type), Post Hole Digger (when attached to the equipment), Power Blade, Power Broom (Self-Propelled), Power Cranes, Power Shovel, Power Sub-Grader, Push Tractor, Refrigerating Machine, Repair and Maintenance of All Equipment, Rock Spreader, Rollers on Asphalt, Gravel, Macadam and Brick Surface, Large Roller on Earth, Root Rake, Ross Carrier or Similar Machine, Scoop-Mobiles, Skid Steer (Bobcat or similar type), Soil Cement Machines, Soil Stabilizer (Seaman Tiller, Bo Mag, Rago Gater and similar types), Snooper Truck Operator, Span Saw (and similar types), Standard or Dinky Locomotives, Stump Remover, Tampers (other than hand operated), Tournadozer, Tournamixer, Tournapull, Tower Machines, Tractor Highlift, Tractor Operating Scoops, Tractors Without Winch, Tree Mover, Trimmer, Truck Crane, Truck or Skid Mounted Tower Crane, Tug Boat Operator, Two Drum Machine, Two Cage Hoist, Well Point System, Winch or Hydraulic Boom Truck.

Group II.

Air Compressor under 600 Cu. Ft., Air Tugger, Air Valves or Steam Valves from Plant, Barrell Type Mixer, Bull Float, Concrete Mixers without Skip, Conveyor, Deck Hands, Distributor Operator on Trucks, Ditching Machine under 6", Engine Tenders, Equipment Greaser, Fireman, Flex Plane, Forklift (when used for landscaping work), Form Grader, From Tamper, Gunite Machine, House Elevators (when used for hoisting material), Mixers – 14S Capacity or less, Mud Jack, Oilers, One Drum Machine, One Welding Machine, One Water Pump, Operators to do winter repair work in shop between November 1st and March 1st, Rock Crusher, Siphon and Pulsometer, Rollers on Earth, Snooper Truck Helper, Striping Machine (Motor Driven), Super Sucker (and similar type), Switchman, Track Jack, Truck Crane Drivers – Oilers, Two to Four Generators or Welding Machines, Two to Four Water Pumps, Wagon Drill.

22. PAINTER-BRUSH OR ROLL

Applies coats of paint, varnish, stain, enamel or lacquer to decorate and protect interior or exterior surfaces, trimmings, fixtures of buildings and other structures including sign and pictorial painting, mural and scenic painting; smoothes surfaces using sandpaper, brusher or steel wool and removes old paint from surfaces for painting; fills nail holes, cracks and joints with putty, plaster or other filler; selects premixed paints or mixes required portions of substance to prepare paint; paints surfaces using brushes, or paint rollers; erects scaffolding or sets up ladders to perform tasks above ground level, takes care of all tools and equipment used by painters; and all other work associated with the application of paint, varnish, stain, enamel or lacquer to buildings and other structures.

23. PAINTER – SPRAY/SANDBLAST

Applies coats of paint, varnish, stain, enamel or lacquer using spray gun, removes old paint from surfaces using blowtorch or sandblaster. Removes said coating or cleans surfaces to receive coatings, using liquid, steam, water blast, sandblast, or any other power tools necessary.

24. PAPERHANGER

Applies all material of whatever kind or quality to walls or ceilings, with paste or adhesive, and tacks on muslin or other material which is used as wall or ceiling coverings or covered with material pasted on; removes said materials by whatever method necessary (scraping, steaming, etc.).

25. PIPEFITTERS & STEAMFITTERS

Lays out, fabricates, assembles, installs, handles and maintains piping and piping systems, fixtures and equipment for steam, hot water, heating, cooling, lubricating, sprinkling and industrial processing systems, cuts pipe, threads pipe, bends pipe, assembles and installs by any means, pipe fittings including those made of iron, brass, copper, lead, glass, plastic and fiberglass, joins pipe, secures pipes to structure, installs and maintains refrigeration and air-conditioning systems, tests piping system for leaks, may weld holding fixtures to structural steel members, installs piping systems that must withstand pressure and all other work associated with the lay out, fabrication, assembly, installation and maintenance of piping systems. Sets all equipment and reinforcement thereto.

26. PLASTERER – SKILLED

All interior or exterior plastering cement, stucco, stone imitation, dryvit, sto, R-wall, Sure-Wall, and all other Outsulation materials, and all similar materials pertaining to the plastering industry or any patent material when cast, the setting of same, and also corner heads when stuck. This includes the plastering and finishing with hot composition material in vats, compartments or wherever applied; also taping and pointing of all joints, nail holes and bruises on wallboard, regardless of the type of materials or tools used; also the setting in place of plasterboards, ground blocks, patent dots, cork plates, Styrofoam, brownstone, and acoustical tile including temporary nailing, cutting, and fitting in connection with the sticking of same. All acoustic blocks when stuck with any plastic materials, regardless of thickness. The sticking, nailing and screwing of all composition caps and ornaments. The preparing, scratching and browning of all ceilings and walls when finished with terrazzo, or tile.

All moldings run in place and all staff work, the making of templates and herring of molds in and on buildings.

27. PLUMBER

Assembles, installs, handles and repairs pipes, fittings and fixtures of heating, water and drainage systems according to specifications and plumbing codes, studies building plans and working drawings to determine work aids required and sequence of installations, inspects structure to ascertain obstructions to be avoided to prevent weakening of structure resulting from installation of pipe, locates and marks position of pipe and pipe connections and passage holes for pipes in walls and floors, cuts and threads pipe, bends pipe to required angle, assembles and installs valves, pipe fittings and pipes, joins pipes, fills pipe system with water or air and reads pressure gages to determine whether system is leaking, installs and repairs plumbing fixtures, repairs and maintains plumbing, may weld holding fixtures to steel structural members. Lays pipe and make joints and connectors on water, air, sewers, and other piping within the building line.

28. POINTER/CLEANER/CAULKER

Sprays materials such as water, sand, steam, vinyl, paint or stucco through hose to clean, coat or seal surfaces, applies caulking compounds to seal crevices, grinds, sands or polishes surfaces such as; concrete, marble, terrazzo or wood flooring using abrasive tools or machines and all other work associated with the cleaning, sealing and caulking of surfaces.

29. ROOFERS

Covers roofs with roofing materials, handles materials, cuts roofing paper to size and nails or staples it to roof in overlapping strips to form base for roofing materials, aligns roofing material with edge of roof and overlaps successive layers, fastens composition shingles or sheets to roof with asphalt, cement or nails, punches holes in slate, tile, terra cotta or wooden shingles, cuts strips of flashing and fits them into angles formed by walls, vents and intersecting roof surfaces, when applying asphalt or tar and gravel to roof, mops or pours hot asphalt or tar onto roof base, applies alternate layers of hot asphalt or tar and roofing paper until roof covering is as specified, applies gravel or pebbles over top layer using rake or stiff bristled broom, applies waterproofing.

Does all tear off of roofing systems. Applies all single ply systems pertaining to roofing and waterproofing. Applies all ballast when used in roofing for protection of it.

30. SHEET METAL WORKER

The Sheet Metal Worker is engaged, but not limited to, the (a) manufacture, fabrication, assembling, handling, erection, installation, dismantling, conditioning, adjustment, alteration, repairing and servicing of all ferrous or nonferrous metal work and all other materials used in lieu thereof and of all air-veyor systems and air handling systems regardless of material used including the setting of all equipment and all reinforcements in connection therewith; (b) all lagging over insulation and all duct lining; (c) testing and balancing all work pertaining to energy audits and management; (d) the preparation of all shop and field sketches use in fabrication and erection, including those taken from original architectural and engineering drawings or sketches.

Also included is handling, installation, application, adjusting, alteration and repair of all types of sheets and tiles, flat, formed, corrugated or otherwise formed or reinforced of plain or protected metal specified for use in connection with or incidental to roofing, decking, flooring, siding, waterproofing for base and support of other materials or for ornamental or other purposes; handling, installation, application, adjusting, alteration, and repair of sheet metal specified for use in connection with or incidental to roofs, steeples, domes, formers, ridges, copings, roofing, decking, gutters, roof flanges, flashings, gravel stops, down spouts, skylights and all other shapes, forms and design of sheet metal; construction or repair of buildings fabricated with sheet metal and all types of building components (door enclosures, window frames, sills, partitions, etc.) made of sheet metal; installation, application, adjusting, alteration and repair, specified for use in connection with or incidental to direct, indirect of heating, ventilating, air conditioning and cooling systems, including risers, stacks, ducts, fittings, retro fittings, dampers, casings, recess boxes, outlets, radiator enclosures, exhausts, ventilators, frames, grilles, registers, cabinets, fans and motors, air washers, filters, air brushes, housing, air conditioning chambers, all setting and hanging of air conditioning units, unit heaters or air-veyor systems and air handling and air treating systems; handling, installation, application, adjusting, alteration and repair of all types of sheet metal furniture and equipment, lockers, shelving, library and storage stacks, bins, sinks, drain boards and sheet metal kitchen equipment.

31. SOUND AND COMMUNICATION

Performs installation, operation, inspection, maintenance, repair, handling and service of radio, television, recording, voice sound and vision production and reproduction apparatus, equipment and appliances used for domestic, commercial, education, entertainment and private telephone systems and microprocessor controlled fire alarm systems.

32. SPRINKLER FITTER

Installs, dismantles, maintains, handles, repairs, makes adjustments and corrections of all fire protection and fire control systems including the unloading, handling by hand, installation of all piping or tubing, appurtenances and equipment pertaining thereto, including both overhead and underground fire mains, fire hydrants and hydrant mains, standpipes and hose connections to sprinkler systems, sprinkler tank heaters, air lines and thermal systems used in connection with sprinkler and alarm systems, also all tanks and pumps connected thereto, also included shall be CO-2 and Cardox Systems, Dry Chemical Systems, Foam Systems and all other fire protection systems, but excluding steam fire protection systems.

33. STONE MASON

Sets stone structures such as piers, walls, abutments or lays walks, curbstones or special types of masonry, shapes stone preparatory to setting, spreads mortar over stone and foundation with trowel and sets stone in place by hand or with aid of crane, aligns stone with plumb line and finishes joints between stone with pointing trowel and all other work associated with the setting of stone.

34. TEAMSTER

Drives truck to transport materials in liquid or packaged form to and from specified destinations. May load and unload truck, inspect truck equipment and supplies and may perform emergency roadside repairs and performs all other work associated with the transporting of materials.

35. TECHNICAL ENGINEER

Layout Man – Lays out exterior of building, interior walls and any other lines or elevations of structure.
Instrument – Performs any instrument work concerning the layout of buildings.

36. TERRAZZO, TILE AND MARBLE SETTER – SKILLED

Applies cement, sand, pigment and marble chips to floors and walls of buildings. Also applies tile, and sets marble slabs and repairs and polishes slabs previously set in buildings.

37. TERRAZZO, TILE AND MARBLE SETTER – UNSKILLED

Tends terrazzo, tile and marble setter, according to level of skill.

38. TRUCK DRIVER MECHANIC

Repairs and overhauls trucks and other automotive vehicles. Rebuilds parts, rewires ignition system, lights and instrument panels, relines and adjusts brakes, aligns front end, repairs and replaces shock absorbers, solder leaks in radiator, replaces and adjusts headlights, installs and repairs accessories and all other work associated with the repair of trucks and other automotive vehicle.