

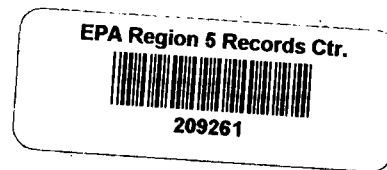
# SPECIFICATIONS (FOR CONSTRUCTION CONTRACT)

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Solicitation No. DACW45-92-0008

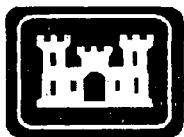
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## NEW LAKE BOTTOM INTAKE SYSTEM



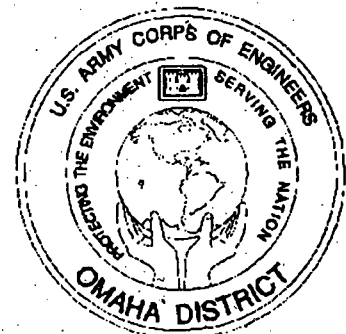
CHARLEVOIX, Michigan

NOVEMBER 1991



US Army Corps  
of Engineers

Omaha District



Solicitation No. DACW45-92-B-0008

DEPARTMENT OF THE ARMY  
OMAHA DISTRICT, CORPS OF ENGINEERS  
215 NORTH 17TH STREET  
OMAHA, NEBRASKA 68102-4978

DATE: 91 NOV 15

SUBJECT: INVITATION FOR BIDS - CONSTRUCTION CONTRACT

TO: All Prospective Bidders and Others Concerned

NAME AND LOCATION OF PROJECT: BY (Issuing Office):

NEW LAKE BOTTOM INTAKE SYSTEM  
CHARLEVOIX, MICHIGAN

U.S. Army Engineer District, Omaha  
215 North 17th Street  
Omaha, Nebraska 68102-4978

SEALED BIDS (one copy only) for the work described herein will be received until 2:00 p.m., local time at the place of bid opening 91 DEC 17 in the office of the Commander:

U.S. Army Engineer District, Omaha  
215 North 17th Street  
Omaha, Nebraska 68102-4978  
and at that time PUBLICLY opened.

NOTE: Hand-carried bids  
shall be delivered  
to Room 1602

Basis for Award.

IT IS INTENDED THAT AWARD WILL BE MADE TO ONE BIDDER FOR THE ENTIRE WORK.

DESCRIPTION OF WORK: The work consists of furnishing all plant, labor, materials, and equipment and performing all work for improvements to the existing water intake system.

The estimated construction cost of this project is between \$250,000 and \$500,000.

The above general outline does not limit the work to be less than all that required under the plans and specifications.

## BIDDING INFORMATION

1. **EXPLANATION TO PROSPECTIVE BIDDERS (APRIL 1984).** Any prospective bidder desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing soon enough to allow a reply to reach all prospective bidders before the submission of their bids. Oral explanations or instructions given before the award of a contract will not be binding. Any information given a prospective bidder concerning a solicitation will be furnished promptly to all other prospective bidders as an amendment to the solicitation, if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders. (FAR 52.214-6.)

2. **SOLICITATION DEFINITIONS - SEALED BIDDING (JULY 1987).** "Offer" means "bid" in sealed bidding. "Solicitation" means an invitation for bids in sealed bidding. "Government" means United States Government. (FAR 52.214-1.)

3. **SUBMISSION OF BIDS (DEC 1989).**

3.1. Bids and bid modifications shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation and (2) showing the time specified for receipt, the solicitation number, and the name and address of the bidder.

3.2. Telegraphic bids will not be considered unless authorized by the solicitation; however, bids may be modified or withdrawn by written or telegraphic notice, if such notice is received by the time specified for receipt of bids. (Based on FAR 52.214-5.)

4. **PREPARATION OF BIDS - CONSTRUCTION (APRIL 1984).**

4.1. Bids must be (1) submitted on the forms furnished by the Government or on copies of those forms, and (2) manually signed. The person signing a bid must initial each erasure or change appearing on any bid form.

4.2. The bid form may require bidders to submit bid prices for one or more items on various bases, including:

- (1) lump sum bidding;
- (2) alternate prices;
- (3) units of construction; or
- (4) any combination of subparagraphs (2) through (3) above.

4.3. If the solicitation requires bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words "no bid" in the space provided for any item on which no price is submitted.

4.4. Alternate bids will not be considered unless this solicitation authorizes their submission. (FAR 52.214-18.)

## BIDDING INFORMATION

5. FALSE STATEMENTS IN BIDS (APRIL 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. (FAR 52.214-4.)

### 6. LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS (DEC 1989).

6.1. Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it --

(1) was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of bids (e.g., a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been mailed by the 15th); or

(2) was sent by mail (or was a telegraphic bid if authorized), and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation.

(3) was sent by U.S. Postal Service Express Mail Next Day Service-Post Office To Addressee, not later than 5:00 P.M. at the place of mailing two working days prior to the date specified for receipt of bids. The term "working days" excludes weekends and U.S. Federal holidays.

6.2. Any modification or withdrawal of a bid is subject to the same conditions as in paragraph 6.1 above.

6.3. The only acceptable evidence to establish the date of mailing of a late bid, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the bid, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, bidders should request the postal clerks to place a legible hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

6.4. The only acceptable evidence to establish the time of receipt at the Government installation is the time/date stamp of that installation on the bid wrapper or other documentary evidence of receipt maintained by the installation.

6.5. The only acceptable evidence to establish the date of mailing of a late bid, modification, or withdrawal sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to

## BIDDING INFORMATION

Addressee" label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph 6.3 of this provision, excluding postmarks of the Canadian Postal Service. Therefore, bidders should request the postal clerk to place a legible hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

6.6. Notwithstanding paragraph 6.1 above, a late modification of an otherwise successful bid that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

6.7. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and that person signs a receipt for the bid. (FAR 52.214-7.)

7. INFORMATION FOR MODIFYING BIDS. Bids which have been mailed to the designated bid receiving office may be modified or withdrawn by mail, mailgram, or telecopier (FAX) received at any time before the exact time set for receipt of bids.

7.1. OMAHA DISTRICT OFFICE. Telecopier modifications to or withdrawals of previously mailed bids may be transmitted to the Omaha District (OD) Message Center.

7.1.1. For modifications or withdrawals by telecopier, Contracting Telecopier access phone number is 402-221-4530. Telecopier transmittals must be compatible with Group 2 or 3 Telecopiers. Telephone modifications or withdrawals, other than telecopier, will not be accepted.

7.1.2. Any questions regarding these procedures should be directed to Contracting Division at 402-221-4266. This number should also be used to verify the receipt of messages.

7.2. OTHER LOCATIONS. Modifications to or withdrawals of previously submitted bids should be transmitted to the place of bid opening shown on page IB-1.

## 8. BID BOND (MAR 1989).

8.1. The Offeror (Bidder) shall furnish a separate bid bond, or United States bonds, Treasury notes or other public debt obligations of the United States, in the proper form and amount, by the time set for opening of bids. Failure to do so may be cause for rejection of the bid. The Contracting Officer will return bonds or notes of the United States (1) to unsuccessful bidders as soon as practicable after the opening of bids; and (2) to the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.

## BIDDING INFORMATION

8.2. If the successful bidder, upon acceptance of its bid by the Government within the period specified for acceptance, fails to execute all contractual documents or give a bond(s) as required by the solicitation within the time specified, the Contracting Officer may terminate the contract for default.

8.3. Unless otherwise specified in the bid, the Bidder will (1) allow sixty (60) days for acceptance of its bid; and (2) give bond within ten (10) days after receipt of the forms by the Bidder.

8.4. In the event the contract is terminated for default, the Bidder is liable for any cost of acquiring the work that exceeds the amount of its bid. The bid bond, or bonds or notes of the United States, is available to offset the difference. (FAR Sup 252.228-7007)

8.5. Each bidder shall submit with his bid a bid bond (Standard Form 24) or other security in the amount of twenty percent (20%) of the total bid price including any additives and options or Three Million Dollars (\$3,000,000), whichever is lesser. The bid bond penalty may be expressed in terms of a percentage of the total bid price or expressed in dollars and cents. (Bid bonds are not required for projects less than \$25,000.)

9. PERFORMANCE AND PAYMENT BONDS. (Not required for projects less than \$25,000.) Within 10 days after the prescribed forms are presented to the bidder to whom award is made for signature, a written contract on the form prescribed by the specifications shall be executed and two bonds, each with good and sufficient surety or sureties acceptable to the Government, furnished; namely a performance bond (Standard Form 25) and a payment bond (Standard Form 25A). Any bonds furnished will be furnished by the Contractor to the Government prior to commencement of the contract performance. The cost of premiums for performance and payment bonds shall be included in the bid price. The penal sums of such bonds will be as follows:

9.1. PERFORMANCE BOND. The penal sum of the performance bond shall equal one hundred percent (100%) of the contract price.

9.2. PAYMENT BOND.

9.2.1. When the contract price is \$1,000,000 or less, the penal sum will be fifty percent (50%) of the contract price.

9.2.2. When the contract price is in excess of \$1,000,000 but not more than \$5,000,000, the penal sum shall be forty percent (40%) of the contract price.

9.2.3. When the contract price is more than \$5,000,000, the penal sum shall be \$2,500,000.

9A. INDIVIDUAL SURETIES. Federal Acquisition Regulation Section 28.202-2 provides that individual sureties are acceptable for all types of bonds except

## BIDDING INFORMATION

position schedule bonds. In addition to the bonds, individual sureties shall execute and provide to the Contracting Officer STANDARD FORM 28, AFFIDAVIT OF SURETY. Similarly, bidders shall submit, with their bonds, good and sufficient evidence as to the validity of the information provided on STANDARD FORM 28 including, but not limited to, proof of ownership and proof of the net value of the assets listed. This information shall also be provided for all other individual surety bonds submitted or to be submitted in connection with this procurement, when requested. Additionally, individual sureties providing Performance and/or Payment bonds shall execute, record with the proper authorities and provide to the Contracting Officer an agreement not to encumber the assets listed on STANDARD FORM 28 during the pendency of the contract so as to render their net value to be less than the penal sum of the bond. Evidence of compliance with this requirement shall be provided with the bonds.

### 10. CONTRACT AWARD - SEALED BIDDING - CONSTRUCTION (FEB 1986).

10.1. The Government will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the Government, considering only price and the price-related factors specified elsewhere in the solicitation.

10.2. The Government may reject any or all bids, and waive informalities or minor irregularities in bids received.

10.3. The Government may accept any item or combination of items, unless doing so is precluded by a restrictive limitation in the solicitation of the bid.

10.4. For the purposes of this solicitation, the word "item" shall be considered to mean "schedule." (Based on FAR 52.214-19)

11. STANDARD INDUSTRIAL CLASSIFICATION (SIC). In accordance with Division C of the SIC Manual, the work in this solicitation is assigned classification code 1623.

11A. SMALL BUSINESS SIZE STANDARD. This solicitation is not limited to small business concerns, but, for definition purposes, a concern is small if its average annual receipts for its preceding 3 fiscal years did not exceed \$17 million. (based on FAR 19.102-1.)

12. ADDITIONAL DRAWINGS AND SPECIFICATIONS. Sets of drawings, reduced to half-size, and of specifications will be furnished upon receipt of payment of \$22.00 per set. The drawings need not be returned but in the event no award is made, the payment will be refunded upon request. Additional copies of the specifications alone will be furnished an applicant at the rate of \$10.00 per copy. Payment will be made by check or money order payable to "Omaha District, Corps of Engineers" and delivered to the Commander, U.S. Army Engineer District, Corps of Engineers, 215 N. 17th Street, Omaha, Nebraska 68102-4978, ATTN: Finance and Accounting Office.

## BIDDING INFORMATION

### 13. AMENDMENTS.

13.1. CHANGES PRIOR TO OPENING BIDS. The right is reserved, as the interest of the Government may require, to revise the specifications and/or drawings prior to the date set for opening bids. Such revisions will be announced by an amendment or amendments to this Invitation for Bids. Copies of each such amendment will be furnished to all prospective bidders. If the revisions and amendments are of a nature which requires material changes in quantities or prices to be bid, the date set for opening bids may be postponed as necessary, in the opinion of the Commander, to enable bidders to revise their bids. In such cases, the amendment will include an announcement of the new date for opening bids.

13.2. AMENDMENTS TO INVITATIONS FOR BIDS (DECEMBER 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, or (3) by letter or telegram. The Government must receive the acknowledgment by the time and at the place specified for receipt of bids. (Based on FAR 52.214-3.)

### 14. WAGE RATE APPLICATION.

14.1. HIGHWAY AND SEWER CONSTRUCTION. Applicable to all work except dredging.

14.2. DREDGING CONSTRUCTION. Applicable to dredging operations.

15. NOT USED.

16. NOT USED.

17. AVAILABILITY OF SPECIFICATIONS, STANDARDS, AND DESCRIPTIONS. Specifications, standards, and descriptions cited in this solicitation are available as indicated below:

17.1. UNCLASSIFIED FEDERAL, MILITARY AND OTHER SPECIFICATIONS AND STANDARDS (EXCLUDING COMMERCIAL), AND DATA ITEM DESCRIPTIONS. Submit request on DD Form 1425 (Specifications and Standards Requisition) to:

Commanding Officer  
U.S. Naval Publications and Forms Center  
5801 Tabor Avenue  
Philadelphia, PA 19120

The Acquisition Management Systems and Data Requirements Control List, DOD Directive 5000.19L, Volume II may be ordered on the DD Form 1425. The Department of Defense Index of Specifications and Standards (DODISS) may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. When requesting a specification or standard, the request shall



**BIDDING INFORMATION**

indicate the title, number, date, and any applicable amendment thereto by number and date. When requesting a data item description, the request shall cite the applicable data item number set forth in the solicitation. When DD Form 1425 is not available, the request may be submitted in letter form, giving the same information as listed above, and the solicitation or contract number involved. Such requests may also be made to the activity by telex No. 834295, Western Union No. 710-670-1685, or telephone (Area Code 215-697-3321) in case of urgency. (FAR 52.210-2.)

17.2. CORPS OF ENGINEERS SPECIFICATIONS. Corps of Engineers specifications of the CRD-C series may be obtained from U.S. Army Engineers Waterways Experiment Station, Attn: Publications Distribution, Information Services Branch, P.O. Box 631, Vicksburg, Mississippi 39180.

17.3. COMMERCIAL (NON-GOVERNMENT) SPECIFICATIONS, STANDARDS, AND DESCRIPTIONS. These specifications, standards, and descriptions are not available from Government sources. They may be obtained from the publishers.

18. AVAILABLE PLANT. Each bidder shall, upon request of the Contracting Officer, furnish a list of the plant available to the bidder and proposed for use on the work.

19. EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE. Whenever a contract or modification of contract price is negotiated, the Contractor's cost proposals for equipment ownership and operating expenses shall be determined in accordance with the requirements of paragraph: EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE, contained in the Special Clauses section of the specifications. A copy of EP 1110-1-8 "Construction Equipment Ownership and Operating Expense Schedule" is available for review at the office listed in paragraph: SITE INSPECTION herein. (Based on FAR 31.105).

20. NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (APRIL 1984).

20.1. The offeror's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.

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

Goals for Minority Participation  
\*\*\*\*\*  
for Each Trade  
\*\*\*\*\*

Goals for Female Participation for  
\*\*\*\*\*  
Each Trade  
\*\*\*\*\*

4.9

6.9

These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a

## BIDDING INFORMATION

geographical area located outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the Federal Register in notice form, and these notices may be obtained from any Office of Federal Contract Compliance Programs Office.

20.3. The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on (1) its implementation of the Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction," and (3) its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor, or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

20.4. The Contractor shall provide written notification to the Director, Office of Federal Contract Compliance Programs, within 10 working days following award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the --

- (1) name, address, and telephone number of the subcontractor;
    - (i) employer identification number of the subcontractor;
  - (2) estimated dollar amount of the subcontract;
  - (3) estimated starting and completion dates of the subcontract;
- and
- (4) geographical area in which the subcontract is to be performed.

20.5. As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is Grand Rapids EA 073 of which Charlevoix County, Michigan is a part (FAR 52.222-23).

20.6. Construction contractors participating in an approved Hometown Plan (see 41 CFR 60-4.5) are required to comply with the goals of the Hometown Plan with regard to construction work they perform in the area covered by the Hometown Plan.

21. NOTICE REGARDING BUY AMERICAN ACT (1970 SEP). The Buy American Act (41 U.S.C. 10a-10d) generally requires that only domestic construction material be used in the performance of this contract. Exception from the Buy American

## BIDDING INFORMATION

Act shall be permitted only in the case of nonavailability of domestic construction materials. A bid or proposal offering nondomestic construction material will not be accepted unless specifically approved by the Government. When a bidder or offeror proposes to furnish nondomestic construction material, his bid or proposal must set forth an itemization of the quantity, unit price, and intended use of each item of such nondomestic construction material. When offering nondomestic construction material pursuant to this paragraph, bids or proposals may also offer, at stated prices, any available comparable domestic construction material, so as to avoid the possibility that failure of a nondomestic construction material to be acceptable under this paragraph will cause rejection of the entire bid.

### 22. NOT USED.

23. SITE INSPECTION. Contractors interested in inspecting the site of the proposed work should contact the Saginaw Project Office (Mr. Steve Birchmeyer, Chief), P.O. Box 428, Essexville, Michigan 48732 Telephone (517) 894-4851.

24. BIDDER'S QUESTIONS AND COMMENTS. Questions and/or comments relative to these bidding documents should be submitted to the Commander, Omaha District, Corps of Engineers, 215 North 17th Street, Omaha, NE 68102-4978, ATTN: Engineering Division. Comments should reach this office no later than 20 calendar days prior to the date set for opening of bids, if feasible, in order that changes, if needed, may be added by amendment. Telephone calls concerning the purchasing of plans and specifications should be made between 8:45 a.m. and 3:45 p.m. to: (402) 221-4267 or 4268. Telephone calls on bidding matters and small business matters should be made to Advertising and Awards Branch at: (402) 221-4110. Telephone calls on contents of drawings and specifications should be made to Mr. Paul Dappen (Project Manager) at: (402) 221-7681.

24.1. PLAN HOLDER'S LIST. A list of plan holders will be prepared and mailed approximately 2 weeks prior to the bid opening date to all who have been issued plans and specifications. This list will be furnished to all other interested parties upon request.

### 25. AFFILIATED BIDDERS (APR 1984).

25.1. Business concerns are affiliates of each other when, either directly or indirectly, (1) one concern controls or has the power to control the other, or (2) a third party controls or has the power to control both.

25.2. Each bidder shall submit with its bid an affidavit stating that it has no affiliates, or containing the following information:

(1) The names and addresses of all affiliates of the bidder.

(2) The names and addresses of all persons and concerns exercising control or ownership of the bidder and any or all of its affiliates, and whether they exercise such control or ownership as common officers,

BIDDING INFORMATION

directors, stockholders holding controlling interest, or otherwise. (FAR 52.214-17.)

26. SERVICE OF PROTEST (NOV 1988).

26.1. Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO) or the General Services Administration Board of Contract Appeals (GSBCA), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgement of receipt from District Counsel, 215 North 17th Street, Omaha, Nebraska 68102.

26.2. The copy of any protest shall be received in the office designated above on the same day a protest is filed with the GSBCA or within one day of filing a protest with the GAO. (FAR 52.233-2)

CAUTION TO BIDDERS - LATE BIDS

\*\*\*\*\*  
:See paragraph entitled "Late Submissions, Modifications, :  
:and Withdrawal of Bids" which provides that late bids :  
:and modifications or withdrawals thereof sent through :  
:the mails will be considered ONLY IF TIMELY MAILED BY :  
:REGISTERED MAIL OR BY CERTIFIED MAIL FOR WHICH A POST- :  
:MARKED RECEIPT HAS BEEN OBTAINED AS SPECIFIED IN SUCH :  
:PROVISION  
\*\*\*\*\*

Attachments:

Contract Clauses

General Wage Decision Nos. MI91-7 and MI91-18

Standard Form 1442 (Pages SF-1, 2, and

Certifications and Representations - Pages SF-3 thru SF-21)

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CONTRACT CLAUSES CONSTRUCTION-INSIDE THE U.S.

1. EFARS 52.202-10001 DEFINITIONS

(a) The term "head of the agency" or "Secretary" as used herein means the Secretary of the Army; and the term "his duly authorized representative" means the Chief of Engineers, Department of the Army, or an individual or board designated by him.

(b) The agency board of contract appeals having jurisdiction over all appeals from final decisions of the Contracting Officer under the Contract Disputes Act of 1978 is the Corps of Engineers Board of Contract Appeals, Office of the Chief of Engineers, Pulaski Building, 20 Massachusetts Avenue, N.W., Washington, D.C. 20314-1000.

2. FAR 52.202-1 DEFINITIONS (APR 1984)

(a) "Head of the agency" (also called "agency head") or "Secretary" means the Secretary (or Attorney General, Administrator, Governor, Chairperson, or other chief official, as appropriate) of the agency, including any deputy or assistant chief official of the agency, and, in the Department of Defense, the Under Secretary and any Assistant Secretary of the Departments of the Army, Navy, and Air Force and the Director and Deputy Director of Defense agencies; and the term "authorized representative" means any person, persons, or board (other than the Contracting Officer) authorized to act for the head of the agency or Secretary.

(b) "Contracting Officer" means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(c) Except as otherwise provided in this contract, the term "subcontracts" includes, but is not limited to, purchase orders and changes and modifications to purchase orders under this contract.

2. FAR 52.203-1 OFFICIALS NOT TO BENEFIT (APR 1984)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

3. FAR 52.203-3 GRATUITIES (APR 1984)

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative--

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) above, the Government is entitled--

(1) To pursue the same remedies as in a breach of the contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of 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.

4. FAR 52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

5. FAR 52.203-7 ANTI-KICKBACK PROCEDURES (OCT 1988)

(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 (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(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 (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract.

6. DFARS 252.203-7001 SPECIAL PROHIBITION ON EMPLOYMENT (FEB 1991)

(a) Definitions. "Arising out of a contract with the Department of Defense," as used in this clause, means any act in connection with (1) attempting to obtain, (2) obtaining, or (3) performing a contract or first-tier subcontract of any agency, department, or component of the Department of Defense.

"Conviction of fraud or any other felony," as used in this clause, means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plea of nolo contendere, for which sentence has been imposed.

"Date of conviction," as used in this clause, means the date judgement was entered against the individual.

(b) 10 U.S.C. 2408 prohibits a person who is convicted of fraud or any other felony arising out of a contract with the Department of Defense from working in a management or supervisory capacity on any defense contract or first-tier subcontract, or serving in various other capacities for a defense contractor of first-tier subcontractor, for up to five (5) years from the date of conviction, as set forth in paragraph (c) of this clause. Defense contractors and first-tier subcontractors are subject to a criminal penalty of not more than \$500,000 if they are convicted of knowingly employing a person under a prohibition or allowing that person to serve in violation of 10 U.S.C. 2408.

(c) (1) The Contractor agrees not to knowingly employ any person, convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the Department of Defense, in a management or supervisory capacity on any Department of Defense contract or first-tier subcontract or allow that person to serve either on its board of directors, as a consultant, or as an agent or representative for a period of five (5) years from the date of conviction or for the period of any resultant debarment of the convicted person, whichever is longer, unless waived.

(2) The Contractor agrees not to knowingly employ any person, convicted on or before September 29, 1988, of fraud or any other felony arising out of a contract with the Department of Defense, in a management or supervisory capacity on any Department of Defense contract or first-tier subcontract or allow that person to serve on its board of directors for a period of one (1) year from the date of conviction or for the period of any resultant debarment, whichever is longer.

(d) In addition to the criminal penalties contained in 10 U.S.C. 2408, the Government may consider other available remedies, such as suspension or debarment, may direct the cancellation of the contract at no cost to the Government, or terminate this contract for default.

(e) The Contractor may submit written requests for waiver of the prohibitions in paragraph (c)(1) above to the Contracting Officer who will process such requests in accordance with DFARS 203.571-4. Requests shall clearly identify the person involved, the nature of the conviction and resultant sentence or punishment imposed, the reasons for the requested waiver, and an explanation of why waiver of the prohibitions of paragraph (c)(1) above is in the interests of national security.

(f) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding \$25,000.

7. DFARS 252.203-7002 STATUTORY COMPENSATION PROHIBITIONS AND REPORTING REQUIREMENTS RELATING TO CERTAIN FORMER DEPARTMENT OF DEFENSE (DOD) EMPLOYEES (FEB 1991)

(a) Definitions. Terms used in this clause are defined at section 203.170-1 of the Defense Federal Acquisition Regulation Supplement (48 CFR Chapter 2).

(b) Prohibition on Compensation.

(1) 10 U.S.C. 2397b and 2397c prohibit a major defense contractor from offering or providing any compensation valued in excess of two hundred fifty dollars (\$250) to a former Department of Defense (DOD) official who left DOD service on or after 16 April 1987 and who, while employed by DOD, performed procurement-related functions in connection with that same defense contractor. This prohibition runs for the two-year period beginning on the date of such person's separation from service in DOD.

(2) The Contractor, if a major defense contractor, agrees not to provide, for such two-year period, any compensation to such a former DOD official.

(3) DOD employees may request from their Designated Agency Ethics Official (DAEO) a written opinion on the applicability of 10 U.S.C. 2397b prior to the acceptance of compensation. If the opinion rendered by the DAEO states that the law is inapplicable, and that the individual may accept compensation from the Contractor, there shall be a conclusive presumption that the offering and the acceptance of such compensation is not a violation of the statute.

(4) Section 507 of the Ethics Reform Act of 1989 suspended the prohibitions of 10 U.S.C. 2397b from December 1, 1989 to November 30, 1990. Section 815 of the Fiscal Year 1991 DOD Authorization Act (Pub. L. 101-510) continues the suspension of 10 U.S.C. 2397b from December 1, 1990 through May 31, 1991. The provision of this clause that prohibits the offering of compensation to a person if the compensation would violate 10 U.S.C. 2397b, and the remedies for violating this provision shall not be applied during the suspension period.

(c) Report Concerning Former DOD Employees.

(1) The Contractor shall submit a separate written report, as described in (c)(2) below, for each calendar year covered by this contract (commencing with the calendar year of award and extending through the end of the calendar year in which final payment is made) if the calendar year commenced after the end of a Government fiscal year in which the Contractor was awarded one or more DOD contracts aggregating ten million dollars (\$10,000,000) or more. In multidivisional corporations, in addition to corporate headquarters, each segment which contracts directly with the Government shall separately submit such reports. Each report shall be submitted to the Office of the Assistant General Counsel (Legal Counsel), Standards of Conduct Office, Attn: OAGC/LC, Pentagon, Washington, DC 20301-1600 listing those persons in its employ or whom it has otherwise compensated, who are former DOD employees who left service on or after 16 April 1987, if-

(i) They served in a civilian position for which the rate of pay was equal to or greater than the minimum rate of pay for Grade GS-13 of the General Schedule or served in the Armed Forces in a pay grade of 04 or higher;

(ii) They were compensated by the Contractor during the reporting period; and

(iii) Such compensation was provided within two (2) years after the former DOD employee left service in the Department of Defense.

(2) The report shall contain the following elements:

(i) Each individual's name and an identification of the agency in which each individual was employed or served on active duty during the last two (2) years of the individual's service with DOD;

(ii) Each individual's job title(s) during the person's last two (2) years of service with DOD and a list of major defense systems on which each individual performed any work;

(iii) A complete description (exclusive of proprietary information) of any work that each individual is performing, or did perform, on behalf of the Contractor during the calendar year covered by the report (if the procurement is classified, the Contractor may use a generalized description which will not compromise the classified nature of the work.);

(iv) An identification of each major defense system on which each individual has performed any work on behalf of the Contractor.

(3) Each report required under (c)(1) above shall be submitted not later than April 1 of the year following the end of the calendar year for which the report is being made.

(4) A DOD Form 1787 properly certified by the individual to whom it relates may be submitted to satisfy the reporting requirement as to any single individual.

(5) The Contractor need not submit duplicate reports to the Government. Submission of a report meeting the requirements of this clause, under another, concurrent contract with DOD will satisfy the reporting requirement of this contract as to any single calendar year.

(d) Penalties for Failure to Comply.

(1) Civil Fines for Failure to Comply with 10 U.S.C. 2397b. A Contractor who knowingly offers or provides any compensation to a former DOD official in violation of the statute, and who knew or should have known that the acceptance of such compensation would be in violation of such statute, shall be subject to a civil fine, not to exceed five hundred thousand dollars (\$500,000).

(2) Liquidated Damages for Failure to Comply with 10 U.S.C. 2397c.

(i) For each knowing violation of the statutory prohibition on providing compensation, the Contractor agrees to pay to the United States Government as liquidated damages the greater of either one hundred thousand dollars (\$100,000) or three (3) times the total amount of compensation paid by the Contractor to the former DOD official during the period in which such compensation was in violation of the statutory prohibition.

(ii) Liability for liquidated damages under this clause survives final payment under this contract and may be recouped against payments due under other contracts with the Contractor. The rights and remedies under this clause are in addition to and do not limit any rights afforded to the Government under this contract or as otherwise provided by law.

(iii) Liquidated damages will be computed based upon the number of actual violations by the Contractor, and not on the number of contracts in which this clause appears.

(3) Penalties for Failure to Report. If the Contractor knowingly fails to file a report in accordance with (c) above, the Contractor shall be subject to an administrative penalty not to exceed ten thousand dollars (\$10,000). The final determination of the penalty to be charged to the Contractor shall be made by the Secretary of Defense or designee after the Contractor is afforded an opportunity for an agency hearing on the record in accordance with agency hearing procedures. The Secretary's determination shall

form a part of the record and shall be subject to judicial review under Chapter 7 of Title 5, United States Code.

8. FAR 52.203-9 REQUIREMENT FOR CERTIFICATE OF PROCUREMENT INTEGRITY-  
- MODIFICATION (NOV 1990)

(a) Definitions. The definitions set forth in FAR 3.104-4 are hereby incorporated in this clause.

(b) The Contractor agrees that it will execute the certification set forth in paragraph (c) of this clause when requested by the Contracting Officer in connection with the execution of any modification of this contract.

(c) Certification. As required in paragraph (b) of this clause, the officer or employee responsible for the modification proposal shall execute the following certification:

CERTIFICATE OF PROCUREMENT INTEGRITY--MODIFICATION

(1) I, \_\_\_\_\_ [Name of Certifier], am the officer or employee responsible for the preparation of this modification proposal and hereby certify that, to the best of my knowledge and belief, with the exception of any information described in this certification, I have no information concerning a violation or possible violation of subsection 27(a), (b), (d) or (f) of the Office of Federal Procurement Policy Act, as amended+ (41 U.S.C. 423), (hereinafter referred to as "the Act"), as implemented in the FAR, occurring during the conduct of this procurement \_\_\_\_\_ [contract and modification number].

(2) As required by subsection 27(e)(1)(B) of the Act, I further certify that to the best of my knowledge and belief, each officer, employee, agent, representative, and consultant of \_\_\_\_\_ [Name of Offeror] who has participated personally and substantially in the preparation or submission of this proposal has certified that he or she is familiar with, and will comply with, the requirements of subsection 27(a) of the Act, as implemented in the FAR, and will report immediately to me any information concerning a violation or possible violation of subsections 27(a), (b), (d), or (f) of the Act, as implemented in the FAR, pertaining to this procurement.

(3) Violations or possible violations: (Continue on plain bond paper if necessary and label Certificate of Procurement Integrity--Modification (Continuation Sheet), ENTER "NONE" IF NONE EXISTS)

\_\_\_\_\_  
[Signature of the officer or employee responsible for the modification proposal and date]

\_\_\_\_\_  
[Typed name of officer or employee responsible for the modification proposal]

+ Subsections 27(a), (b), and (d) are effective on December 1, 1990. Subsection 27(f) is effective on June 1, 1991.

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER TITLE 18, UNITED STATES CODE, SECTION 1001.

(End of Certification)



(d) In making the certification in paragraph (2) of the certificate, the officer or employee of the competing Contractor responsible for the offer or bid, may rely upon a one-time certification from each individual required to submit a certification to the competing Contractor, supplemented by periodic training. These certifications shall be obtained at the earliest possible date after an individual required to certify begins employment or association with the contractor. If a contractor decides to rely on a certification executed prior to the suspension of section 27 (i.e., prior to December 1, 1989), the Contractor shall ensure that an individual who has so certified is notified that section 27 has been reinstated. These certifications shall be maintained by the Contractor for a period of 6 years from the date a certifying employee's employment with the company ends or, for an agency representative, or consultant, 6 years from the date such individual ceases to act on behalf of the contractor.

(e) The certification required by paragraph (c) of this clause is a material representation of fact upon which reliance will be placed in executing this modification.

9. FAR 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (SEP 1990)

(a) The Government, at its election, may reduce the price of a fixed-price type contract or contract modification by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or his or her designee, determines that there was a violation of subsection 27(a) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in the FAR. In the case of a contract modification, the fee subject to reduction is the fee specified in the particular contract modification at the time of execution, except as provided in subparagraph (b)(5) of this clause.

(b) The price or fee reduction referred to in paragraph (a) of this clause shall be--

(1) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;

(2) For cost-plus-incentive-fee contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or "fee floor" specified in the contract;

(3) For cost-plus-award-fee contracts--

(i) The base fee established in the contract at the time of contract award;

(ii) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the Contractor for each award fee evaluation period or at each award fee determination point.

(4) For fixed-price-incentive contracts, the Government may--

(i) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award; or

(ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract. The total final price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the initial

target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price.

(5) For firm-fixed-price contracts or contract modifications, by 10 percent of the initial contract price; 10 percent of the contract modification price; or a profit amount determined by the Contracting Officer from records or documents in existence prior to the date of the contract award or modification.

(c) The Government may, at its election, reduce a prime contractor's price or fee in accordance with the procedures of paragraph (b) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.

(d) In addition to the remedies in paragraphs (a) and (c) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

10. FAR 52.203-12      LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JAN 1990)

(a) Definitions.

"Agency," as used in this clause, means executive agency as defined in 2.101.

"Covered Federal Action," as used in this clause, means any of the following Federal actions:

(a) The awarding of any Federal contract.

(b) The making of any Federal grant.

(c) The making of any Federal loan.

(d) The entering into of any cooperative agreement.

(e) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

"Indian tribe" and "tribal organization," as used in this clause, have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) and include Alaskan Natives.

"Influencing or attempting to influence," as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government," as used in this clause, means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency," as used in this clause, includes the following individuals who are employed by an agency:

(a) An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment.

(b) A member of the uniformed services, as defined in subsection 101(3), title 37, United States Code.

(c) A special Government employee, as defined in section 202, title 18, United States Code.

(d) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, United States Code, appendix 2.

"Person," as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Reasonable compensation," as used in this clause, means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"Reasonable payment," as used in this clause, means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"Recipient," as used in this clause, includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed," as used in this clause, means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State," as used in this clause, means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibitions.

(1) Section 1352 of title 31, United States Code, among other things, prohibits a recipient of a Federal Contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with 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; or the modification of any Federal contract, grant, loan, or cooperative agreement.

(2) The Act also requires Contractors to furnish a disclosure if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee

of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement.

(3) The prohibitions of the Act do not apply under the following conditions:

(i) Agency and legislative liaison by own employees.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(B) For purposes of subdivision (b)(3)(i)(A) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(C) The following agency and legislative liaison activities are permitted at any time where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency the qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities.

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(D) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action--

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Pub. L. 95-507, and subsequent amendments.

(E) Only those services expressly authorized by subdivision (b)(3)(i)(A) of this clause are permitted under this clause.

(ii) Professional and technical services.

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of--

(1) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(2) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(B) For purposes of subdivision (b)(3)(ii)(A) of this clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(C) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(D) Only those services expressly authorized by subdivisions (b)(3)(ii)(A)(1) and (2) of this clause are permitted under this clause.

(E) The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

(iii) Disclosure.

(A) The Contractor who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, OMB standard form LLL, Disclosure of Lobbying Activities, if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under subparagraph (b)(1) of this clause, if paid for with appropriated funds.

(B) The Contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subparagraph (c)(1) of this clause. An event that materially affects the accuracy of the information reported includes-

(1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

(2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

(3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(C) The Contractor shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.

(D) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall submit all disclosures to the Contracting Officer at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(iv) Agreement. The Contractor agrees not to make any payment prohibited by this clause.

(v) Penalties.

(A) Any person who makes an expenditure prohibited under paragraph (a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(B) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure form.

(vi) Cost allowability. Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.

11. FAR 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (MAY 1989)

(a) The Government suspends or debar Contractors to protect the Government's interest. Contractors shall not enter into any subcontract equal to or in excess of \$25,000 with a Contractor that has been debarred, suspended, or proposed for debarment unless there is a compelling reason to do so. If a Contractor intends to subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the list of Parties Excluded from Procurement Programs), a corporate officer or designee of the Contractor shall notify the Contracting Officer, in writing, before entering into such subcontract. The notice must include the following:

(1) The name of the subcontractor;

(2) The Contractor's knowledge of the reasons for the subcontractor being on the list of Parties Excluded from Procurement Programs;

(3) The compelling reason(s) for doing business with the subcontractor or notwithstanding its inclusion on the list of Parties Excluded from Procurement Programs; and

(4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

(b) The Contractor's compliance with the requirements of 52.209-6 will be reviewed during Contractor Purchasing System Reviews (see FAR Subpart 44.3).

12. FAR 52.212-8 DEFENSE PRIORITY AND ALLOCATION REQUIREMENTS (SEP 1990)

This is a rated order certified for national defense use, and the Contractor shall follow all the requirements of the Defense Priorities and Allocations System regulation (15 CFR 700).

13. FAR 52.212-11 VARIATION IN ESTIMATED QUANTITY (APR 1984)

If the quantity of a unit-priced item in this contract is an estimated quantity and the actual quantity of the unit-priced item varies more than 15 percent above or below the estimated quantity, an equitable adjustment in the contract price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above 115 percent or below 85 percent of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Contractor may request, in writing, an extension of time, to be received by the Contracting Officer within 10 days from the beginning of the delay, or within such further period as may be granted by the Contracting Officer before the date of final settlement of the contract. Upon the receipt of a written request for an extension, the Contracting Officer shall ascertain the facts and make an adjustment for extending the completion date as, in the judgement of the Contracting Officer, is justified.

14. FAR 52.212-12 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 reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

(c) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

15. FAR 52.214-26 AUDIT--SEALED BIDDING (APR 1985)

(a) Cost or pricing data. If the Contractor has submitted cost or pricing data in connection with the pricing of any modification to this contract, unless the pricing was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the Contracting Officer or a representative who is an employee of the Government shall have the right to examine and audit all books, records, documents, and other data of the Contractor (including computations and projections) related to negotiating, pricing or performing the modification, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data. In the case of pricing any modification, the Comptroller General of the United States or a representative who is an employee of the Government shall have the same rights.

(b) Availability. The Contractor shall make available at its office at all reasonable times the materials described in paragraph (a) above, for examination, audit, or reproduction, until 3 years after final payment under this contract, or for any other period specified in Subpart 4.7 of the Federal Acquisition Regulation (FAR). FAR Subpart 4.7, Contractor Records Retention, in effect on the date of this contract, is incorporated by reference in its entirety and made a part of this contract.

(1) If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.

(2) Records pertaining to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to the performance of this contract shall be made available until disposition of such appeals, litigation, or claims.

(c) The Contractor shall insert a clause containing all the provisions of this clause, including this paragraph (c), in all subcontracts over \$10,000 under this contract, altering the clause only as necessary to identify properly the contracting parties and the contracting office under the Government prime contract.

16. FAR 52.214-27 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA--MODIFICATIONS--SEALED BIDDING (JAN 1991)

(a) This clause shall become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, of more than \$500,000+ except that this clause does not apply to any modification for which the price is-

(1) Based on adequate price competition;

(2) Based on established catalog or market prices of commercial items sold in substantial quantities to the general public; or

(3) Set by law or regulation.

(b) If any price, including profit, negotiated in connection with any modification under this clause, was increased by any significant amount because

(1) The Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data,

(2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data, or



(3) Any of these parties furnished data of any description that were not accurate, the price shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) above.

(c) Any reduction in the contract price under paragraph (b) above due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which

(1) the actual subcontract or  
(2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(d) (1) If the Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2) (i) Except as prohibited by subdivision (d)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if--

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted before such date.

(ii) An offset shall not be allowed if--

(A) The understated data was known by the Contractor to be understated when the Certificate of Current Cost or Pricing Data was signed; or

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the date of agreement on price.

(e) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification

reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid--

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

(2) For Department of Defense contracts only, a penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data which were incomplete, inaccurate, or noncurrent. +The \$500,000 threshold shall revert to \$100,000 after December 31, 1995. Therefore, all subcontracts awarded after December 31, 1995, and/or all changes or modifications made after December 31, 1995, shall be subject to the \$100,000 threshold.

17. FAR 52.214-28 SUBCONTRACTOR COST OR PRICING DATA--MODIFICATIONS--  
SEALED BIDDING (APR 1985)

(a) The requirements of paragraphs (b) and (c) of this clause shall (1) become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed \$500,000+ and (2) be limited to such modifications.

(b) Before awarding any subcontract expected to exceed \$500,000+ when entered into, or pricing any subcontract modification involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed \$500,000+, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless the price is--

(1) Based on adequate price competition;

(2) Based on established catalog or market prices of commercial items sold in substantial quantities to the general public; or

(3) Set by law or regulation.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in subsection 15.804-4 of the Federal Acquisition Regulation that, to the best of its knowledge and belief, the data submitted under paragraph (b) above were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that exceeds \$500,000+ when entered into. +The \$500,000 threshold shall revert to \$100,000 after December 31, 1995. Therefore, all subcontracts awarded after December 31, 1995, and/or all changes or modifications made after December 31, 1995 shall be subject to the \$100,000 threshold.

18. FAR 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS (FEB 1990)

(a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that

its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(c) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern

(1) which is at least 51 percent unconditionally owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is unconditionally owned by one or more socially and economically disadvantaged individuals; and

(2) whose management and daily business operations are controlled by one or more of such individuals. This term also means a small business concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian Organization, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one of these entities which has its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian Organization, and which meets the requirements of 13 CFR 124. The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act. The Contractor shall presume that socially and economically disadvantaged entities also include Indian Tribes and Native Hawaiian Organizations.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

19. FAR 52.219-9 SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUB-CONTRACTING PLAN (JAN 1991)

(a) This clause does not apply to small business concerns.

(b) "Commercial product," as used in this clause, means a product in regular production that is sold in substantial quantities to the general public and/or industry at established catalog or market prices. It also means a product which, in the opinion of the Contracting Officer, differs only insignificantly from the Contractor's commercial product.

"Subcontract," as used in this clause, means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, which separately addresses subcontracting with small business concerns and with small disadvantaged business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business concerns and with small disadvantaged business concerns with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business concerns and small disadvantaged business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of--

(i) Total dollars planned to be subcontracted;

(ii) Total dollars planned to be subcontracted to small business concerns; and

(iii) Total dollars planned to be subcontracted to small disadvantaged business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting (i) small business concerns and (ii) small disadvantaged business concerns.

(4) A description of the method used to develop the subcontracting goals in (1) above.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Automated Source System (PASS) of the Small Business Administration, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small and small disadvantaged business concerns trade associations).

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with (i) small business concerns and (ii) small disadvantaged business concerns.

(7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the offeror will make to assure that small business concerns and small disadvantaged business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause in this contract entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) who receive subcontracts in excess of \$500,000 (\$1,000,000

for construction of any public facility), to adopt a plan similar to the plan agreed to by the offeror.

(10) Assurances that the offeror will (i) cooperate in any studies or surveys as may be required, (ii) submit periodic reports in order to allow the Government to determine the extent of compliance by the offeror with the subcontracting plan, (iii) submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with the instructions on the forms, and (iv) ensure that its subcontractors agree to submit Standard Forms 294 and 295.

(11) A recitation of the types of records the offeror will maintain to demonstrate procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of its efforts to locate small and small disadvantaged business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists, guides, and other data that identify small and small disadvantaged business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small or small disadvantaged business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating (A) whether small business concerns were solicited and if not, why not, (B) whether small disadvantaged business concerns were solicited and if not, why not, and (C) if applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact (A) trade associations, (B) business development organizations, and (C) conferences and trade fairs to locate small and small disadvantaged business sources.

(v) Records of internal guidance and encouragement provided to buyers through (A) workshops, seminars, training, etc., and (B) monitoring performance to evaluate compliance with the programs's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having company or division-wide annual plans need to comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business and small disadvantaged business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business and small disadvantaged subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business and small disadvantaged business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small and small disadvantaged business firms.

(4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small business or small disadvantaged business for the purpose of obtaining a subcontract that is to be

included as part or all of a goal contained in the Contractor's subcontracting plan.

(f) A master subcontracting plan on a plant or division-wide basis which contains all the elements required by (d) above, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided, (1) the master plan has been approved, (2) the offeror provides copies of the approved master plan and evidence of its approval to the Contracting Officer, and (3) goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) (1) If a commercial product is offered, the subcontracting plan required by this clause may relate to the offeror's production generally, for both commercial and noncommercial products, rather than solely to the Government contract. In these cases, the offeror shall, with the concurrence of the Contracting Officer, submit one company-wide or division-wide annual plan.

(2) The annual plan shall be reviewed for approval by the agency awarding the offeror its first prime contract requiring a subcontracting plan during the fiscal year, or by an agency satisfactory to the Contracting Officer.

(3) The approved plan shall remain in effect during the offeror's fiscal year for all of the offeror's commercial products.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.

20. FAR 52.219-9 SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN (JAN 1991)--ALTERNATE I (AUG 1989)

(a) This clause does not apply to small business concerns.

(b) "Commercial product," as used in this clause, means a product in regular production that is sold in substantial quantities to the general public and/or industry at established catalog or market prices. It also means a product which, in the opinion of the Contracting Officer, differs only insignificantly from the Contractor's commercial product.

"Subcontract," as used in this clause, means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The apparent low bidder, upon request by the Contracting Officer, shall submit a subcontracting plan, where applicable, which separately addresses subcontracting with small business concerns and with small disadvantaged business concerns. If the bidder is submitting an individual contract plan, the plan must separately address subcontracting with small business concerns and with small disadvantaged business concerns with a separate part for the basic contract and separate parts for each option (if resultant contract). The subcontracting plan shall be submitted within the time specified by the Contracting Officer. Failure to submit the subcontracting plan shall make the bidder ineligible for the award of a contract.

(d) The offeror's subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business concerns and disadvantaged business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.

(2) A statement of--

(i) Total dollars planned to be subcontracted;  
(ii) Total dollars planned to be subcontracted to small business concerns; and  
(iii) Total dollars planned to be subcontracted to small disadvantaged business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to (i) small business concerns and (ii) small disadvantaged business concerns.

(4) A description of the method used to develop the subcontracting goals in (1) above.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Automated Source System (PASS) of the Small Business Administration, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small and small disadvantaged business concerns trade associations).

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with (i) small business concerns and (ii) small disadvantaged business concerns.

(7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the offeror will make to assure that small business concerns and small disadvantaged business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause in this contract entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) who receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public facility), to adopt a plan similar to the plan agreed to by the offeror.

(10) Assurances that the offeror will (i) cooperate in any studies or surveys as may be required, (ii) submit periodic reports in order to allow the Government to determine the extent of compliance by the offeror with the subcontracting plan, (iii) submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with the instructions on the forms, and (iv) ensure that its subcontractors agree to submit Standard Forms 294 and 295.

(11) A recitation of the types of records the offeror will maintain to demonstrate procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of its efforts to locate small and small disadvantaged business concerns and

award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists, guides, and other data that identify small and small disadvantaged business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small or small disadvantaged business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating (A) whether small business concerns were solicited and if not, why not, (B) whether small disadvantaged business concerns were solicited and if not, why not, and (C) if applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact (A) trade associations, (B) business development organizations, and (C) conferences and trade fairs to locate small and small disadvantaged business sources.

(v) Records of internal guidance and encouragement provided to buyers through (A) workshops, seminars, training, etc., and (B) monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having company or division-wide annual plans need to comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business and small disadvantaged business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business and small disadvantaged subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business and small disadvantaged business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small and small disadvantaged business firms.

(4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small business or small disadvantaged business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(f) A master subcontracting plan on a plant or division-wide basis which contains all the elements required by (d) above, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided, (1) the master plan has been approved, (2) the offeror provides copies of the approved master plan and evidence of its approval to the Contracting Officer, and (3) goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) (1) If a commercial product is offered, the subcontracting plan required by this clause may relate to the offeror's production generally for both commercial and noncommercial products, rather than solely to the Government



contract. In these cases, the offeror shall, with the concurrence of the Contracting Officer, submit one company-wide or division-wide annual plan.

(2) The annual plan shall be reviewed for approval by the agency awarding the offeror its first prime contract requiring a subcontracting plan during the fiscal year, or by an agency satisfactory to the Contracting Officer.

(3) The approved plan shall remain in effect during the offeror's fiscal year for all of the offeror's commercial products.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.

21. DFARS 252.219-7000 SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN (DoD CONTRACTS) (JUL 1990)

(a) Except for plans submitted under paragraph (g) of the clause of this contract entitled "Small Business and Small Disadvantaged Business Subcontracting Plan," FAR 52.219-9, whenever the term "small disadvantaged business" is used in that FAR clause, such term shall be deemed to include (in addition to small disadvantaged business concerns), Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs) as those terms are defined at DoD FAR Supplement 226.7002. A list of qualifying HBCUs is published periodically by the U.S. Department of Education, and is available from the Contracting Officer.

(b) In addition, master plans referred to in FAR 52.219-9 must be approved by the Government's cognizant Contract Administration Office.

(c) Work under the contract or its subcontracts shall be credited toward meeting the small disadvantaged business concern goal required by paragraph (d) of the clause of this contract entitled "Small Business and Small Disadvantaged Business Subcontracting Plan" when:

(1) It is performed on Indian lands or in joint venture with an Indian tribe or a tribally-owned corporation, and

(2) It meets the requirements of section 832 of the FY 90 DoD Authorization Act, Pub. L. 101-189.

22. DFARS 252.219-7015 SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN (DEFENSE FAR SUPPLEMENT DEVIATION) (JUL 1990)

(a) Definition. "Subcontract," as used in this clause, means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(b) The Offeror's comprehensive small business subcontracting plan and its successors, which are authorized by and approved under the test program of Section 834 of Pub. L. 101-189, shall be included in and made a part of the resultant contract. Upon expulsion from the test program or expiration of the test program, the Contractor shall negotiate an individual subcontracting plan for all future contracts that meet the requirements of Section 211 of Publ. L. 95-507.

(c) The Contractor shall submit Standard Form 295, Summary Subcontract Report, in accordance with the instructions on the form, except (1) Items 17 and

18 shall not be completed; (2) Item 16, Remarks, shall be completed to include small business and small disadvantaged business goals, actual accomplishments, and percentages and small business and small disadvantaged business goals, actual accomplishments and percentages for each of the two designated industry categories.

(d) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.

23. FAR 52.219-13 UTILIZATION OF WOMEN-OWNED SMALL BUSINESSES (AUG 1986)

(a) "Women-owned small businesses," as used in this clause, means small business concerns that are at least 51 percent owned by women who are United States citizens and who also control and operate the business.

"Control," as used in this clause, means exercising the power to make policy decisions.

"Operate," as used in this clause, means being actively involved in the day-to-day management of the business.

"Small business concern," as used in this clause, means a concern including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(b) It is the policy of the United States that women-owned small businesses shall have the maximum practicable opportunity to participate in performing contracts awarded by any Federal agency.

(c) The Contractor agrees to use its best efforts to give women-owned small businesses the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with the efficient performance of its contract.

(d) The Contractor may rely on written representations by its subcontractors regarding their status as women-owned small businesses.

24. FAR 52.219-14 LIMITATIONS ON SUBCONTRACTING (JAN 1991)

(a) This clause does not apply to the unrestricted portion of a partial set-aside.

(b) By submission of an offer and execution of a contract, the Offeror/ Contractor agrees that in performance of the contract in the case of a contract for--

(1) Services (except construction). At least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern.

(2) Supplies (other than procurement from a regular dealer in such supplies). The concern shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.

(3) General construction. The concern will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.

(4) Construction by special trade contractors. The concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

25. FAR 52.219-16 LIQUIDATED DAMAGES--SMALL BUSINESS SUBCONTRACTING PLAN  
(AUG 1989)

(a) "Failure to make a good faith effort to comply with the subcontracting plan," as used in this subpart, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business and Small Disadvantaged Business Subcontracting Plan," or willful or intentional action to frustrate the plan.

(b) If, at contract completion, or in the case of a commercial products plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled Small and Small Disadvantaged Business Subcontracting Plans, the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply, shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal or, in the case of a commercial products plan, that portion of the dollar amount allocable to Government contracts by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial products plan; i.e., company-wide or division-wide subcontracting plans approved under paragraph (g) of the clause in this contract entitled, Small Business and Small Disadvantaged Business Subcontracting Plan, the Contracting Officer of the agency that originally approved the plan will exercise the functions of the Contracting Officer under this clause on behalf of all agencies that awarded contracts covered by that commercial products plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled, Disputes, from many final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that Government may have.

26. FAR 52.220-3 UTILIZATION OF LABOR SURPLUS AREA CONCERNS (APR 1984)

(a) Applicability. This clause is applicable if this contract exceeds the appropriate small purchase limitation in Part 13 of the Federal Acquisition Regulation.

(b) Policy. It is the policy of the Government to award contracts to concerns that agree to perform substantially in labor surplus areas (LSA's) when this can be done consistent with the efficient performance of the contract and

at prices no higher than are obtainable elsewhere. The Contractor agrees to use its best efforts to place subcontracts in accordance with this policy.

(c) Order of preference. In complying with paragraph (b) above and with paragraph (c) of the clause of this contract entitled Utilization of Small Business Concerns and Small Disadvantaged Business Concerns, the Contractor shall observe the following order of preference in awarding subcontracts: (1) small business concerns that are LSA concerns, (2) other small business concerns, and (3) other LSA concerns.

(d) Definitions. "Labor surplus area," as used in this clause, means a geographical area identified by the Department of Labor in accordance with 20 CFR 654, Subpart A, as an area of concentrated unemployment or underemployment or an area of labor surplus.

"Labor surplus area concern," as used in this clause, means a concern that together with its first-tier subcontractors will perform substantially in labor surplus areas. Performance is substantially in labor surplus areas if the costs incurred under the contract on account of manufacturing, production, or performance of appropriate services in labor surplus areas exceed 50 percent of the contract price.

27. FAR 52.220-4 LABOR SURPLUS AREA SUBCONTRACTING PROGRAM (APR 1984)

(a) See the Utilization of Labor Surplus Area Concerns clause of this contract for applicable definitions.

(b) The Contractor agrees to establish and conduct a program to encourage labor surplus areas (LSA) concerns to compete for subcontracts within their capabilities when the subcontracts are consistent with the efficient performance of the contract at prices no higher than obtainable elsewhere. The Contractor shall--

(1) Designate a liaison officer who will (i) maintain liaison with authorized representatives of the Government on LSA matters, (ii) supervise compliance with the Utilization of Labor Surplus Area Concerns clause, and (iii) administer the Contractor's labor surplus area subcontracting program;

(2) Provide adequate and timely consideration of the potentialities of LSA concerns in all make-or-buy decisions;

(3) Ensure that LSA concerns have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of offers, quantities, specifications, and delivery schedules so as to facilitate the participation of LSA concerns;

(4) Include the Utilization of Labor Surplus Area Concerns clause in subcontracts that offer substantial LSA subcontracting opportunities; and

(5) Maintain records showing (i) the procedures adopted and (ii) the Contractor's performance, to comply with this clause. The records will be kept available for review by the Government until the expiration of 1 year after the award of this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulations.

(c) The Contractor further agrees to insert in any related subcontract that may exceed \$500,000 and that contains the Utilization of Labor Surplus Area Concerns clause, terms that conform substantially to the language of this clause, including this paragraph (c), and to notify the Contracting Officer of the names of subcontractors.

28. FAR 52.222-3 CONVICT LABOR (APR 1984)

The Contractor agrees not to employ any person undergoing sentence of imprisonment in performing this contract except as provided by 18 U.S.C. 4082(c)(2) and Executive Order 11755, December 29, 1973.

29. FAR 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT--OVERTIME COMPENSATION (MAR 1986)

(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 (see Federal Acquisition Regulation (FAR) 22.300) shall require or permit any such laborers or mechanics in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 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 the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic 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 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 any other Federal contract with the same Prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the 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. Nothing in this paragraph shall require the duplication of records required to be maintained for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

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

30. FAR 52.226-6 DAVIS-BACON ACT (FEB 1988)

(a) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (d) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period. Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (b) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

(2) If the Contractor and laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount

designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

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

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

(d) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

31. FAR 52.222-7 WITHHOLDING OF FUNDS (FEB 1988)

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 the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other Federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

32. FAR 52.222-8 PAYROLLS AND BASIC RECORDS (FEB 1988)

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

(b) (1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause and that such information is correct and complete;

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

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

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



(4) The falsification of any of the certifications in this clause may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit the Contracting Officer or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit required records or to make them available, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

33. FAR 52.222-9 APPRENTICES AND TRAINEES (FEB 1988)

(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 in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will not

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 the full amount of 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 this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

34. FAR 52.222-10 COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)

The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

35. FAR 52.222-11 SUBCONTRACTS (LABOR STANDARDS) (FEB 1988)

(a) The Contractor or subcontractor shall insert in any subcontracts the clauses entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act--Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Withholding of Funds, Subcontracts (Labor Standards), Contract Termination--Debarment, Disputes Concerning Labor Standards, Compliance with Davis-Bacon and Related Act Regulations, and Certification of Eligibility, and such other clauses as the Contracting Officer may, by appropriate instructions, require, and also a clause requiring subcontractors to include these clauses in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with all the contract clauses cited in this paragraph.

(b) (1) Within 14 days after award of the contract, the Contractor shall deliver to the Contracting Officer a completed Statement and Acknowledgment Form (SF 1413) for each subcontract, including the subcontractor's signed and dated acknowledgment that the clauses set forth in paragraph (a) of this clause have been included in the subcontract.

(2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed SF 1413 for such additional subcontract.

36. FAR 52.222-12 CONTRACT TERMINATION--DEBARMENT (FEB 1988)

A breach of the contract clauses entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act--Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Davis-Bacon and Related Act Regulations, or Certification of Eligibility may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.

37. FAR 52.222-13 COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS (FEB 1988)

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are hereby incorporated by reference in this contract.

38. FAR 52.222-14 DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)

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

39. FAR 52.222-15 CERTIFICATION OF ELIGIBILITY (FEB 1988)

(a) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

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

40. FAR 52.222-26 EQUAL OPPORTUNITY (APR 1984)

(a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt 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 performing 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 the notices to be provided by the Contracting Officer that explain this clause.

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

(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 to be provided by the Contracting Officer 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 (EEO-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 11246, 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 United States to enter into the litigation to protect the interests of the United States.

(c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

41. FAR 52.222-27 AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION (APR 1984)

(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 Director, Office of Federal Contract Compliance Programs (OFCCP), United States 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 and 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 Director 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) above.

(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 onsite 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 toilet and necessary changing facilities 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). 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), 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 nonminority. 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) above, 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 Director 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).

42. FAR 52.222-35 AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS. (APR 1984)

(a) Definitions.

"Appropriate office of the State employment service system," as used in this clause, means the local office of the Federal-State national system of public employment offices assigned to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"Openings that the Contractor proposes to fill from within its own organization," as used in this clause, means employment openings for which no one outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) will be considered and includes any openings that the Contractor proposes to fill from regularly established "recall" lists.

"Openings that the Contractor proposes to fill under a customary and traditional employer-union hiring arrangement," as used in this clause, means employment openings that the Contractor proposes to fill from union halls, under their customary and traditional employer-union hiring relationship.

"Suitable employment openings," as used in this clause--

(1) Includes, but is not limited to, openings that occur in jobs categorized as--

- (i) Production and nonproduction;
- (ii) Plant and office;
- (iii) Laborers and mechanics;
- (iv) Supervisory and nonsupervisory
- (v) Technical; and
- (vi) Executive, administrative, and professional positions

compensated on a salary basis of less than \$25,000 a year; and

(2) Includes full-time employment, temporary employment of over 3 days, and part-time employment, but not openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement, nor openings in an educational institution that are restricted to students of that institution.

(b) General.

(1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against the

individual because the individual is a special disabled or Vietnam Era veteran. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified special disabled and Vietnam Era veterans without discrimination based upon their disability or veterans' status in all employment practices such as--

- (i) Employment;
- (ii) Upgrading;
- (iii) Demotion or transfer;
- (iv) Recruitment;
- (v) Advertising;
- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of compensation; and
- (viii) Selection for training, including apprenticeship.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended.

(c) Listing Openings.

(1) The Contractor agrees to list all suitable employment openings existing at contract award or occurring during contract performance, at an appropriate office of the State employment service system in the locality where the opening occurs. These openings include those occurring at any Contractor facility, including one not connected with performing this contract. An independent corporate affiliate is exempt from this requirement.

(2) State and local government agencies holding Federal contracts of \$10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service.

(3) The listing of suitable employment openings with the State employment service system is required at least concurrently with using any other recruitment source or effort and involves the obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(4) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State employment service system, in each State where it has establishments, of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State system, it need not advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(5) Under the most compelling circumstances, an employment opening may not be suitable for listing, including situations when (i) the Government's needs cannot reasonably be supplied, (ii) listing would be contrary to national security, or (iii) the requirement of listing would not be in the Government's interest.

(d) Applicability.

(1) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 states, the District of Columbia, Puerto Rico, Guam, Virgin Islands, American Soma, and the Trust Territory of the Pacific Islands.

(2) The terms of paragraph (c) above of this clause do not apply to openings that the Contractor proposes to fill from within its own organization or under a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union arrangement for that opening.

(e) Postings.

(1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era, and (ii) the rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor (Director), and provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Act, and is committed to take affirmative action to employ, and advance in employment, qualified special disabled and Vietnam Era veterans.

(f) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(g) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Director to enforce the terms, including action for noncompliance.

43. FAR 52.222-36 AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS (APR 1984)

(a) General.

(1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental handicap. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as--

- (i) Employment;
- (ii) Upgrading;
- (iii) Demotion or transfer;
- (iv) Recruitment;
- (v) Advertising;
- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of compensation; and
- (viii) Selection for training, including apprenticeship.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(b) Postings.

(1) The Contractor agrees to post employment notices stating (i) the Contractor's obligation under the law to take affirmative action to employ

and advance in employment qualified handicapped individuals and (ii) the rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. They shall be in a form prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor (Director), and provided by or through the Contracting Officer.

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

(c) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(d) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$2,500 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Director to enforce the terms, including action for noncompliance.

44. FAR 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1988)

(a) The Contractor shall report at least annually, as required by the Secretary of Labor, on:

(1) The number of special disabled veterans and the number of veterans of the Vietnam era in the workforce of the Contractor by job category and hiring location; and

(2) The total number of new employees hired during the period covered by the report, and of that total, the number of special disabled veterans, and the number of veterans of the Vietnam era.

(b) The above items shall be reported by completing the form entitled "Federal Contractor Veterans' Employment Report VETS-100."

(c) Reports shall be submitted no later than March 31 of each year beginning March 31, 1988.

(d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date:

(1) As of the end of any pay period during the period January through March 1st of the year the report is due, or

(2) as of December 31, if the contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The count of veterans reported according to paragraph (a) of this clause shall be based on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 2012(d) shall invite all special disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program at 38 U.S.C. 2012 to identify themselves to the Contractor. The invitation shall state that the information is voluntarily provided, that the information will be kept confidential, that disclosure or refusal to provide the information will not subject the applicant or employee

to any adverse treatment and that the information will be used only in accordance with the regulations promulgated under 38 U.S.C. 2012.

(f) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary.

45. FAR 52.223-2 CLEAN AIR AND WATER (APR 1984)

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

"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)).

"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 EPA 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).

"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 EPA, or an air or water pollution control agency under the requirements of the Air Act or Water Act and related regulations.

"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 EPA facility except when the Administrator, or a designee, of the EPA determines that independent facilities are collocated in one geographical area.

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

(b) 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. 1318) 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 EPA 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 (b)(4).

46. FAR 52.223-6 DRUG-FREE WORKPLACE (JUL 1990)

(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 calendar days after award (unless a longer period is agreed to in writing for contracts of 30 calendar days or more performance duration), or as soon as possible for contracts of less than 30 calendar 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 calendar days after such conviction.

(5) Notify the Contracting Officer in writing within 10 calendar 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 calendar 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.

(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 in the performance of this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (b) or (c) of this clause may, pursuant to FAR 23.560, render the Contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.

47. FAR 52.225-5 BUY AMERICAN ACT--CONSTRUCTION MATERIALS (APR 1984)

(a) The Buy American Act (41 U.S.C. 10) provides that the Government give preference to domestic construction material.

"Components," as used in this clause, means those articles, materials, and supplies incorporated directly into construction materials.

"Construction materials," as used in this clause, means articles, materials, and supplies brought to the construction site for the incorporation into the building or work.

"Domestic construction material," as used in this clause, means (1) an unmanufactured construction material mined or produced in the United States, or (2) a construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as the construction materials determined to be unavailable pursuant to subparagraph 25.202(a)(3) of the Federal Acquisition Regulation (FAR) shall be treated as domestic.

(b) The Contractor agrees that only domestic construction material will be used by the Contractor, subcontractors, materialmen, and suppliers in the performance of this contract, except for foreign construction materials, if any, listed in this contract. (The foregoing requirements are administered in accordance with Executive Order No. 10582, dated December 17, 1954, as amended, and Subpart 25.2 of the FAR).

48. FAR 52.225-13 RESTRICTIONS ON CONTRACTING WITH SANCTIONED PERSONS (APR 1991)

(a) Definitions.

(1) "Component part" means any article which is not usable for its intended functions without being imbedded or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process.

(2) "Finished product" means any article which is usable for its intended function without being imbedded in, or integrated into, any other product.

(3) "Sanctioned person" means a company or other foreign person upon whom prohibitions have been imposed.

(4) "Substantially transformed," when referring to a component part or finished product, means that the part or product has been subjected to a substantial manufacturing or processing operation by which the part or product is converted or combined into a new and different article of commerce having a new name, character, and use.

(b) General. Section 2443 of the Multilateral Export Control Enhancement Amendments Act (Pub. L. 100-418) and Executive Order 12661, effective December 28, 1988, impose, for a period of 3 years, with certain exceptions, a prohibition on contracting with, or procuring (including rental and lease/purchase) directly or indirectly the products or services of (1) Toshiba Machine Company, (2) Kongsberg Trading Company, (3) Executive Order also prohibit, for the same 3-year period, the importation into the United States of all products produced by Toshiba Machine Company and Kongsberg Trading Company. These prohibitions also apply to subsidiaries, successor entities or joint ventures of Toshiba Machine Company or Kongsberg Trading Company.

(c) Restriction. Unless listed by the Contractor in its offer in the solicitation provision entitled Notice of Restrictions on Contracting with Sanctioned Persons, and unless approved by the Contracting Officer or one of the exceptions in paragraph (d) of this clause applies, the Contractor agrees that no products or services delivered to the Government under this contract will be products or services of a sanctioned person.

(d) Exceptions. The restrictions do not apply--

(1) To finished products of nonsanctioned persons containing components of a sanctioned person if these components have been substantially transformed during the manufacture of the finished product.

(2) To products or services of a sanctioned person provided--

(i) The products are designed to the specifications of a nonsanctioned person marketed under the trademark, brand or name of the nonsanctioned person;

(ii) The business relationship between the nonsanctioned person and the sanctioned person clearly existed prior to June 30, 1987; and

(iii) The nonsanctioned person is not directly or indirectly owned by a sanctioned person.

(3) If a determination has been made in accordance with FAR 25.1003(a) or (b).

(e) Award. Award of any contract resulting from this solicitation will not reflect the Contractor's obligation to comply with importation regulations of the Secretary of the Treasury.

49. FAR 52.227-1 AUTHORIZATION AND CONSENT (APR 1984)



(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent

(1) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or

(2) used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with

(i) specifications or written provisions forming a part of this contract or

(ii) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor agrees to include, and require inclusion of, this clause, suitably modified to identify the parties, in all subcontracts at any tier for supplies or services (including construction, architect-engineer services, and materials, supplies, models, samples, and design or testing services expected to exceed \$25,000) however, omission of this clause from any subcontract, under or over \$25,000, does not affect this authorization and consent.

50. FAR 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (APR 1984)

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copy-right infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed under this contract, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) The Contractor agrees to include, and require inclusion of, this clause in all subcontracts at any tier for supplies or services (including construction and architect-engineer subcontracts and those for material, supplies, models, samples, or design or testing services) expected to exceed the dollar amount set forth in 13.000 of the Federal Acquisition Regulation (FAR).

51. FAR 52.227-4 PATENT INDEMNITY--CONSTRUCTION CONTRACTS (APR 1984)

Except as otherwise provided, the Contractor agrees to indemnify the Government and its officers, agents, and employees against liability, including costs and expenses, for infringement upon any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of performing this contract or out of the use or disposal by or for the account of the Government of supplies furnished or work performed under this contract.

52. DFARS 252.227-7033 RIGHTS IN SHOP DRAWINGS (APR 1966)

(a) Shop drawings for construction means drawings, submitted to the Government by the Construction Contractor, subcontractor or any lower-tier subcontractor pursuant to a construction contract, showing in detail (i) the proposed fabrication and assembly of structural elements and (ii) the installation (i.e., form, fit, and attachment details) of materials or equipment. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(b) This clause, including this paragraph (b), shall be included in all subcontracts hereunder at any tier.

53. FAR 52.228-2 ADDITIONAL BOND SECURITY (APR 1984)

The Contractor shall promptly furnish additional security required to protect the Government and persons 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 condition 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.

54. FAR 52.228-5 INSURANCE--WORK ON A GOVERNMENT INSTALLATION (SEP 1989)

(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 certify to 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 (c), 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.

55. FAR 52.228-11 PLEDGES OF ASSETS (FEB 1990)

(a) Offerors shall obtain from each person acting as an individual surety on a bid guarantee, a performance bond, or a payment bond--

(1) Pledge of assets; and

(2) Standard Form 28, Affidavit of Individual Surety.

(b) Pledges of assets from each person acting as an individual surety shall be in the form of--

(1) Evidence of an escrow account containing cash, certificates of deposit, commercial or Government securities, or other assets described in FAR 28.203-2 (except see 28.203-2(b)(2) with respect to Government sureties held in book entry form) and/or;

(2) A recorded lien on real estate. The offeror will be required to provide--

(i) Evidence of title in the form of a certificate of title prepared by a title insurance company approved by the United States Department of Justice. This title evidence must show fee simple title vested in the surety along with any concurrent owners; whether any real estate taxes are due and payable; and any recorded encumbrances against the property, including the lien filed in favor of the Government as required by FAR 28.203-3(d);

(ii) Evidence of the amount due under any encumbrance shown in the evidence of title;

(iii) A copy of the current real estate tax assessment of the property or a current appraisal dated no earlier than 6 months prior to the date of the bond, prepared by a professional appraiser who certifies that the appraisal has been conducted in accordance with the generally accepted appraisal standards as reflected in the Uniform Standards of Professional Appraisal Practice, as promulgated by the Appraisal Foundation.

56. DFARS 252.228-7007 BID BOND (MAR 1989)

(a) The Offeror (Bidder) shall furnish a separate bid bond, or United States bonds, Treasury notes or other public debt obligations of the United States, in the proper form and amount, by the time set for opening of bids. Failure to do so may be cause for rejection of the bid. The Contracting Officer will return bonds or notes of the United States

(1) to unsuccessful bidders as soon as practicable after the opening of the bids; and

(2) to the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.

(b) If the successful bidder, upon acceptance of its bid by the Government within the period specified for acceptance, fails to execute all contractual documents or give a bond(s) as required by the solicitation within the time specified, the Contracting Officer may terminate the contract for default.

(c) Unless otherwise specified in the bid, the Bidder will

(1) allow sixty (60) days for acceptance of its bid; and

(2) give bond within ten (10) days after receipt of the forms by the Bidder.

(d) In the event the contract is terminated for default, the Bidder is liable for any cost of acquiring the work that exceeds the amount of its bid. The bid bond, or bonds or notes of the United States, is available to offset the difference.

57. FAR 52.229-3 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.

58. DFARS 252.231-7000 SUPPLEMENTAL COST PRINCIPLES (APR 1991)

When the allowability of costs under this contract is determined in accordance with part 31 of the Federal Acquisition Regulation, allowability shall also be determined in accordance with part 231 of the DoD FAR Supplement, in effect on the date of this contract.

59. FAR 52.232-5 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (APR 1989)

(a) The Government shall pay the Contractor the contract price as provided in this contract.

(b) The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets the standards of quality

established under the contract, as approved by the Contracting Officer. The Contractor shall furnish a breakdown of the total contract price showing the amount included therein for each principal category of the work, which shall substantiate the payment amount requested in order to provide a basis for determining progress payments, in such detail as requested by the Contracting Officer. In the preparation of estimates the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site may also be taken into consideration if--

- (1) Consideration is specifically authorized by this contract; and
- (2) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) Along with each request for progress payments, the contractor shall furnish the following certification, or payment shall not be made:

I hereby certify, to the best of my knowledge and belief, that--

- (1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;
- (2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of chapter 39 of Title 31, United States Code; and

(3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract.

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

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

\_\_\_\_\_  
(Date)

(d) If the Contractor, after making a certified request for progress payments, discovers that a portion or all of such request constitutes a payment for performance by the Contractor that fails to conform to the specifications, terms, and conditions of this contract (hereinafter referred to as the "unearned amount"), the Contractor shall--

(1) Notify the Contracting Officer of such performance deficiency; and

(2) Be obligated to pay the Government an amount (computed by the Contracting Officer in the manner provided in 31 U.S.C. 3903(c)(1) equal to interest on the unearned amount from the date of receipt of the unearned amount until--

(i) The date the Contractor notifies the Contracting Officer that the performance deficiency has been corrected; or

(ii) The date the Contractor reduces the amount of any subsequent certified request for progress payments by an amount equal to the unearned amount.

(e) If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Government and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.

(f) All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as--

(1) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or

(2) Waiving the right of the Government to require the fulfillment of all of the terms of the contract.

(g) In making these progress payments, the Government shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (e) of this clause shall not apply to that portion of progress payments attributable to bond premiums.

(h) The Government shall pay the amount due the Contractor under this contract after--

(1) Completion and acceptance of all work;

(2) Presentation of a properly executed voucher; and

(3) Presentation of release of all claims against the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 15).

(1) Notwithstanding any provision of this contract, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

60. FAR 52.232-17 INTEREST (JAN 1991)

(a) Notwithstanding any other clause of this contract, all amounts, except amounts that are repayable and which bear interest under a Price Reduction for

Defective Cost of Pricing Data clause, that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481)) shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(b) Amounts shall be due at the earliest of the following dates:

(1) The date fixed under this contract.

(2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.

(3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.

(4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

(c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

61. FAR 52.232-23 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.

62. FAR 52.232-27 PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (APR 1989)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. Definitions of pertinent terms are set forth in 32.902. All days referred to in this clause are calendar days, unless otherwise specified. The term "foreign vendor" means an incorporated concern not incorporated in the United States or an unincorporated concern having its principal place of business outside the United States.

(a) Invoice Payments.

(1) For purposes of this clause, there are several types of invoice payments which may occur under this contract, as follows:

(i) Progress payments, if provided for elsewhere in this contract, based on Contracting Officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project:

(A) The due date for making such payments shall be 14 days after receipt of the payment request by the designated billing office. However, if the designated billing office fails to annotate the payment request with the actual date of receipt, the payment due date shall be deemed to be the 14th day after the date the Contractor's payment request is dated, provided a proper payment request is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) The due date for payment of any amounts retained by the Contracting Officer in accordance with the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, shall be as specified in the contract or, if not specified, 30 days after approval for release to the Contractor by the Contracting Officer.

(ii) Final payments based on completion and acceptance of all work and presentation of release of all claims against the Government arising by virtue of the contract, and payments for partial deliveries that have been accepted by the Government (e.g., each separate building, public work, or other division of the contract for which the price is stated separately in the contract):

(A) The due date for making such payments shall be either the 30th day after receipt by the designated billing office of a proper invoice from the Contractor, or the 30th day after Government acceptance of the work or services completed by the Contractor, whichever is later. However, if the designated billing office fails to annotate the invoice with the date of actual receipt, the invoice payment due date shall be deemed to be the 30th day after the date the Contractor's invoice is dated, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) On a final invoice where the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(2) An invoice is the Contractor's bill or written request for payment under the contract for work or services performed under the contract. An invoice shall be prepared and submitted to the designated billing office. A proper invoice must include the items listed in subdivisions (a)(2)(i) through (a)(2)(ix) of this clause. If the invoice does not comply with these requirements, the Contractor will be notified of the defect within 7 days after receipt of the invoice at the designated billing office. Untimely notification will be taken into account in the computation of any interest penalty owed the Contractor in the manner described in subparagraph (a)(4) of this clause:

- (i) Name and address of the Contractor.
- (ii) Invoice date.
- (iii) Contract number or other authorization for work or services performed (including order number and contract line item number).
- (iv) Description of work or services performed.



(v) Delivery and payment terms (e.g., prompt payment discount terms).

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in event of a defective invoice.

(viii) For payments described in subdivision (a)(1)(i) of this clause, substantiation of the amounts requested and certification in accordance with the requirements of the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts.

(ix) Any other information or documentation required by the contract.

(3) An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in subdivisions (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. An interest penalty shall not be paid on contracts awarded to foreign vendors outside the United States for work performed outside the United States.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed and there was not disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.

(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority. This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice payment amount and be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(2) of this clause, then the due date on the corrected invoice will be adjusted by subtracting the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties, if requested by the Contractor.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor for payments described in subdivision (a)(1)(ii) of this clause, Government acceptance or approval shall be deemed to have occurred constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. In the event that actual acceptance or approval occurs within the constructive

acceptance or approval period, the determination of an interest penalty shall be based on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days.

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than 1 year. Interest penalties of less than \$1.00 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(5) An interest penalty shall also be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(6) If this contract was awarded on or after October 1, 1989, a penalty amount, calculated in accordance with regulations issued by the Office of Management and Budget, shall be paid in addition to the interest penalty amount if the Contractor--

(i) Is owed an interest penalty;

(ii) Is not paid the interest penalty within 10 days after the date the invoice amount is paid, and

(iii) Makes a written demand, not later than 40 days after the date the invoice amount is paid, that the agency pay such a penalty.

(b) Contact Financing Payments.

(1) For purposes of this clause, if applicable, "contract financing payment" means a Government disbursement of monies to a Contractor under a contract clause or other authorization prior to acceptance of supplies or services by the Government, other than progress payments based on estimates of amount and value of work performed. Contract financing payments include advance payments and interim payments under cost-type contracts.

(2) If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the 30 day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified. For advance payments, loans, or other arrangements that do not involve recurrent submissions of contract financing

requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer. Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) The Contractor shall include in each subcontract for property or services (including a material supplier) for the purpose of performing this contract the following:

(1) A payment clause which obligates the Contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days from receipt of payment out of such amounts as are paid to the Contractor under this contract.

(2) An interest penalty clause which obligates the Contractor to pay to the subcontractor an interest penalty for each payment not made in accordance with the payment clause--

(i) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

(ii) Computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(3) A clause requiring each subcontractor to include a payment clause and an interest penalty clause conforming to the standards set forth in subparagraphs (c)(1) and (c)(2) of this clause in each of its subcontracts, and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) The clauses required by paragraph (c) of this clause shall not be construed to impair the right of Contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions which--

(1) Permit the Contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) Permit the Contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) Permit such withholding without incurring any obligation to pay a late payment penalty if--

(i) A notice conforming to the standards of paragraph (g) of this clause has been previously furnished to the subcontractor; and

(ii) A copy of any notice issued by a Contractor pursuant to subdivision (d)(3)(i) of this clause has been furnished to the Contracting Officer.

(e) If a Contractor, after making a request for payment to the Government but before making a payment to a subcontractor for the subcontractor's performance covered by the payment request, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the Contractor shall--

(1) Furnish to the subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontracting payment;

(2) Furnish to the Contracting Officer, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to subparagraph (e)(1) of this clause;

(3) Reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under subparagraph (e)(1) of this clause;

(4) Pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and--

(i) Make such payment within--

(A) Seven days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under subdivision (e)(5)(i)) of this clause; or

(B) Seven days after the Contractor recovers such funds from the Government; or

(ii) Incur an obligation to pay a late payment interest penalty computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty;

(5) Notify the Contracting Officer upon--

(i) Reduction of the amount of any subsequent certified application for payment; or

(ii) Payment to the subcontractor of any withheld amounts of a progress payment, specifying--

(A) The amounts withheld under subparagraph (e)(1) of this clause; and

(B) The dates that such withholding began and ended; and

(6) Be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in 31 U.S.C. 3903(c)(1)), from the 8th day after receipt of the withheld amounts from the Government until--

(i) The day the identified subcontractor performance deficiency is corrected; or

(ii) The date that any subsequent payment is reduced under subdivision (e)(5)(i) of this clause.

(f) (1) If a Contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a "second-tier subcontractor") a written notice in accordance with section 2 of the Act of August 24, 1935 (40 U.S.C. 270b, Miller Act), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the Contractor may be ultimately liable, and the Contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, then the Contractor may, without incurring an obligation to pay an interest penalty under subparagraph (e)(6) of this clause--

(i) Furnish to the first-tier subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon making such determination; and

(ii) Withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under subdivision (f)(1)(i) of this clause.

(2) As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the Contractor shall pay the amount withheld under subdivision (f)(1)(ii) of this clause to such first-tier subcontractor, or shall incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(g) A written notice of any withholding shall be issued to a subcontractor (with a copy to the Contracting Officer of any such notice issued by the Contractor), specifying--

(1) The amount to be withheld;

(2) The specific causes for the withholding under the terms of the subcontract; and

(3) The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

(h) The Contractor may not request payment from the Government of any amount withheld or retained in accordance with paragraph (d) of this clause until such time as the Contractor has determined and certified to the Contracting Officer that the subcontractor is entitled to the payment of such amount.

(i) A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to paragraph (c) of this clause does not constitute a dispute to which the United States is a party. The United States may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

(j) Except as provided in paragraph (i) of this clause, this clause shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor or deficient subcontract performance or nonperformance by a subcontractor.

(k) The Contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under paragraph (c) of this clause shall not be construed to be an obligation of the United States for such interest penalty. A cost reimbursement claim may not include any amount for reimbursement of such interest penalty.

63. FAR 52.233-1 DISPUTES (APR 1984)

(a) This contract is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601-613) (the Act).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the

payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$50,000 is not a claim under the Act until certified as required by subparagraph (d)(2) below. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d) (1) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) For Contractor claims exceeding \$50,000, the Contractor shall submit with the claim a certification that--

- (i) The claim is made in good faith;
- (ii) Supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and
- (iii) The amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable.

(3) (i) If the Contractor is an individual, the certification shall be executed by that individual.

(ii) If the Contractor is not an individual, the certification shall be executed by--

(A) A senior company official in charge at the Contractor's plant or location involved; or

(B) An officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For Contractor claims of \$50,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$50,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) The Government shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (properly certified if required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(h) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

(a) Upon receipt of a notice of protest (as defined in 33.101 of the FAR) the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, 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 an 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 a proposal at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

65. DFARS 252.233-7007 CERTIFICATION OF REQUESTS FOR ADJUSTMENT OR RELIEF EXCEEDING \$100,000 (APR 1990)

(a) Any contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85-804, or other similar request exceeding \$100,000 shall bear, at the time of submission, the following certificate given by a senior company official in charge at the plant or location involved:

I certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief; and that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable.

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(Official's Name)

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(Title)

(b) The certification in paragraph (a) requires full disclosure of all relevant facts, including cost and pricing data.

(c) The certification requirement in paragraph (a) does not apply to:

(1) Requests for routine contract payments; for example, those for payment for accepted supplies and services, routine vouchers under cost-reimbursement type contracts, and progress payment invoices; and

(2) final adjustments under incentive provisions of contracts.

(d) In those situations where no claim certification for the purposes of Section 813 has been submitted prior to the inception of a contract dispute, a single certification, using the language prescribed by the Contract Disputes Act but signed by a senior company official in charge at the plant or location involved, will be deemed to comply with both statutes.

(e) If this is a claim for equitable adjustment under a substantially completed contract or a completed contract, the certification will be expanded to include the following:

This claim includes only costs for performing the alleged change, and does not include any costs which have already been reimbursed or which have been separately claimed. All indirect costs claimed are properly allocable to the alleged change in accordance with applicable acquisition regulations. I am aware that the submission of a false claim to the Government can result in the assessment of significant penalties and fines, and that no proof of specific intent to defraud is required in either a civil or criminal prosecution for the submission of a false claim.

66. FAR 52.236-2 DIFFERING SITE CONDITIONS (APR 1984)

(a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of

(1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or

(2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.

(b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the contract modified in writing accordingly.

(c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required, provided, that the time prescribed in (a) above for giving written notice may be extended by the Contracting Officer.

(d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

67. FAR 52.236-3 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (APR 1984)

(a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has



investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to

(1) conditions bearing upon transportation, disposal, handling, and storage of materials;

(2) the availability of labor, water, electric power, and roads;

(3) uncertainties of weather, river stages, tides, or similar physical conditions at the site;

(4) the conformation and conditions of the ground; and

(5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself 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 Government, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Government.

(b) The Government assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Government. Nor does the Government assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

68. FAR 52.236-5 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.

69. FAR 52.236-6 SUPERINTENDENCE BY THE CONTRACTOR (APR 1984)

At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the work site a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

70. FAR 52.236-7 PERMITS AND RESPONSIBILITIES (APR 1984)

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 occur as a result of the Contractor's fault or negligence, and shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. 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.

71. FAR 52.236-8 OTHER CONTRACTS (APR 1984)

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.

72. FAR 52.236-9 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (APR 1984)

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(b) The Contractor shall protect from damage all existing improvements and utilities

(1) at or near the work site, and

(2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of

a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refused to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

73. FAR 52.236-10 OPERATIONS AND STORAGE AREAS (APR 1984)

(a) The Contractor shall confine all operations (including storage of materials) on Government premises to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (e.g., storage sheds, shops, offices) and utilities 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 Government. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading 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 curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

74. FAR 52.236-11 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.

75. FAR 52.236-12 CLEANING UP (APR 1984)

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 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.

76. FAR 52.236-13 ACCIDENT PREVENTION-ALTERNATE I (APR 1984)

(a) In performing this contract, the Contractor shall provide for protecting the lives and health of employees and other persons; preventing damage to property, materials, supplies, and equipment; and avoiding work interruptions. For these purposes, 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 this purpose are taken.

(b) If this contract is with any Department of Defense agency or component, the Contractor shall comply with all pertinent provisions of the U.S. Army Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, dated October 1984.

(c) The Contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment. The Contractor shall report this data in the manner prescribed by the Contracting Officer.

(d) The Contracting Officer shall notify the Contractor of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to the Contractor or the Contractor's representative at the site of the work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to take corrective action promptly, 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 base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.

(e) The Contractor shall be responsible for its subcontractors' compliance with this clause.

(f) Before commencing the work, the Contractor shall--

- (1) Submit a written proposal for implementing this clause; and
- (2) Meet with representatives of the Contracting Officer to discuss and develop a mutual understanding relative to administration of the overall safety program.

77. FAR 52.236-15 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.

78. FAR 52.236-17 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.

79. FAR 52.236-21 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (APR 1984)

(a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words "directed," "required," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the "direction," "requirement," "order," "designation," or "prescription," of the Contracting Officer is intended and similarly the words "approved," "acceptable," "satisfactory," or words of like import shall mean "approved by," or "acceptable to," or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.

(c) Where "as shown," "as indicated," "as detailed," or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed."

(d) Shop drawings means drawings, submitted to the Government by the Contractor, subcontractor, any lower tier subcontractor pursuant to a construction contract, showing in detail

(1) the proposed fabrication and assembly of structural elements, and

(2) the installation (i.e., fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the work required by the contract. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the Government's reasons therefor. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.

(f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation, the Contracting Officer shall issue an appropriate contract modification, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor.

(h) This clause shall be included in all subcontracts at any tier.

80. DFARS 252.236-7000 COMPOSITION OF CONTRACTOR (JAN 1965)

If the Contractor hereunder is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

81. DFARS 242.236-7001 MODIFICATION OF PROPOSALS - PRICE BREAKDOWN (APR 1968)

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 amount claimed for subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification therefor 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.

82. DFARS 252.236.7004 CONTRACT PRICES - BIDDING SCHEDULES (APR 1968)

Payment for the various items listed in the Bidding Schedule shall constitute full compensation for furnishing all plant, labor, equipment, appliances, and materials, and for performing all operations required to complete the work in conformity with the drawings and specifications. All costs for work not specifically mentioned in the Bidding Schedule shall be included in the contract prices for the items listed.

83. NOT USED.

84. FAR 52.242-13 BANKRUPTCY (APR 1991)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail, written notification of the bankruptcy to the Contracting Office responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

85. FAR 52.243-4 CHANGES (AUG 1987)

(a) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes--

- (1) In the specifications (including drawings and designs);
- (2) In the method or manner of performance of the work;
- (3) In the Government-furnished facilities, equipment, materials, services, or site; or
- (4) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under

this clause; provided, that the Contractor gives the Contracting Officer written notice stating

- (1) the date, circumstances, and source of the order and
- (2) that the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after

- (1) receipt of a written change order under paragraph (a) of this clause or
- (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of the proposal, unless this period is extended by the Government. The statement of proposal for adjustment may be included in the notice under paragraph (b) above.

(f) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

86. DFARS 252.243-7001 PRICING OF ADJUSTMENTS (APR 1984)

When costs are a factor in any determination of a contract price adjustment pursuant to the Changes clause or any other clause of this contract, such costs shall be in accordance with Part 31 of the Federal Acquisition Regulation and Part 231 of the DoD FAR Supplement in effect on the date of this contract.

87. FAR 52.244-1 SUBCONTRACTS (FIXED-PRICE CONTRACTS) (APR 1991)

(a) This clause does not apply to firm-fixed-price contracts and fixed-price contracts with economic price adjustment. However, it does apply to subcontracts resulting from unpriced modifications to such contracts.

(b) "Subcontract," as used in this clause, includes but is not limited to purchase orders, and changes and modifications to purchase orders. The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract if the Contractor does not have an approved purchasing system and if the subcontract--

- (1) Is proposed to exceed \$100,000; or
- (2) Is one of a number of subcontracts with a single subcontractor, under this contract, for the same or related supplies or services, that in the aggregate are expected to exceed \$100,000.

(c) The advance notification required by paragraph (b) above shall include--

- (1) A description of the supplies or services to be subcontracted;



- (2) Identification of the type of subcontract to be used;
- (3) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the competition obtained;
- (4) The proposed subcontract price and the Contractor's cost or price analysis;
- (5) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions;
- (6) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract; and
- (7) A negotiation memorandum reflecting--
  - (i) The principal elements of the subcontract price negotiations;
  - (ii) The most significant considerations controlling establishment of initial or revised prices;
  - (iii) The reason cost or pricing data were or were not required;
  - (iv) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;
  - (v) The extent, if any, to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and subcontractor; and the effect of any such defective data on the total price negotiated;
  - (vi) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and
  - (vii) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.
- (d) The Contractor shall obtain the Contractor Officer's written consent before placing any subcontract for which advance notification is required under paragraph (b) above. However, the Contracting Officer may ratify in writing any such subcontract. Ratification shall constitute the consent of the Contracting Officer.
- (e) Even if the Contractor's purchasing system has been approved, the Contractor shall obtain the Contracting Officer's written consent before placing subcontracts that have been selected for special surveillance and so identified in the Schedule of this contract.
- (f) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination
  - (1) of the acceptability of any subcontract terms or conditions,
  - (2) of the acceptability of any subcontract price or of any amount paid under any subcontract, or
  - (3) to relieve the Contractor of any responsibility for performing this contract.
- (g) No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-

reimbursement subcontracts shall not exceed the fee limitations in subsection 15.903(d) of the Federal Acquisition Regulation (FAR).

(h) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

88. FAR 52.245-2 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) above; 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.

89. FAR 52.245-4 GOVERNMENT-FURNISHED PROPERTY (SHORT FORM) (APR 1984)

(a) The Government shall delivery to the Contractor, at the time and locations stated in this contract, the Government-furnished property described in the Schedule or specifications. If that property, suitable for its intended use, is not delivered to the Contractor, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the Changed clause when--

(1) The Contractor submits a timely written request for an equitable adjustment; and

(2) The facts warrant an equitable adjustment.

(b) Title to Government-furnished property shall remain in the Government. The Contractor shall use the Government-furnished property only in connection with this contract. The Contractor shall maintain adequate property control records in accordance with sound industrial practice and will make such records available for Government inspection at all reasonable times, unless the clause at Federal Acquisition Regulation 52.245-1, Property Records, is included in this contract.

(c) Upon delivery of Government-furnished property to the Contractor, the Contractor assumes the risk and responsibility for its loss or damage, except--

(1) For reasonable wear and tear;

(2) To the extent property is consumed in performing this contract;  
or

(3) As otherwise provided for by the provisions of this contract.

(d) Upon completing this contract, the Contractor shall follow the instructions of the Contracting Officer regarding the disposition of all Government-furnished property not consumed in performing this contract or previously 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 directed by the Contracting Officer.

(e) If this contract is to be performed outside 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.

90. FAR 52.246-12 INSPECTION OF CONSTRUCTION (JUL 1986)

(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 (i) 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 reinspection 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 was 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.

91. DFARS 252.247-7203 TRANSPORTATION OF SUPPLIES BY SEA (APR 1990)

(a) As used in this clause;

- (1) "Armed services" means the Army, Navy, Air Force, Marine Corps, and Defense Agencies.

- (2) "Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication or assembly by the Contractor or any subcontractor.

(3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

(4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) "Subcontractor" means a supplier, materialman, distributor or vendor at any level below the prime Contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

(6) "Supplies" means all property, except land and interests in land, that is clearly identifiable for eventual use by the armed services, or owned by the armed services, at the time of transportation by sea. It includes (but is not limited to) public works, buildings and facilities, ships, floating equipment and vessels of every character, type, and description, together with parts, subassemblies, accessories, and equipment; machine tools, material, equipment, and stores of all kinds; end items, construction materials and the components of the foregoing. An item is clearly identifiable for eventual use by the armed services if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.

(7) "U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b) The Contractor shall employ United States-flag vessels, and no others, in the transportation by sea of any supplies to be furnished in the performance of its contractual obligations.

(c) If the Contractor or a subcontractor believes that

(1) U.S.-flag vessels are not available for timely shipment;

(2) the freight charges are excessive or unreasonable; or

(3) freight charges are higher than charges to private persons for transportation of like goods, the Prime Contractor, including subcontractors through the Prime Contractor, may request from the Contracting Officer, in accordance with paragraph (d) below, authorization to ship in foreign-flag vessels or designation of available U.S.-flag vessels. If the Prime Contractor's request to ship supplies in foreign-flag vessels, whether on its own account or on account of a subcontractor is granted in writing by the Contracting Officer, the supplies may be shipped on foreign-flag vessels in accordance with the approval. The Contracting Officer may condition approval to ship on a foreign-flag vessel on an equitable adjustment of the contract.

(d) The request for use of other than U.S.-flag vessels because of matters concerning freight charges or matters concerning vessel availability must be submitted in writing by or through the Prime Contractor to the Contracting Officer at least forty-five (45) days prior to the sailing date for the shipper to meet its delivery schedules. Requests submitted after such date(s) will be processed as expeditiously as possible, but the failure of the appropriate official to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. The request shall contain at a minimum:

(1) Type, weight, and cube of cargo.

(2) Required shipping date.

(3) Special handling and discharge requirements.

(4) Loading and discharge points.

(5) Name of shipper and consignee.

(6) Prime contract number.

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact with at least two (2) U.S.-flag carriers contacted by name and telephone number. Copies of telephone notes, telegraphic and facsimile messages or letters will be sufficient for this purpose.

(e) The Contractor shall, within thirty (30) days after each shipment covered by this clause, provide the Contracting Officer and the Division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean-bill-of-lading, which shall contain the following information:

- (1) Applicable Government prime contract number;
- (2) Name of vessel;
- (3) Vessel flag of registry;
- (4) Date of loading;
- (5) Port of loading;
- (6) Port of final discharge;
- (7) Description of commodity;
- (8) Gross weight in pounds and cubic feet if available;
- (9) Total ocean freight in U.S. dollars;
- (10) Name of the steamship company.

(f) Along with the submission of its final invoice under this contract the Contractor agrees to provide a representation that to the best of its knowledge and belief:

(1) No ocean transportation was used in the performance of this contract;

(2) Ocean transportation was used and only United States-flag vessels were used for all ocean shipments under the contract. Legible copies of shipping documents have been submitted to the Contracting Officer and to the Maritime Administration in accordance with paragraph (e) of this clause;

(3) Ocean transportation was used, and to the extent any non-U.S.-flag vessels were used, the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or

(4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. These shipments were as follows:

| ITEM DESCRIPTION | CONTRACT LINE ITEMS | QUANTITY |
|------------------|---------------------|----------|
|------------------|---------------------|----------|

Total

(g) If the final invoice does not include the required representation, it will be rejected and returned to the Contractor as an improper invoice for the purposes of the clause of the contract entitled "Prompt Payment." In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(h) The Contractor shall include this clause, including this paragraph (h), revised as necessary to reflect the relationship of the contracting parties, in all subcontracts hereunder. Subcontractor bills of lading shall be submitted through the prime contractor to the parties and with the information specified in paragraph (e) of this clause.



92. DFARS 252.247-7204 NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA  
(JAN 1990)

(a) The Contractor has indicated by the response to the solicitation provision at 252.247-7202, Representation of Extent of Transportation of Supplies by Sea, that it did not anticipate transporting by sea any supplies, as defined in the clause at 252.247-7203, Transportation of Supplies by Sea, in the performance of this contract. If, however, after the award of this contract, the Contractor should learn that supplies will be transported by sea, the Contractor shall notify the Contracting Officer of the fact that transportation by sea will be used and hereby agrees to comply with all the terms and conditions of the clause at 252.247-7203, entitled "Transportation of Supplies by Sea," contained in this contract.

(b) The Contractor shall include this clause, including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties, in all subcontracts hereunder.

93. FAR 52.248-3 VALUE ENGINEERING--CONSTRUCTION (MAR 1989)

(a) General. The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The Contractor shall share in any instant contract savings realized from accepted VECP's, in accordance with paragraph (f) below.

(b) Definitions. "Collateral costs," as used in this clause, means agency costs of operation, maintenance, logistic support, or Government-furnished property.

"Collateral savings," as used in this clause, means those measurable net reductions resulting from a VECP in the agency's overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

"Contractor's development and implementation costs," as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

"Government costs," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistic support. The term does not include the normal administrative costs of processing the VECP.

"Instant contract savings," as used in this clause, means the estimated reduction in Contractor cost of performance resulting from acceptance of the VECP, minus allowable Contractor's development and implementation costs, including subcontractors' development and implementation costs (see paragraph (h) below).

"Value engineering change proposal (VECP)" means a proposal that--

- (1) Requires a change to this, the instant contract, to implement;  
and
- (2) Results in reducing the contract price or estimated cost without impairing essential functions or characteristics; provided, that it does not involve a change--
- (i) In deliverable end item quantities only; or
  - (ii) To the contract type only.

(c) VECP preparation. As a minimum, the Contractor shall include in each VECP the information described in subparagraphs (1) through (7) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

(1) A description of the difference between the existing contract requirement and that proposed, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, and the effect of the change on the end item's performance.

(2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) A separate, detailed cost estimate for  
(i) the affected portions of the existing contract requirement and

(ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under paragraph (h) below.

(4) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.

(5) A prediction of any effects the proposed change would have on collateral costs to the agency.

(6) A statement of the time by which a contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.

(7) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.

(d) Submission. The Contractor shall submit VECP's to the Resident Engineer at the worksite, with a copy to the Contracting Officer.

(e) Government action.

(1) The Contracting Officer shall notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer shall notify the Contractor within the 45-day period and provide the reason for the delay and the expected date of the decision. The Government will process VECP's expeditiously; however, it shall not be liable for any delay in acting upon a VECP.

(2) If the VECP is not accepted, the Contracting Officer shall notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.

(3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause. The Contracting Officer may accept the VECP, even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a contract modification applied a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The Contracting Officer's decision to

accept or reject all or part of any VECP shall be final and not subject to the Disputes clause or otherwise subject to litigation under the Contract Disputes Act of 1978 (41 U.S.C. 601-613).

(f) Sharing.

(1) Rates. The Government's share of savings is determined by subtracting Government costs from instant contract savings and multiplying the result by

- (i) 45 percent for fixed-price contracts or
- (ii) 75 percent for cost-reimbursement contracts.

(2) Payment. Payment of any share due the Contractor for use of a VECP on this contract shall be authorized by a modification to this contract to--

- (i) Accept the VECP;
- (ii) Reduce the contract price or estimated cost by the amount of instant contract savings; and
- (iii) Provide the Contractor's share of savings by adding the amount calculated to the contract price or fee.

(g) Collateral savings. If a VECP is accepted, the instant contract amount shall be increased by 20 percent of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings shall not exceed

(1) the contract's firm-fixed-price or estimated cost, at the time the VECP is accepted, or

(2) \$100,000, whichever is greater. The Contracting Officer shall be the sole determiner of the amount of collateral savings, and that amount shall not be subject to the Disputes clause or otherwise subject to litigation under 41 U.S.C. 601-613.

(h) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of \$50,000 or more and may include one in subcontracts of lesser value. In computing any adjustment in this contract's price under paragraph (f) above, the Contractor's allowable development and implementation costs clearly resulting from a VECP accepted by the Government under this contract, but shall exclude any value engineering incentive payments to a subcontractor. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that these payments shall not reduce the Government's share of the savings resulting from the VECP.

(i) Data. The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

"These data, furnished under the Value Engineering--Construction clause of contract \_\_\_\_\_, shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations."

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the

VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

94. FAR 52.249-1 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SHORT FORM) (APR 1984)

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the rights, duties, and obligations of the parties, including compensation to the Contractor, shall be in accordance with Part 49 of the Federal Acquisition Regulation in effect on the date of this contract.

95. FAR 52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (APR 1984) ALTERNATE I

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.

(3) Terminate all subcontracts to the extent they relate to the work terminated.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.

(6) As directed by the Contracting Officer, transfer title and deliver to the Government

(i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated, and

(ii) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor

(i) is not required to extend credit to any purchaser and  
(ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(c) After expiration of the plant clearance period as defined in Subpart 45.6 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(d) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1 year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(e) Subject to paragraph (d) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (e) or paragraph (f) below, exclusive of costs shown in subparagraph (f)(3) below, may not exceed the total contract price as reduced by (a) the amount of payments previously made and (2) the contract price of work not terminated. The contract shall be amended, and the Contractor paid the agreed amount. Paragraph (f) below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(f) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid the Contractor because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined as follows, but without duplication of any amounts agreed upon under paragraph (e) above:

(1) For contract work performed before the effective date of the termination, the total (without duplication of any items) of--

- (i) The cost of this work;
- (ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (i) above; and
- (iii) A sum, as profit on (i) above, determined by the Contracting Officer under 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this

subdivision (iii) and shall reduce the settlement to reflect the indicated rate of loss.

(2) The reasonable costs of settlement of the work terminated, including--

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

(g) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (f) above, the fair value, as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government or to a buyer.

(h) The cost principles and procedures of Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(i) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (d), (f), or (k), except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (d) or (k), and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (d), (f), or (k), the Government shall pay the Contractor

(1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or

(2) the amount finally determined on an appeal.

(j) In arriving at the amount due the Contractor under this clause, there shall be deducted--

(1) All unliquidated advance or other payments to the Contractor under the terminated portion of this contract;

(2) Any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Government.

(k) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within 90 days from the effective date of termination unless extended in writing by the Contracting Officer.

(1) (1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(m) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

96. FAR 52.249-10 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.

97.

#### ENVIRONMENTAL LITIGATION (1974 NOV OCE)

(a) If the performance of all or any part of the work is suspended, delayed, or interrupted due to an order of a court of competent jurisdiction as a result of environmental litigation, as defined below, the Contracting Officer, at the request of the Contractor, shall determine whether the order is due in any part to the acts or omissions of the Contractor or a Subcontractor at any tier not required by the terms of this contract. If it is determined that the order is not due in any part to acts or omissions of the Contractor or a Subcontractor at any tier other than as required by the terms of this contract, such suspension, delay, or interruption shall be considered as if ordered by the Contracting Officer in the administration of this contract under the terms of the "Suspension of Work" clause of this contract. The period of such suspension, delay, or interruption shall be considered unreasonable, and an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) as provided in that clause, subject to all the provisions thereof.

(b) The term "environmental litigation," as used herein, means a lawsuit alleging that the work will have an adverse effect on the environment or that the Government has not duly considered, either substantively or procedurally, the effect of the work on the environment.





GENERAL WAGE DECISION NO. MI91-18

Supersedes General Wage Decision No. MI90-18

State: MICHIGAN, INDIANA, ILLINOIS, MINNESOTA, NEW YORK  
OHIO, PENNSYLVANIA, AND WISCONSIN

County(ies): MICHIGAN: Gogebic, Ontonagon, Keweenaw, Houghton,  
Baraga, Marquette, Alger, Luce Chippewa, Menominee, Delta,  
Schoolcraft, Mackinac, Berrien, Van Buren, Allegan, Ottawa,  
Muskegon, Oceana, Mason, Manistee, Benzie Leelanau, Grand  
traverse, Antrium, Charlevoix, Emmet, Cheboygam, Presque Isle,  
Alpena, Alcona, Iosco, Arenac, Bay, Tuscola, Huron, Sanilac, St.  
Clair, Macomb, Wayne, Monroe; INDIANA: Lake, Porter, LaPorte;  
ILLINOIS: Lake, Cook; MINNESOTA: Cook, Lake St. Louis;  
NEW YORK: Chautauqua, Erie, Niagara, Orleans, Monroe, Wayne,  
Cayuga, Oswego, and Jefferson, OHIO: Lucas, Ottawa, Sandusky,  
Erie; WISCONSIN: Marinette, Olanto, Brown, Door, Kewaunee,  
Manitowoc, Sheboygan, Ozaukee, Milwaukee, Racine, Kenosha

Construction  
Type: DREDGING

Construction  
Description: DREDGING CONSTRUCTION PROJECTS

| Modification Record: |                  |              |
|----------------------|------------------|--------------|
| No.                  | Publication Date | Page No. (s) |



MI91-18

|  | Basic<br>Hourly<br>Rates | Fringe<br>Benefits |
|--|--------------------------|--------------------|
| SELF-PROPELLED HOPPER DREDGES:<br>Drag Tenders | 8.78                     | 4.23 + a           |

FOOTNOTE:

- a. Nine paid holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Paul Hall's Birthday, Veterans Day, Thanksgiving Day, Christmas Day

GENERAL WAGE DECISION NO. MI91-7

Supersedes General Wage Decision No. MI90-7

State: MICHIGAN

County(ies): STATEWIDE

Construction Type: AIRPORT, BRIDGE, HIGHWAY AND SEWER

Construction Description: AIRPORT, BRIDGE, HIGHWAY, AND SEWER CONSTRUCTION (Exclusive of Buildings) (does not include TV/Grout work).

\* Modification Record:

| No. | Publication Date | Page No. (s)        |
|-----|------------------|---------------------|
| 1   | Apr. 19, 1991    | 521, 523-524<br>529 |
| 2   | May 24, 1991     | 516                 |
| * 3 | May 31, 1991     | 516-534             |
| * 4 | June 21, 1991    | 516-534             |
| 5   | July 26, 1991    | 515                 |

## MI91-7

|  | BASIC<br>HOURLY<br>RATES | FRINGE<br>BENEFITS |
|--|--------------------------|--------------------|
| CARPENTERS   | 17.71                    | 3.40               |
| CEMENT MASONS:   |                          |                    |
| (Cement Masonry related to Highway, Road<br>and Street Construction):  |                          |                    |
| General contracts over \$500,000:  |                          |                    |
| Area 1   | 18.62                    | 3.40               |
| Area 2   | 17.79                    | 3.40               |
| General contracts \$500,000 or less:   |                          |                    |
| Area 1   | 16.78                    | 3.40               |
| Area 2   | 14.26                    | 3.40               |
| General contracts \$50,000 or less:  |                          |                    |
| Area 1   | 16.78                    | 3.40               |
| Area 2   | 13.26                    | 3.40               |
| IRONWORKERS; STRUCTURAL & REINFORCING:   |                          |                    |
| AREA 1:  |                          |                    |
| General Contracts \$7 million or greater   | 17.17                    | 5.90               |
| General Contracts less than \$7 million  | 15.90                    | 5.90               |
| AREA 2:  |                          |                    |
| Machinery movers, riggers and machinery<br>erectors  | 15.75                    | 5.87               |
| AREA 3   | 14.55                    | 6.46               |
| AREA 4:  |                          |                    |
| All work pertaining to metal fence and guard-<br>rails and all it's accessories and related<br>components on highway and airport | 15.91                    | 4.14               |
| All other work   | 20.63                    | 4.14               |
| AREA 5:  |                          |                    |
| Machinery movers, riggers and machinery<br>erectors  | 18.17                    | 8.33               |
| Ornamental & Structural  | 18.39                    | 10.17              |
| Reinforcing  | 16.09                    | 11.16              |
| LINE CONSTRUCTION:   |                          |                    |
| AREA 1:  |                          |                    |
| Line worker; Technician  | 22.32                    | 2.20 + 13.5%       |
| Cable Splicer  | 23.21                    | 2.20 + 13.5%       |
| Combination Equipment Operator<br>and Groundman  | 17.99                    | 2.20 + 13.5%       |
| Combination Driver - Groundman   | 16.99                    | 2.20 + 13.5%       |
| Groundman  | 15.69                    | 2.20 + 13.5%       |
| AREA 2:  |                          |                    |
| Lineworker; Technician   | 16.60                    | 1.25+ 8.5%+ A      |
| Cable Splicer  | 17.28                    | 1.25+ 8.5%+ A      |
| Combination Digger Operator or<br>Tractor Operator   | 12.93                    | 1.25+ 8.5%+ A      |
| Light Equipment Operator, Groundman<br>Distribution Line Truck Driver/<br>Operator, Groundman                                    | 11.35                    | 1.25+ 8.5%+ A      |
| Combination Winch Truck Driver/<br>Groundman   | 10.82                    | 1.25+ 8.5%+ A      |
| Combination Truck Driver/Groundman   | 9.16                     | 1.25+ 8.5%+ A      |
| PAINTERS:  |                          |                    |

|  |       |       |
|--|-------|-------|
| AREA 1:  |       |       |
| Group 1  | 12.95 | 1.97  |
| Group 2  | 13.20 | 1.97  |
| Group 3  | 13.45 | 1.97  |
| Group 4  | 13.95 | 1.97  |
| Group 5  | 17.05 | 3.80  |
| Group 6  | 14.45 | 1.97  |
| Group 7  | 15.75 | 1.97  |
| AREA 2:  |       |       |
| Brush, pan roller, taping and sign   | 14.19 | 2.25  |
| Spray, sand blasting and swing stage   | 15.39 | 2.25  |
| Steeplejack  | 15.04 | 2.25  |
| Mechanical roller  | 14.89 | 2.25  |
| Vinyl hanger   | 14.39 | 2.25  |
| AREA 3:  |       |       |
| Brush and roller   | 13.50 |       |
| Structural steel-brush; mechanical pressure roller; paperhanging; sign and pictorial; drywall  | 14.00 |       |
| Spray; sand blasting; hydroblast, steam clean, power grinders and tools  | 14.50 |       |
| Painting and sand blasting inside tanks and vessels and penstocks and tubes; steeplejack   | 15.50 |       |
| Commercial repaint:  |       |       |
| Brush  | 9.25  |       |
| Spray  | 9.75  |       |
| AREA 4   | 16.26 | 2.72  |
| AREA 5:  |       |       |
| Brush  | 17.05 | 5.305 |
| Spray  | 17.85 | 5.305 |
| AREA 6:  |       |       |
| Brush and roller   | 14.50 | 2.96  |
| Paper and vinyl hangers; Sand-blasting, steam cleaning & acid cleaning, swing stage, boatswain chair, window jacks, brush & preparatory work above 30 ft. in height (additional 10 cents per hour for each additional 15 ft. | 14.80 | 2.96  |
| Pressure roller  | 15.30 | 2.96  |
| Spray gun work and spray helpers, pick pullers; Hazardous work: steeple jack, tanks, gas holders, stacks, flag poles, radio towers and beacons, power-line towers and bridges  | 15.00 | 2.96  |
| Application of paint by mitt   | 15.30 | 2.96  |
| AREA 7:  |       |       |
| New construction:  |       |       |
| Brush, roller, mitts, drywall taping   | 14.18 | 3.01  |
| Wall covering  | 14.48 | 3.01  |
| Spray, sandblast, swing stage, boatswain   |       |       |

|   |       |      |
|---|-------|------|
| chair, spider; elevated water towers,<br>radio towers, power line towers,<br>steeples, smoke stacks, bridges over<br>water or moving traffic and tanks over<br>40 ft.   | 14.93 | 3.01 |
| Hazardous work  | 15.18 | 3.01 |
| Repaint work:   |       |      |
| Brush, roller, mitts, drywall taping  | 12.76 | 3.01 |
| Wall covering   | 13.06 | 3.01 |
| Spray, sandblast, swing stage, boatswain<br>chair, spider; elevated water towers,<br>radio towers, power line towers,<br>steeples, smoke stacks, bridges over<br>water or moving traffic and tanks over<br>40 ft. | 13.51 | 3.01 |
| Hazardous work  | 13.76 | 3.01 |
| AREA 8:   |       |      |
| Brush   | 15.65 | 2.81 |
| Spray   | 16.55 | 2.81 |
| AREA 9:   |       |      |
| Brush; Roller   | 14.01 |      |
| Sandblasting; Steamcleaning; Water-<br>blasting; Spray  | 14.75 |      |
| FLAG & SIGNAL PERSON  | 7.22  |      |
| LABORERS: AIRPORT, BRIDGE, & HIGHWAY<br>CONSTRUCTION:   |       |      |
| Pavement Markers:   |       |      |
| Area 1:   |       |      |
| Group 1   | 12.84 | 2.64 |
| Group 2   | 9.82  | 2.64 |
| Area 2:   |       |      |
| Group 1   | 11.94 | 2.64 |
| Group 2   | 8.94  | 2.64 |
| LABORERS: AIRPORT, BRIDGE, & HIGHWAY<br>CONSTRUCTION:   |       |      |
| General Contracts over \$500,000:   |       |      |
| AREA 1:   |       |      |
| Class A   | 15.98 | 3.88 |
| Class B   | 15.68 | 3.88 |
| Class B-1   | 15.47 | 3.88 |
| Class B-2   | 15.21 | 3.88 |
| Class C   | 15.39 | 3.88 |
| Class D   | 15.21 | 3.88 |
| Class E   | 15.11 | 3.88 |
| Class F   | 15.08 | 3.88 |
| AREA 2:   |       |      |
| Class A   | 15.01 | 3.88 |
| Class B   | 14.67 | 3.88 |
| Class B-1   | 14.80 | 3.88 |
| Class B-2   | 14.54 | 3.88 |
| Class C   | 14.45 | 3.88 |
| Class D   | 14.21 | 3.88 |
| Class E   | 14.15 | 3.88 |

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|   |       |      |
|---|-------|------|
| Class F   | 14.01 | 3.88 |
| AREA 2A:  |       |      |
| Class A   | 14.43 | 3.88 |
| Class B   | 14.13 | 3.88 |
| Class B-1   | 14.21 | 3.88 |
| Class B-2   | 13.96 | 3.88 |
| Class C   | 13.86 | 3.88 |
| Class D   | 13.65 | 3.88 |
| Class E   | 13.56 | 3.88 |
| Class F   | 13.45 | 3.88 |
| AREA 3:   |       |      |
| Class A   | 14.27 | 3.88 |
| Class B   | 13.84 | 3.88 |
| Class B-1   | 14.22 | 3.88 |
| Class B-2   | 13.99 | 3.88 |
| Class C   | 13.78 | 3.88 |
| Class D   | 13.49 | 3.88 |
| Class E   | 13.35 | 3.88 |
| Class F   | 13.28 | 3.88 |
| AREA 3A:  |       |      |
| Class A   | 14.03 | 3.88 |
| Class B   | 13.60 | 3.88 |
| Class B-1   | 14.00 | 3.88 |
| Class B-2   | 13.74 | 3.88 |
| Class C   | 13.52 | 3.88 |
| Class D   | 13.24 | 3.88 |
| Class E   | 13.11 | 3.88 |
| Class F   | 13.02 | 3.88 |
| AREA 4:   |       |      |
| Class A   | 14.27 | 3.88 |
| Class B   | 13.84 | 3.88 |
| Class B-1   | 14.22 | 3.88 |
| Class B-2   | 13.99 | 3.88 |
| Class C   | 13.78 | 3.88 |
| Class D   | 13.49 | 3.88 |
| Class E   | 13.35 | 3.88 |
| Class F   | 13.28 | 3.88 |
| General Contracts \$500,000 and less,<br>but greater than \$50,000: |       |      |
| AREA 1:   |       |      |
| Class A   | 14.21 | 3.88 |
| Class B   | 13.94 | 3.88 |
| Class B-1   | 13.75 | 3.88 |
| Class B-2   | 13.51 | 3.88 |
| Class C   | 13.68 | 3.88 |
| Class D   | 13.51 | 3.88 |
| Class E   | 13.42 | 3.88 |
| Class F   | 13.40 | 3.88 |
| AREA 2:   |       |      |
| Class A   | 11.67 | 3.88 |

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|                                      |       |      |
|--------------------------------------|-------|------|
| Class B                              | 11.40 | 3.88 |
| Class B-1                            | 11.50 | 3.88 |
| Class B-2                            | 11.29 | 3.88 |
| Class C                              | 11.22 | 3.88 |
| Class D                              | 11.03 | 3.88 |
| Class E                              | 10.98 | 3.88 |
| Class F                              | 10.87 | 3.88 |
| AREA 2A:                             |       |      |
| Class A                              | 11.21 | 3.88 |
| Class B                              | 10.96 | 3.88 |
| Class B-1                            | 11.03 | 3.88 |
| Class B-2                            | 10.83 | 3.88 |
| Class C                              | 10.75 | 3.88 |
| Class D                              | 10.58 | 3.88 |
| Class E                              | 10.51 | 3.88 |
| Class F                              | 10.42 | 3.88 |
| AREA 3:                              |       |      |
| Class A                              | 11.07 | 3.88 |
| Class B                              | 10.72 | 3.88 |
| Class B-1                            | 11.03 | 3.88 |
| Class B-2                            | 10.84 | 3.88 |
| Class C                              | 10.68 | 3.88 |
| Class D                              | 10.44 | 3.88 |
| Class E                              | 10.33 | 3.88 |
| Class F                              | 10.28 | 3.88 |
| AREA 3A:                             |       |      |
| Class A                              | 10.90 | 3.88 |
| Class B                              | 10.55 | 3.88 |
| Class B-1                            | 10.87 | 3.88 |
| Class B-2                            | 10.67 | 3.88 |
| Class C                              | 10.49 | 3.88 |
| Class D                              | 10.27 | 3.88 |
| Class E                              | 10.16 | 3.88 |
| Class F                              | 10.09 | 3.88 |
| AREA 4:                              |       |      |
| Class A                              | 12.11 | 3.88 |
| Class B                              | 11.68 | 3.88 |
| Class B-1                            | 12.06 | 3.88 |
| Class B-2                            | 11.83 | 3.88 |
| Class C                              | 11.62 | 3.88 |
| Class D                              | 11.33 | 3.88 |
| Class E                              | 11.19 | 3.88 |
| Class F                              | 11.12 | 3.88 |
| General Contracts \$50,000 and less: |       |      |
| AREA 1:                              |       |      |
| Class A                              | 14.21 | 3.88 |
| Class B                              | 13.94 | 3.88 |
| Class B-1                            | 13.75 | 3.88 |
| Class B-2                            | 13.51 | 3.88 |
| Class C                              | 13.68 | 3.88 |
| Class D                              | 13.51 | 3.88 |
| Class E                              | 13.42 | 3.88 |
| Class F                              | 13.40 | 3.88 |

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## AREA 2:

|           |       |      |
|-----------|-------|------|
| Class A   | 10.67 | 3.88 |
| Class B   | 10.40 | 3.88 |
| Class B-1 | 10.50 | 3.88 |
| Class B-2 | 10.29 | 3.88 |
| Class C   | 10.22 | 3.88 |
| Class D   | 10.03 | 3.88 |
| Class E   | 9.98  | 3.88 |
| Class F   | 9.87  | 3.88 |

## AREA 2A:

|           |       |      |
|-----------|-------|------|
| Class A   | 10.21 | 3.88 |
| Class B   | 9.96  | 3.88 |
| Class B-1 | 10.03 | 3.88 |
| Class B-2 | 9.83  | 3.88 |
| Class C   | 9.75  | 3.88 |
| Class D   | 9.58  | 3.88 |
| Class E   | 9.51  | 3.88 |
| Class F   | 9.42  | 3.88 |

## AREA 3:

|           |       |      |
|-----------|-------|------|
| Class A   | 10.07 | 3.88 |
| Class B   | 9.72  | 3.88 |
| Class B-1 | 10.03 | 3.88 |
| Class B-2 | 9.84  | 3.88 |
| Class C   | 9.68  | 3.88 |
| Class D   | 9.44  | 3.88 |
| Class E   | 9.33  | 3.88 |
| Class F   | 9.28  | 3.88 |

## AREA 3A:

|           |      |      |
|-----------|------|------|
| Class A   | 9.90 | 3.88 |
| Class B   | 9.55 | 3.88 |
| Class B-1 | 9.87 | 3.88 |
| Class B-2 | 9.67 | 3.88 |
| Class C   | 9.49 | 3.88 |
| Class D   | 9.27 | 3.88 |
| Class E   | 9.16 | 3.88 |
| Class F   | 9.09 | 3.88 |

## AREA 4:

|           |       |      |
|-----------|-------|------|
| Class A   | 12.11 | 3.88 |
| Class B   | 11.68 | 3.88 |
| Class B-1 | 12.06 | 3.88 |
| Class B-2 | 11.83 | 3.88 |
| Class C   | 11.62 | 3.88 |
| Class D   | 11.33 | 3.88 |
| Class E   | 11.19 | 3.88 |
| Class F   | 11.12 | 3.88 |

LANDSCAPE LABORERS - HIGHWAY CONSTRUCTION  
ORNAMENTAL PROJECTS ONLY (for sodding and  
seeding, See Class F Laborer - Misc.,  
Unskilled Labor)

## AREA 1:

Class A

10.23 I

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|                                  |       |      |
|----------------------------------|-------|------|
| Class B                          | 7.98  | I    |
| AREA 2:                          |       |      |
| Class A                          | 9.78  | I    |
| Class B                          | 7.53  | I    |
| LABORERS: OPEN CUT CONSTRUCTION: |       |      |
| Zone 1:                          |       |      |
| Class 1                          | 14.20 | 5.97 |
| Class 2                          | 14.31 | 5.97 |
| Class 3                          | 14.36 | 5.97 |
| Class 4                          | 14.44 | 5.97 |
| Class 5                          | 14.50 | 5.97 |
| Zone 2:                          |       |      |
| Class 1                          | 13.82 | 4.02 |
| Class 2                          | 13.93 | 4.02 |
| Class 3                          | 13.98 | 4.02 |
| Class 4                          | 14.05 | 4.02 |
| Class 5                          | 14.10 | 4.02 |
| Zone 3:                          |       |      |
| Class 1                          | 13.87 | 4.02 |
| Class 2                          | 13.98 | 4.02 |
| Class 3                          | 14.10 | 4.02 |
| Class 4                          | 14.17 | 4.02 |
| Class 5                          | 14.32 | 4.02 |
| Zone 4:                          |       |      |
| Class 1                          | 13.36 | 4.02 |
| Class 2                          | 13.50 | 4.02 |
| Class 3                          | 13.62 | 4.02 |
| Class 4                          | 13.67 | 4.02 |
| Class 5                          | 13.81 | 4.02 |
| Zone 5:                          |       |      |
| Class 1                          | 13.87 | 4.02 |
| Class 2                          | 13.98 | 4.02 |
| Class 3                          | 14.10 | 4.02 |
| Class 4                          | 14.17 | 4.02 |
| Class 5                          | 14.32 | 4.02 |
| Zone 6:                          |       |      |
| Class 1                          | 13.42 | 4.57 |
| Class 2                          | 13.55 | 4.57 |
| Class 3                          | 13.65 | 4.57 |
| Class 4                          | 13.72 | 4.57 |
| Class 5                          | 13.87 | 4.57 |
| Zone 7:                          |       |      |
| Class 1                          | 13.76 | 4.02 |
| Class 2                          | 13.90 | 4.02 |
| Class 3                          | 14.02 | 4.02 |
| Class 4                          | 14.07 | 4.02 |
| Class 5                          | 14.21 | 4.02 |
| Zone 8:                          |       |      |
| Class 1                          | 12.26 | 4.02 |
| Class 2                          | 12.37 | 4.02 |
| Class 3                          | 12.48 | 4.02 |
| Class 4                          | 12.57 | 4.02 |
| Class 5                          | 12.69 | 4.02 |
| Zone 9:                          |       |      |
| Class 1                          | 11.21 | 4.02 |

|   |       |           |
|---|-------|-----------|
| Class 2                                 | 11.37 | 4.02      |
| Class 3                                 | 11.48 | 4.02      |
| Class 4                                 | 11.53 | 4.02      |
| Class 5                                 | 11.66 | 4.02      |
| Zone 10:                                |       |           |
| Class 1                                 | 10.79 | 4.02      |
| Class 2                                 | 10.92 | 4.02      |
| Class 3                                 | 11.04 | 4.02      |
| Class 4                                 | 11.11 | 4.02      |
| Class 5                                 | 11.21 | 4.02      |
| Zone 11:                                |       |           |
| Class 1                                 | 12.40 | 4.02      |
| Class 2                                 | 12.54 | 4.02      |
| Class 3                                 | 12.67 | 4.02      |
| Class 4                                 | 12.72 | 4.02      |
| Class 5                                 | 12.77 | 4.02      |
| LABORERS: TUNNEL, SHAFT & CAISSON       |       |           |
| CONSTRUCTION:                           |       |           |
| Zone 1:                                 |       |           |
| Class 1                                 | 14.35 | 5.97      |
| Class 2                                 | 14.46 | 5.97      |
| Class 3                                 | 14.52 | 5.97      |
| Class 4                                 | 14.70 | 5.97      |
| Class 5                                 | 14.96 | 5.97      |
| Class 6                                 | 15.28 | 5.97      |
| Zone 2:                                 |       |           |
| Class 1                                 | 15.07 | 4.02      |
| Class 2                                 | 15.16 | 4.02      |
| Class 3                                 | 15.26 | 4.02      |
| Class 4                                 | 15.42 | 4.02      |
| Class 5                                 | 15.68 | 4.02      |
| Class 6                                 | 15.99 | 4.02      |
| Zone 3:                                 |       |           |
| Class 1                                 | 14.60 | 4.57      |
| Class 2                                 | 14.68 | 4.57      |
| Class 3                                 | 14.76 | 4.57      |
| Class 4                                 | 14.92 | 4.57      |
| Class 5                                 | 15.18 | 4.57      |
| Class 6                                 | 15.49 | 4.57      |
| POWER EQUIPMENT OPERATORS:              |       |           |
| AIRPORT, BRIDGE & HIGHWAY CONSTRUCTION: |       |           |
| ZONE 1:                                 |       |           |
| General contracts over \$500,000:       |       |           |
| CLASS 1                                 | 16.32 | 13% +5.80 |
| CLASS 2                                 | 14.77 | 13% +5.80 |
| CLASS 3                                 | 14.33 | 13% +5.80 |
| CLASS 4                                 | 14.19 | 13% +5.80 |
| General contracts \$500,000 or less:    |       |           |
| CLASS 1                                 | 15.43 | 13% +5.80 |
| CLASS 2                                 | 13.88 | 13% +5.80 |
| CLASS 3                                 | 13.44 | 13% +5.80 |
| CLASS 4                                 | 13.31 | 13% +5.80 |
| ZONE 2:                                 |       |           |
| General contracts over \$500,000        |       |           |
| CLASS 1                                 | 16.32 | 13% +5.80 |

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|  |       |        |       |
|--|-------|--------|-------|
| CLASS 2                                | 14.65 | 13%    | +5.80 |
| CLASS 3                                | 14.21 | 13%    | +5.80 |
| CLASS 4                                | 13.96 | 13%    | +5.80 |
| General contracts \$500,000 or less    |       |        |       |
| CLASS 1                                | 14.99 | 13%    | +5.80 |
| CLASS 2                                | 13.33 | 13%    | +5.80 |
| CLASS 3                                | 12.88 | 13%    | +5.80 |
| CLASS 4                                | 12.64 | 13%    | +5.80 |
| General contracts of \$50,000 or less: |       |        |       |
| ZONE 2 ONLY:                           |       |        |       |
| Group 1                                | 14.11 | 13%    | +5.80 |
| Group 2                                | 12.44 | 13%    | +5.80 |
| Group 3                                | 12.00 | 13%    | +5.80 |
| Group 4                                | 11.75 | 13%    | +5.80 |
| POWER EQUIPMENT OPERATORS:             |       |        |       |
| UNDERGROUND CONSTRUCTION:              |       |        |       |
| General contracts over \$400,000       |       |        |       |
| Zone 1:                                |       |        |       |
| Class 1                                | 18.07 | 5.80 + | 13%   |
| Class 2                                | 16.63 | 5.80 + | 13%   |
| Class 3                                | 15.98 | 5.80 + | 13%   |
| Class 4                                | 15.48 | 5.80 + | 13%   |
| Zone 2:                                |       |        |       |
| Class 1                                | 16.56 | 5.80 + | 13%   |
| Class 2                                | 14.97 | 5.80 + | 13%   |
| Class 3                                | 14.53 | 5.80 + | 13%   |
| Class 4                                | 14.28 | 5.80 + | 13%   |
| General contracts \$400,000 or less:   |       |        |       |
| Zone 1:                                |       |        |       |
| Class 1                                | 16.70 | 5.45 + | 13%   |
| Class 2                                | 15.48 | 5.45 + | 13%   |
| Class 3                                | 14.83 | 5.45 + | 13%   |
| Class 4                                | 14.33 | 5.45 + | 13%   |
| Zone 2:                                |       |        |       |
| Class 1                                | 14.74 | 5.45 + | 13%   |
| Class 2                                | 13.38 | 5.45 + | 13%   |
| Class 3                                | 12.94 | 5.45 + | 13%   |
| Class 4                                | 12.69 | 5.45 + | 13%   |
| *POWER EQUIPMENT OPERATORS:            |       |        |       |
| STEEL ERECTION:                        |       |        |       |
| ZONE 1:                                |       |        |       |
| CLASS 1                                | 18.83 | 5.00 + | 13%   |
| CLASS 2                                | 19.72 | 5.00 + | 13%   |
| CLASS 3                                | 18.59 | 5.00 + | 13%   |
| CLASS 4                                | 19.48 | 5.00 + | 13%   |
| CLASS 5                                | 18.59 | 5.00 + | 13%   |
| CLASS 6                                | 19.48 | 5.00 + | 13%   |
| CLASS 7                                | 17.95 | 5.00 + | 13%   |
| CLASS 8                                | 18.83 | 5.00 + | 13%   |
| CLASS 9                                | 17.63 | 5.00 + | 13%   |
| CLASS 10                               | 18.51 | 5.00 + | 13%   |
| CLASS 11                               | 17.15 | 5.00 + | 13%   |
| CLASS 12                               | 13.29 | 5.00 + | 13%   |
| CLASS 13                               | 12.18 | 4.85 + | 13%   |
| ZONE 2:                                |       |        |       |

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|  |         |         |     |
|--|---------|---------|-----|
| CLASS A  | 18.10   | 5.00    |     |
| CLASS B  | 17.85   | 5.00    |     |
| CLASS C  | 17.35   | 5.00    |     |
| CLASS D  | 15.25   | 5.00    |     |
| CLASS E  | 13.90   | 5.00    |     |
| CLASS F  | 12.60   | 5.00    |     |
| ZONE 3:  |         |         |     |
| GROUP 1  | 14.17   | 4.30+   | 13% |
| GROUP 2  | 12.44   | 4.30+   | 13% |
| GROUP 3  | 11.34   | 4.30+   | 13% |
| *SIGN INSTALLERS:  |         |         |     |
| Zone 1:  |         |         |     |
| General contracts over \$400,000:                              |         |         |     |
| Group 1  | 14.0575 | 131.70  |     |
| Group 2  | 13.8075 | 131.70  |     |
| General contracts of \$400,000 or less:                        |         |         |     |
| Group 1  | 12.8075 | 131.70  |     |
| Group 2  | 12.5575 | 131.70  |     |
| Zone 2:  |         |         |     |
| General contracts over \$400,000:                              |         |         |     |
| *Group 1   | 13.0675 | 131.70  |     |
| Group 2  | 12.8175 | 131.70  |     |
| General contracts of \$400,000 or less:                        |         |         |     |
| Group 1  | 10.5675 | 131.70  |     |
| Group 2  | 10.3175 | 131.70  |     |
| General contracts of \$50,000 or less:                         |         |         |     |
| Group 1  | 10.0675 | 131.70  |     |
| Group 2  | 9.8175  | 131.70  |     |
| TRUCK DRIVERS:   |         |         |     |
| AIRPORT, BRIDGES, & HIGHWAY CONSTRUCTION:                      |         |         |     |
| General contracts over \$500,000                               |         |         |     |
| Zone 1:  |         |         |     |
| CLASS 1  | 16.38   | .50 + C |     |
| CLASS 2  | 16.48   | .50 + C |     |
| CLASS 3  | 16.63   | .50 + C |     |
| Zone 2:  |         |         |     |
| CLASS 1  | 16.28   | .50 + C |     |
| CLASS 2  | 16.38   | .50 + C |     |
| CLASS 3  | 16.53   | .50 + C |     |
| General contracts \$500,000 or less but greater than \$50,000: |         |         |     |
| Zone 1:  |         |         |     |
| CLASS 1  | 15.13   | .50 + C |     |
| CLASS 2  | 15.23   | .50 + C |     |
| CLASS 3  | 15.38   | .50 + C |     |
| Zone 2:  |         |         |     |
| CLASS 1  | 13.78   | .50 + C |     |
| CLASS 2  | 13.88   | .50 + C |     |
| CLASS 3  | 14.03   | .50 + C |     |
| General contracts \$50,000 or less:                            |         |         |     |
| Zone 1:  |         |         |     |
| CLASS 1  | 15.13   | .50 + C |     |
| CLASS 2  | 15.23   | .50 + C |     |

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|   |       |         |
|---|-------|---------|
| CLASS 3                                 | 15.38 | .50 + C |
| Zone 2:                                 |       |         |
| CLASS 1                                 | 13.28 | .50 + C |
| CLASS 2                                 | 13.38 | .50 + C |
| CLASS 3                                 | 13.53 | .50 + C |
| TRUCK DRIVERS:                          |       |         |
| UNDERGROUND CONSTRUCTION                |       |         |
| Zone 1:                                 |       |         |
| General contracts over \$400,000:       |       |         |
| Group 1                                 | 15.77 | 3.29    |
| Group 2                                 | 15.91 | 3.29    |
| Group 3                                 | 16.10 | 3.29    |
| General contracts of \$400,000 or less: |       |         |
| Group 1                                 | 14.52 | 3.29    |
| Group 2                                 | 14.66 | 3.29    |
| Group 3                                 | 14.85 | 3.29    |
| Zone 2:                                 |       |         |
| General contracts over \$400,000:       |       |         |
| Group 1                                 | 15.67 | 3.29    |
| Group 2                                 | 15.81 | 3.29    |
| Group 3                                 | 15.92 | 3.29    |
| General contracts of \$400,000 or less: |       |         |
| Group 1                                 | 13.17 | 3.29    |
| Group 2                                 | 13.31 | 3.29    |
| Group 3                                 | 13.42 | 3.29    |

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

+

- A. SEVEN PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day After Thanksgiving, and Christmas Day ( Provided the employee worked the scheduled work day preceding and following the day observed)
- B. \$99.50 per week per employee
- C. \$161.70 per week per employee
- D. \$65.00 per week per employee
- E. \$89.50 per week per employee
- F. \$76.50 per week per employee
- G. \$98.50 per week per employee
- H. \$80.50 per week per employee
- I. Six Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

## AREA DESCRIPTIONS

## CEMENT MASONS:

AREA 1: Genesee, Livingston, Macomb, Monroe, Oakland, Saginaw, Washtenaw, and Wayne Counties

AREA 2: Remainder of State

## IRONWORKERS:

AREA 1: Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft Counties

AREA 2: Allegan, Antrim, Barry, Benzie, Branch, Calhoun, Charlevoix, Eaton, Emmet, Grand Traverse, Hillsdale, Ionia, Kalamazoo, Kalkaska, Kent, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montcalm, Muskegon, Newaygo, Oceana, Osceola, Ottawa, St. Joseph, Van Buren, and Wexford Counties

AREA 3: Berrien and Cass Counties

AREA 4: Lenawee and Monroe Counties

AREA 5: Remainder of State

## LABORERS: AIRPORT, BRIDGE &amp; HIGHWAY CONSTRUCTION

## LABORERS: PAVEMENT MARKERS:

AREA 1: Lenese, Macomb, Monroe, Oakland, Washtenaw and Wayne Counties

AREA 2: Remainder of State

## LABORERS: AIRPORT, BRIDGE &amp; HIGHWAY CONSTRUCTION

AREA 1: Genesee, Macomb, Monroe, Oakland, Washtenaw, and Wayne Counties

AREA 2: Allegan, Barry, Bay, Berrien, Branch, Calhoun, Cass, Clinton, Eaton, Gratiot, Hillsdale, Huron, Ingham, Jackson, Kalamazoo, Lapeer, Lenawee, Livingston, Midland, Muskegon, Saginaw, Shiawassee, St. Clair, St. Joseph, Tuscola, and Van Buren Counties

AREA 2A: Ionia, Kent, Montcalm, and Ottawa Counties

AREA 3: Alcona, Alger, Alpena, Antrim, Arenac, Baraga, Benzie, Charlevoix, Cheboygan, Chippewa, Clare, Crawford, Delta, Dickinson, Emmet, Gladwin, Gogebic, Grand Traverse, Houghton, Iosco, Iron, Isabella, Kalkaska, Keweenaw, Lake, Leelanau, Luce, Mackinac, Manistee, Marquette, Mason, Menominee, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Ontonagon, Oscoda, Otsego, Presque Isle, Roscommon, Schoolcraft and Wexford Counties

AREA 4: Mecosta and Osceola Counties

## LABORERS: LANDSCAPE LABORERS

AREA 1: Genesee, Lapeer, Livingston, Macomb, Monroe, Oakland, St. Clair, Shiawassee, Washtenaw and Wayne Counties

AREA 2: Remainder of State

## LABORERS: OPEN CUT CONSTRUCTION:

Area 1: Macomb, Oakland and Wayne Counties

Area 2: Livingston County (eastern part) and Washtenaw County

Area 3: Monroe, Sanilac and St. Clair Counties

Area 4: Hillsdale, Jackson and Lenawee Counties

- Area 5: Clinton, Eaton, Ingham Counties; Ionia County (City of Portland), Livingston County (western part)
- Area 6: Genesee, Lapeer and Shiawassee Counties
- Area 7: Arenac, Bay, Clare, Gladwin, Gratiot, Huron, Isabella, Midland, Ogemaw, Roscommon, Saginaw and Tuscola Counties
- Area 8: Allegan, Barry, Berrien, Branch, Calhoun, Cass, Kalamazoo, Lake County (eastern part), Muskegon, Newaygo, Oceana, St. Joseph and Van Buren Counties
- Area 9: Ionia County (except the City of Portland), Kent, Mecosta, Montcalm, Osceola, and Ottawa Counties
- Area 10: Alcona, Alpena, Antrim, Benzie, Charlevoix, Cheboygan, Crawford, Emmet, Grand Traverse, Iosco, Kalkaska, Lake County (western part), Leelanau, Manistee, Mason, Missaukee, Montmorency, Oscoda, Otsego, Presque Isle, Wexford Counties
- Area 11: Entire Upper Peninsula

**LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION:**

- Area 1: Macomb, Oakland and Wayne Counties
- Area 2: Genesee, Lapeer & Shiawassee Counties
- Area 3: Remainder of State

**LINE CONSTRUCTION:**

- AREA 1: Huron County, Ingham County (Twps. of Leroy, Locke, Wheatfield, White Oak and Williamson), Lapeer County, Lenawee County (Twps. of Clinton and Macon), Livingston County (Except the Twps. of Cohoctah, Deerfield, Tyrone, and Unadilla), Macomb County, Monroe County (Except the Twps. of Bedford, Erie, Lasalle, and Whiteford), Oakland County (Except the Twp. of Holly), St. Clair, Sanilac, and Tuscola Counties, Washtenaw County (Except the Twps. of Lyndon, Manchester, Sharon, and Sylvan), and Wayne County
- AREA 2: Remainder of State

**PAINTERS:**

- AREA 1: Allegan County (Twps. of Dorr, Fillmore, Heath, Hopkins, Laketown, Leighton, Manlius, Monterrey, Overisel, Salem, Saugatuck and Wayland); Ionia County (Twps. of Berlin, Boston, Campbell, Easton, Ionia, Keene, Odessa, Orange, Orleans, Otisco, Ronald and Sebewa), Kent, Mecosta and Montcalm Counties; Newaygo County (Twps. of Barton, Big Prairie, Brooks, Croton, Ensley, Everett, Goodwell, Grant, Home, Monroe, Norwich and Wilcos); Osceola County (except the twps. of Marrion and the northeastern corners of Highland and Middle Branch); Ottawa County (Twps. of Allendale, Blendone, Chester, Georgetown, Holland, Jamestown, Olive, Park, Polkton, Port Sheldon, Tallmadge, Wright and Zeeland)
- AREA 2: Allegan County (Southeast half), Barry County (Southwest half), Cass County (East half), Kalamazoo, St. Joseph Cos., Van Buren Co. (East half)
- AREA 3: Benzie, Lake, Manistee and Mason Cos.
- AREA 4: Huron Co. (East Half), St. Clair and Sanilac Cos.
- AREA 5: Hillsdale, Jackson, Lenawee Counties: Livingston County (east of Howell City Limits, south to Washtenaw County line and north to Genesee County line); Macomb, Monroe, Oakland, Washtenaw and Wayne Counties.



AREA 6: Genesee, Lapeer and Shiawassee Counties

AREA 7: Arenac, Bay, Clare, Gladwin, Gratiot Counties; Huron County (west half); Iosco, Isabella, Midland, Ogemaw Counties; Osceola County (north of Hwy. #10); Roscommon, Saginaw and Tuscola Counties

AREA 8: Clinton County, Ingham County, Ionia County (including the Cities of Lyons, Muir and Portland); Livingston County (including Howell)

AREA 9: Alcona, Alpena, Cheboygan, Emmet, Montmorency, Oscoda and Presque Isle Counties

POWER EQUIPMENT OPERATORS:

AIRPORT, BRIDGE & HIGHWAY CONSTRUCTION:

ZONE 1: Genesee, Macomb, Monroe, Oakland, Washtenaw, and Wayne Counties

ZONE 2: Remainder of State

POWER EQUIPMENT OPERATORS:

UNDERGROUND CONSTRUCTION:

Zone 1: Bay, Branch, Calhoun, Clinton, Eaton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Sanilac, Shiawassee, St. Clair, Tuscola, Washtenaw, Wayne Counties

Zone 2: Remainder of State

POWER EQUIPMENT OPERATORS:

STEEL ERECTION:

Zone 1: Lenawee, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties

Zone 2: Remainder of State

Zone 3: Alger, Beraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon and Schoolcraft Counties

SIGN INSTALLER:

Zone 1: Genesee, Macomb, Monroe, Oakland, Washtenaw and Wayne Counties

Zone 2: Remainder of State

TRUCK DRIVERS:

AIRPORT, BRIDGE & HIGHWAY CONSTRUCTION:

Zone 1: Genesee, Livingston, Macomb, Monroe, Oakland, Washtenaw,

and Wayne Counties

Zone 2: Remainder of State

TRUCK DRIVERS:

UNDERGROUND CONSTRUCTION:

Zone 1: Genesee, Macomb, Monroe, Oakland, St. Clair, Washtenaw and Wayne Counties

Zone 2: Lapeer and Shiawassee Counties

DEFINITION OF GROUPS

LABORERS: AIRPORT, BRIDGE, & HIGHWAY CONSTRUCTION

LABORERS: PAVEMENT WORK

GROUP 1: Pavement Markers

GROUP 2: Cone Setters

LABORERS: AIRPORT, BRIDGE, & HIGHWAY CONSTRUCTION

CLASS A - Line-Form Setter for curb or pavement

CLASS B - Pipe Layer, Oxygen Gun

CLASS B-1 - Asphalt Raker

CLASS C - Tunnel Miner (highway work only), Finishers Tender, Guard Rail Builder, Highway and Median Barrier Installer (including sound barrier and crash barrier), Fence Erector, Bottom, Powder, Wagon Drill and Air Track Operators, Curb and Side Rail Setters' Tenders, Diamond and Core Drill.

CLASS D - Mixer Operator (less than 5 sacks), Air or Electric tool operators (jackhammer, etc.), Spreader, Box (asphalt, stone, gravel etc.) Concrete Paddler, Power Chain Saw Operator, Paving Batch Truck Dumper, Asphalt Screed Checker, Grade Checker and Tunnel Mucker (highway work only), Concrete Saw (under 40 h.p.), and Dry Pack Machine.

CLASS E - Cement Handler or Dock, Top, Asphalt Dust Handler.

\*CLASS F - Asphalt Shoveler or Loader, Asphalt Plant Misc., Axe, man, batch bin (no power), burlap man, Carpenter's Tender, sub grade labor (hand tools), yard man, guard rail builder's tender, highway and median barrier installer's tenders, (including sound and crash barrier), fence erector's tender, dumper (wagon, truck, etc.), jetting labor joint filling labor, misc. unskilled labor, powder monkey (tender), sprinkler labor, labor, form setting labor, form stripper, Pavement reinforcing, handling and placing (e.g. wire mesh, mats, dowel bars, etc.), Mason's or Bricklayer's tender on manholes, builder, headwalls, etc., water proofing, seal coating and Slurry mix, shoring, underpinning, Bridge Painting, etc. (Spray, roller and brush), sandblasting, Pressure grouting and Bridge Pin and Hanger removal.

LABORERS: LANDSCAPE LABORERS:

CLASS A: Landscape specialist, including air, gas, diesel, electric tool and/or equipment

CLASS B: Landscape laborer, truck driver, materials haulers, and small power equipment

LABORERS: OPEN CUT CONSTRUCTION

CLASS 1 - Construction Laborers

CLASS 2 - Mortar and Material Mixer, Concrete Form, Signal, Well Point, Manhole, Headwall and Catch Basin Builder, Guard Rail Builder and Fence Erector

CLASS 3 - Air, Gasoline and Electric Tool Operator, Vibrator Operator, Driller Pump, Tar Kettle Operator, Bracers, Rodders. Reinforced Steel or Mesh (e.g. wire mesh, steel mats, dowel bars, etc.), Cement Finisher, Pipe Jacking and Boring, Wagon Drill and Air Track Operator and Concrete Saw Operator (under 40 h.p.), Windlass and Tugger.

CLASS 4 - Trench or Excavating Grade.

CLASS 5 - Pipe Layer (including crock, metal pipe. multi-plate or

other conduits).

**LABORERS: TUNNEL, SHAFT & CAISSON CONSTRUCTION**

CLASS 1 - Tunnel, Shaft and Caisson Laborer, Dump, Shanty, Hog House Tender, Testing (on gas).

CLASS 2 - Manhole, Headwall, Catch Basin Builder, Bricklayer Tender,

Mortar Machine, Material Mixer, Fence Erector and Guard Rail Builder

CLASS 3 - Air Tool Operator (jackhammer, bush hammer & grinding), First bottom, Second Bottom, Cage Tender, Car Pusher, Carrier, Concrete, Concrete Form, Concrete Repair, Cement Invert Laborer, Cement Finisher, Concrete Shoveler, Conveyor, Floor, Gasoline and Electric Tool Operator, Gunnite, Grout Operator, Pump, Outside Lock Tender, Scaffold, Top Signal, Switch, Track, Tugger, Vibrator, Winch Operator, Pipe Jacking, Boring, Wagon Drill, Air Track Operator and Concrete Saw Operator, (under 40 h.p.).

CLASS 4 - Tunnel, Shaft and Caisson Mucker, Bracer, Liner Plate, Long Haul Dinky Driver and Well Point.

CLASS 5 - Tunnel, Shaft and Caisson Miner, Drill runner, Key Board Operator, Power Knife Operator, Reinforced Steel or Mesh (e.g. wire mesh steel dowel bars, etc.).

CLASS 6 - Dynamite and Powder.

**PAINTERS:**

Area 1:

Group 1: Brush

Group 2: Paperhanging - wall coverings; Drywall finishers

Group 3: Swing stage, window jack, and window belts

Group 4: Spray decks

Group 5: Bridges over highways or railroads; Steam cleaning, sandblasting, waterblast; Bridge work over rivers or lakes

Group 6: Spray - pressure roller

Group 7: Steeple jack or high work - 40 feet

**POWER EQUIPMENT OPERATORS:**

**AIRPORT, BRIDGE & HIGHWAY CONSTRUCTION**

**ZONES 1 & 2:**

CLASS 1 - Asphalt Plant Operator, Crane Operator, Dragline, Shovel Operator, Locomotive Operator, Paver (5 bags or more), Elevating Grader Operator, Pile Driving Operator, Roller (asphalt), Blade Grader Operator, Trenching Machine, (ladder or wheel type), Auto-Grader, Slip Form Paver, Self-Propelled or Tractor Drawn Scraper, Conveyor Loader Operator (euclid type), Endloader Operator, (1 yd. capacity or over), Bulldozer, Concrete Pump (3" and over), Swing Boom Truck (up to 12 ton capacity), Hoisting Engineer, Tractor Operator, Finishing Machine, Asphalt Mechanic, Pump Operator (6" discharge or over, gas, diesel powered or generator of 300 amp or over), Shoulder or Gravel Distributing, Machine Operator (self-propelled), Backhoe (with over 3/8 yard bucket), Side Boom Tractor (type D-4 equivalent or larger), Tube Finisher (slip form paving), Gradall (and similar type machines), Asphalt Paver (self-propelled), Asphalt Planer (self-propelled), Batch Plant (Concrete-central mix, transit

- mix, shrink mix), Slurry Machine (asphalt), Roto Mill.
- CLASS 2 - Sweeper (Wayne type & similar equipment), Screening Plant Operator, Washing Plant Operator, Crusher, Backhoe (with 3/8 yard bucket or less), Side Boom Tractor (smaller than D-4 type or equivalent), Batch Plant (concrete-dry mix).
- CLASS 3 - Air Compressor Operator (600 cfm or more), Air Compressor (2 or more, less than 600 cfm), Wagon Drill Operator, Concrete Breaker, Tractor Operator (Farm type w/ attachments).
- CLASS 4 - Boiler Firetender, Oiler, Firetender, Mechanic's Tender, Trencher (service Flexplane Operator, Cleftplane Operator, Grader (Self-propelled Fine Grade or Form (concrete)), Finishing Machine (concrete), Boom or Winch Truck Operator, Concrete Pump (under 3"), Mesh Installer (self-propelled), Endloader (under 1 yard capacity), Roller Operator (other than asphalt), Curing Equipment (self-propelled), Concrete Saw Operator (40 h.p. or over), Power Bin Operator, Plant Drier (asphalt), Vibratory Compaction Equipment (6 ft. wide or over), Guard Post Driver (power driven), All Mulching Equipment, Stump Remover, Farm Type Tractor Operator.

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION

UNDERGROUND CONSTRUCTION:

ZONES 1 & 2:

- Class I: Backfiller Tamper, Backhoe, Batch Plant Operator (concrete), Clamshell, Concrete Paver (two drum or larger), Conveyor Loader (euclid type), Crane (crawler, truck type or pile driving), Dozer (9 ft. blade and over), Dragline, Elevating Grader, Endloader (over 1 1/2 cubic yds. capacity), Gradall (and similar type equipment), Mechanic, Power Shovel, Roller (asphalt, Scraper (self-propelled or tractor drawn), Side Boom Tractor (type D-4 or equivalent and larger), Slip Form Paver, Slope Paver, Trencher (over 8 ft. digging capacity), Well Drilling Rig
- Class II: Boom Truck (power swing type boom), Crusher, Dozer (less than 9 ft. blade), Endloader (1 1/2 cubic yds. capacity and smaller), Hoist, Pump (one or more - 6 in. discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), Side Boom Tractor (smaller than type D-4 or equivalent), Sweeper (Wayne type and similar equipment), Tractor (pneu-tired, other than backhoe or front end loader), Trencher (8 ft. digging capacity)
- Class III: Air Compressors (600 cfm or larger), Air Compressors (two or more - less than 600 cfm), Boom Truck (non-swinging, non-powered type boom), Concrete Breaker (self-propelled or truck mounted - includes compressor), Concrete Paver (one drum 1-1/2 yd. or larger), Elevator (other than passenger), Maintenance Man, Mechanic Tender, Pump (two or more - 4 in. up to 6 in. discharge - gas or diesel powered - excluding submersible pumps, Pumpcrete Machine (and similar equipment), Wagon Drill (multiple), Welding Machine or

Generator (two or more 300 amp. or larger/gas or diesel powered)

Class IV: Boiler, Concrete Saw (40 h.p. or over), Curing Machine (self-propelled), Farm Tractor (with attachment), Finishing Machine (concrete), Firetender, Hydraulic Pipe Pushing Machine, Mulching Equipment, Oiler, Pumps (two or more up to 4 in. discharge if used three hours or more a day - gas or diesel powered excluding submersible pumps), Roller (other than asphalt), Stump Remover, Trencher (service), Vibrating Compaction Equipment (self-propelled, 6 ft. wide or over)

POWER EQUIPMENT OPERATORS:

STEEL ERECTION

ZONE 1:

- Group 1: Crane operator when operating combination of boom and jib 220' or longer
- Group 2: Crane operator when operating combination of boom and jib 220' or longer on a Crane that requires an Oiler
- Group 3: Crane operator when operating combination of boom and jib 140' or longer
- Group 4: Crane operator when operating combination of boom and jib 140' or longer on a Crane that requires an Oiler
- Group 5: Tower Crane and derrick operator (where operator's work station is 50 ft. or more above first sub-level)
- Group 6: Tower Crane and derrick operator (where operator's work station is 50 ft. or more above the first sub-level) on a crane that requires an Oiler
- Group 7: Crane operator when operating combination of boom and jib 120' or longer
- Group 8: Crane operator when operating combination of boom and jib 120' or longer on a Crane that requires an Oiler
- Group 9: Crane operator and job mechanic
- Group 10: Crane operator on a crane that requires an Oiler
- Group 11: Hoisting operator
- Group 12: Compressor and/or welder operator
- Group 13: Oiler or firetender

ZONE 2:

CLASS A - Crane Operator with main Boom & Jib 220' or longer

CLASS B - Crane Operator with main Boom & Jib 140' or longer, Tower Cranes, Gantry Cranes, Whirley Derrick.

CLASS C - Regular Equipment Operator, Crane, Dozer, Loader, Hoist, Straddle Wagon, Job Mechanic.

CLASS D - Air Tugger (single drum), Material Hoist, Pump (6" or over).

CLASS E - Air Compressor, Welder, Generators, Conveyors.

CLASS F- Oiler and Firetender.

SIGN INSTALLERS:

Zone 1 & 2:

CLASS A - Performs all necessary labor uses all tools required to construct & set concrete forms required in the installation of highway & street signs

CLASS B - Performs all miscellaneous labor, uses all hand and power tools, & operates all other equipment, mobile or otherwise, required for the installation of highway & street signs

TRUCK DRIVERS: HIGHWAY, AIRPORT, & BRIDGE CONSTRUCTION

AIRPORT, BRIDGE & HIGHWAY CONSTRUCTION:

Zones 1 & 2:

CLASS 1 - Truck Drivers (less than 8 cyd capacity).

CLASS 2 - Truck Drivers (8 cyd Capacity or over).

CLASS 3 - Drivers (Euclid type equipment).

TRUCK DRIVERS:

UNDERGROUND CONSTRUCTION:

Zones 1 & 2:

CLASS 1 - Truck Drivers on all trucks (EXCEPT dump trucks of 8 cubic yards capacity or over, pole trailers, semis, low boys, euclid, double bottom or fuel trucks.)

CLASS 2 - Truck Drivers of Dump Trucks of 8 cubic yards capacity or over, Pole Trailers, Semis & Fuel Trucks.

CLASS 3 - Truck Drivers on Low Boys, Euclid & Double Bottoms

Zone 4:

CLASS 1 - Truck Drivers (Straight & dump trucks less than 8 cubic yards capacity.)

CLASS 2 - Dump Trucks (8 cubic yards capacity & over), Tandem Axle & Semis.

Zone 5:

CLASS 1 - Truck Drivers on all trucks (EXCEPT dump trucks of 8 cubic yards capacity or over, pole trailers & double bottoms.)

CLASS 2 - Truck Drivers on Dump Trucks of 8 cubic yards capacity or over & Pole Trailers.

CLASS 3 - Low Boys & Double Bottoms.

CLASS 4 - Structural Steel Driver.

Zone 7:

CLASS 1 - Truck Drivers.

CLASS 2 - Yard

CLASS 3 - Truck Drivers on trucks 8 cubic yards capacity or over, Mechanics.

CLASS 4 - Semi Driver.

Zone 8:

CLASS 1 - Straight or Dump Drivers.

CLASS 2 - Semi &/or Double Bottoms.

Zone 9:

CLASS 1 - Truck Drivers (less than 8 cubic yards capacity).

CLASS 2 - Truck Drivers (8 cubic yards capacity & over.)

CLASS 3 - Drivers (Euclid type equipment.)

Zone 10:

- CLASS 1 - Truck Drivers & General Warehouse Combination.
- CLASS 2 - Tandem Trucks & Trucks capacity 8 cubic yards or over
- CLASS 3 - Semis, Double Bottoms, Low Boys, Pitman Operators and/or related equipment.
- CLASS 4 - Euclid type, Bottom & End Dump Drivers.

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

|   |   |  |                                 |                                |
|---|---|--|---------------------------------|--------------------------------|
| <b>SOLICITATION, OFFER,<br/>AND AWARD</b><br><i>(Construction, Alteration, or Repair)</i> | 1. SOLICITATION NO.<br><br>DACW45-92-B-0008   | 2. TYPE OF SOLICITATION<br><input checked="" type="checkbox"/> SEALED BID (IFB)<br><input type="checkbox"/> NEGOTIATED (RFP) | 3. DATE ISSUED<br><br>91 NOV 15 | PAGE OF PAGES<br>SF-1 of SF-21 |
|   | <b>IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.</b> |  |                                 |                                |

4. CONTRACT NO. \_\_\_\_\_ 5. REQUISITION/PURCHASE REQUEST NO. \_\_\_\_\_ 6. PROJECT NO. \_\_\_\_\_

|   |            |   |
|---|------------|---|
| 7. ISSUED BY<br><br>U.S. Army Engineer District, Omaha<br>215 North 17th Street<br>Omaha, Nebraska 68102-4978 | CODE _____ | 8. ADDRESS OFFER TO<br><br>Commander, U.S. Army Engineer District, Omaha<br>215 North 17th Street<br>Omaha, Nebraska 68102-4978 |
|---|------------|---|

|   |                                    |  |
|---|------------------------------------|--|
| 9. FOR INFORMATION CALL: <input type="checkbox"/> | A. NAME<br>See BIDDING INFORMATION | B. TELEPHONE NO. (Include area code) (NO COLLECT CALLS)<br>See BIDDING INFORMATION |
|---|------------------------------------|--|

**SOLICITATION**

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".  
10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying no., date):

The bidder hereby agrees to do all the work described in these documents entitled:

NEW LAKE BOTTOM INTAKE SYSTEM  
CHARLEVOIX, MICHIGAN

11. The Contractor shall begin performance within 10 calendar days and complete it within \* calendar days after receiving  award,  notice to proceed. This performance period is  mandatory,  negotiable (See SECTION 01100.)

|   |                              |
|---|------------------------------|
| 12A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS?<br><i>(If "YES," indicate within how many calendar days after award in Item 12B.)</i><br><input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | 12B. CALENDAR DAYS<br><br>10 |
|---|------------------------------|

13. ADDITIONAL SOLICITATION REQUIREMENTS:
- A. Sealed offers in original and 0 copies to perform the work required are due at the place specified in Item 8 by 2:00 p.m. (hour) local time 91 DEC 17 (date). If this is a sealed bid solicitation, offers will be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.
- B. An offer guarantee  is,  is not required.
- C. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.
- D. Offers providing less than 60 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.



**OFFER (Must be fully completed by offeror)**

14. NAME AND ADDRESS OF OFFEROR (Include ZIP Code)

DUNS Number:

CODE FACILITY CODE

15. TELEPHONE NO. (Include area code)

16. REMITTANCE ADDRESS (Include only, if different than Item 14)

17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is accepted by the Government in writing within 60 calendar days after the date offers are due. (Insert any number equal to or greater than the minimum requirement stated in Item 13D. Failure to insert any number means the offeror accepts the minimum in Item 13D.)

AMOUNTS ▶ Entire Work, Complete \$ \_\_\_\_\_ (in figures)

18. The offeror agrees to furnish any required performance and payment bonds.

**19. ACKNOWLEDGMENT OF AMENDMENTS**  
(The offeror acknowledges receipt of amendments to the solicitation.— give number and date of each)

| AMENDMENT NO. |  |  |  |  |  |  |  |  |  |
|---------------|--|--|--|--|--|--|--|--|--|
| DATE          |  |  |  |  |  |  |  |  |  |

20A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)

20B. SIGNATURE

20C. OFFER DATE

**AWARD (To be completed by Government)**

21. ITEMS ACCEPTED:

22. AMOUNT

23. ACCOUNTING AND APPROPRIATION DATA

24. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified) ▶ ITEM 26

25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO  
 10 U.S.C. 2304(c) ( )     41 U.S.C. 253(c) ( )

26. ADMINISTERED BY CODE

27. PAYMENT WILL BE MADE BY

Commander, U.S. Army Engineer District, Omaha  
215 North 17th Street  
Omaha, Nebraska 68102-4978

Finance and Accounting Branch  
USAED Omaha  
P. O. Box 547 DTS  
Omaha, Nebraska 68101-0547

**CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE**

28. NEGOTIATED AGREEMENT (Contractor is required to sign this document and return \_\_\_\_\_ copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all work requirements identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications incorporated by reference in or attached to this contract.

29. AWARD (Contractor is not required to sign this document.) Your offer on this solicitation is hereby accepted as to the items listed. This award summarizes the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.

30A. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN (Type or print)

30B. SIGNATURE

30C. DATE

31A. NAME OF CONTRACTING OFFICER (Type or print)

31B. UNITED STATES OF AMERICA

31C. AWARD DATE

BY

CERTIFICATION AND REPRESENTATIONS

CONSTR. - IFB

The bidder (offeror) makes the following certification and representations as a part of the bid, shall check the appropriate boxes, fill in the appropriate information, and provide signatures on the attached "Solicitation Form" (SF) pages, and submit with Standard Form 1442.

1. CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APRIL 1985).

1.1. The offeror certifies that --

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

(2) the prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a Sealed Bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) no attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

1.2. Each signature on the offer is considered to be a certification by the signatory that the signatory --

(1) is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs 1.1(1) through 1.1(3) above; or

(2)(i) has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs 1.1(1) through 1.1(3) above \_\_\_\_\_

\_\_\_\_\_ [insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];

(ii) as an authorized agent, does certify that the principals named in subdivision 1.2(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs 1.1(1) through 1.1(3) above; and

## CERTIFICATION AND REPRESENTATIONS

(iii) as an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs 1.1(1) through 1.1(3) above.

1.3. If the offeror deletes or modifies subparagraph 1.1(2) above, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure. (FAR 52.203-2.)

### 2. CONTINGENT FEE REPRESENTATION AND AGREEMENT (APRIL 1984).

2.1. REPRESENTATION. The offeror represents that, except for full-time bona fide employees working solely for the offeror, the offeror --

(1) [ ] has [ ] has not employed or retained any person or company to solicit or obtain this contract; and

(2) [ ] has [ ] has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract, any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

2.2. AGREEMENT. The offeror agrees to provide information relating to the above Representation as requested by the Contracting Officer and, when subparagraph 2.1(1) or 2.1(2) is answered affirmatively, to promptly submit to the Contracting Officer --

(1) A completed Standard Form 119, Statement of Contingent or Other Fees, (SF 119); or

(2) A signed statement indicating that the SF 119 was previously submitted to the same contracting office, including the date and applicable solicitation or contract number, and representing that the prior SF 119 applies to this offer or quotation. (FAR 52.203-4.)

### 3. REQUIREMENT FOR CERTIFICATE OF PROCUREMENT INTEGRITY (NOV 1990).

3.1. DEFINITIONS. The definitions at FAR 3.104-4 are hereby incorporated in this provision.

3.2. CERTIFICATIONS. As required in paragraph 3.3 of this provision, the officer or employee responsible for this offer shall execute the following certification:

CERTIFICATION AND REPRESENTATIONS

CERTIFICATE OF PROCUREMENT INTEGRITY

(1) I, \_\_\_\_\_, am the officer or employee  
(Name of Certifier)  
responsible for the preparation of this offer and hereby certify that, to the best of my knowledge and belief, with the exception of any information described in this certificate, I have no information concerning a violation or possible violation of subsection 27(a), (d), or (f) of the Office of Federal Procurement Policy Act, as amended\* (41 U.S.C. 423), (hereinafter referred to as "the Act") as implemented in the FAR, occurring during the conduct of this procurement

\_\_\_\_\_  
(Solicitation Number)

(2) As required by subsection 27(e)(1)(B) of the Act, I further certify that, to the best of my knowledge and belief, each officer, employee, agent, representative, and consultant of \_\_\_\_\_

(Name of Offeror)

who has participated personally and substantially in the preparation or submission of this offer, has certified that he or she is familiar with, and will comply with, the requirements of subsection 27(a) of the Act, as implemented in the FAR, and will report immediately to me any information concerning a violation or possible violation of subsections 27(a), (b), (d), or (f) of the Act, as implemented in the FAR, pertaining to this procurement.

(3) Violations or possible violations:

(Continue on plain bond paper if necessary and label Certificate of Procurement Integrity (Continuation Sheet) ENTER NONE IF NONE EXISTS)

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

(4) I agree that, if awarded a contract under this solicitation, the certifications required by subsection 27(e)(1)(B) of the Act shall be maintained in accordance with paragraph (f) of this provision.

\_\_\_\_\_  
(Signature of the Officer or Employee  
Responsible for the Offer)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Typed Name of the Officer or Employee  
Responsible for the Offer)

\*Subsections 27(a), (b), and (d) are effective on December 1, 1990. Subsection 27(f) is effective June 1, 1991.

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER TITLE 18, UNITED STATES CODE SECTION 1001.

(END OF CERTIFICATION)

## CERTIFICATION AND REPRESENTATIONS

3.3. (1) For procurements using sealed bidding procedures, the signed certifications shall be submitted by each bidder with the bid submission except for procurements using two-step sealed bidding procedure (see Subpart 14.5). For those procurements, the certifications shall be submitted with submission of the step two sealed bids. A certificate is not required for indefinite delivery contracts (see Subpart 16.5) unless the total estimated value of all orders eventually to be placed under the contract is expected to exceed \$100,000.

(2) For contracts and contract modifications which include options, a certificate is required when the aggregate value of the contract or contract modification and all options (see 3.104-4(e)) exceeds \$100,000.

(3) Failure of a bidder to submit the signed certificate with its bid shall render the bid nonresponsive.

3.4. Pursuant to FAR 3.104-9(d), the Offeror may be requested to execute additional certifications at the request of the Government. Failure of an Offeror to submit the additional certifications shall cause its offer to be rejected.

3.5. A certification containing a disclosure of a violation or possible violation will not necessarily result in the withholding of award under this solicitation. However, the Government, after evaluation of the disclosure, may cancel this procurement or take any other appropriate actions in the interests of the Government, such as disqualification of the Offeror.

3.6. In making the certification in paragraph (2) of the certificate, the officer or employee of the competing contractor responsible for the offer may rely upon a one-time certification from each individual required to submit a certification to the competing contractor, supplemented by periodic training. These certifications shall be obtained at the earliest possible date after an individual required to certify begins employment or association with the contractor. If a contractor decides to rely on a certification executed prior to the suspension of section 27 (i.e., prior to December 1, 1989), the Contractor shall ensure that an individual who has so certified is notified that section 27 has been reinstated. These certifications shall be maintained by the Contractor for 6 years from the date a certifying employee's employment with the company ends or, for an agent, representative, or consultant, 6 years from the date such individual ceases to act on behalf of the Contractor.

3.7. Certifications under paragraphs 3.2 and 3.4 of this provision are material representations of fact upon which reliance will be placed in awarding a contract.

(FAR 52.203-8)

## 4. CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (APR 1991).

4.1. The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph 4.2 of this certification.

4.2. The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989, --

## CERTIFICATION AND REPRESENTATIONS

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

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

4.3. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(FAR 52.203-11)

### 5. TAXPAYER IDENTIFICATION (SEP 1989).

#### 5.1. DEFINITIONS.

"Common parent," as used in this solicitation 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.

"Corporate status," as used in this solicitation provision, means a designation as to whether the offeror is a corporate entity, an unincorporated entity (e.g., sole proprietorship or partnership), or a corporation providing medical and health care services.

"Taxpayer Identification Number (TIN)," as used in this solicitation provision, means the number required by the IRS to be used by the offeror in reporting income tax and other returns.

CERTIFICATION AND REPRESENTATIONS

5.2. The offeror is required to submit the information required in paragraphs 5.3 through 5.5 of this solicitation provision in order to comply with reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M and implementing regulations issued by the Internal Revenue Service (IRS). If the resulting contract is subject to the reporting requirements described in 4.902(a), the failure or refusal by the offeror to furnish the information may result in a 20 percent reduction of payments otherwise due under the contract.

5.3. 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 U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.;
- Offeror is an agency or instrumentality of a foreign government;
- Offeror is an agency or instrumentality of a Federal, state, or local government;
- Other. State basis. \_\_\_\_\_

5.4. CORPORATE STATUS.

- Corporation providing medical and health care services, or engaged in the billing and collecting of payments for such services;
- Other corporate entity;
- Not a corporate entity;
- Sole proprietorship
- Partnership
- Hospital or extended care facility described in 26 CFR 501(c)(3) that is exempt from taxation under 26 CFR 501(a).

5.5. COMMON PARENT.

- Offeror is not owned or controlled by a common parent as defined in paragraph 5.1 of this clause.
- Name and TIN of common parent:

Name \_\_\_\_\_  
TIN \_\_\_\_\_

(FAR 52.204-3)

6. CONTRACTOR ESTABLISHMENT CODE (AUG 1989).

## CERTIFICATION AND REPRESENTATIONS

6.1. In the block with its name and address, the offeror should supply the Contractor Establishment Code applicable to that name and address, if known, to the offeror. The number should be preceded by "CEC:" Offerors should take care to report the correct CEC and not a similar number assigned to the Offeror in a different system.

6.2. The CEC is a 9-digit code assigned to a contractor establishment that contracts with a Federal executive agency. The CEC system is a contractor identification coding system which is currently the Dun and Bradstreet Data Universal Numbering System (DUNS). The CEC system is distinct from the Federal Taxpayer Identification Number (TIN) system. The Government will obtain a Contractor Establishment Code for any awardee that does not have or does not know its CEC.

(FAR 52.204-4)

## 7. COMMERCIAL AND GOVERNMENT ENTITY (CAGE) CODE REPORTING (OCT 1987).

7.1. In the block with its name and address, the Offeror should supply the CAGE code applicable to that name and address. The CAGE code should be preceded by "CAGE:". If the Offeror does not have a CAGE code, the Offeror may request the Contracting Officer to initiate a DD Form 2051. The Contracting Activity will complete Section A and the Offeror must complete Section B of the DD Form 2051. A CAGE code will be assigned when a completed DD Form 2051 is received by the Defense Logistics Services Center, Attn: DLSC-FBA, Federal Center, 74 N. Washington, Battle Creek, MI 49017-3084. No Offeror should delay the submission of its offer pending receipt of its CAGE code.

(DFARS 252.204-7007)

## 8. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (MAY 1989).

8.1. (1) The Offeror certifies, to the best of its knowledge and belief, that--

(i) The Offeror and/or any of its Principals--

(A) Are [ ] are not [ ] presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have [ ] have not [ ], within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission for fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and



## CERTIFICATION AND REPRESENTATIONS

(C) Are [ ] are not [ ] presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision 8.1(1)(i)(B) of this provision.

(ii) The Offeror has [ ] has not [ ], within a three-year period preceding this offer, had one more contracts terminated for default by any Federal agency.

(1) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

8.2. The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contact award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

8.3. A certification that any of the items in paragraph 8.1 of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

8.4. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph 8.1 of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

8.5. The certification in paragraph 8.1 of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to the other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(FAR 52.209-5)

9. TYPE OF BUSINESS ORGANIZATION - SEALED BIDDING (JULY 1987). The bidder, by checking the applicable box, represents that --

CERTIFICATION AND REPRESENTATIONS

(1) It operates as  a corporation incorporated under the laws of the State of \_\_\_\_\_,  an individual,  a partnership,  a nonprofit organization, or  a joint venture or

(2) If the bidder is a foreign entity, it operates as  an individual,  a partnership,  a nonprofit organization,  a joint venture, or  a corporation, registered for business in \_\_\_\_\_ country  
(FAR 52.214-2)

10. SMALL BUSINESS CONCERN REPRESENTATION (JAN 1991).

10.1. REPRESENTATION. The offeror represents and certifies as part of its offer that it  is  is not a small business concern and that  all  not all end items to be furnished will be manufactured or produced by a small business concern in the United States, its territories or possessions, or Puerto Rico or the Trust Territory of the Pacific Islands.

10.2. DEFINITION. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in this solicitation.

10.3. NOTICE. Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to sections 8(a), 8(d), 9 or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall (1) Be punished by imposition of a fine, imprisonment, or both; (2) Be subject to administrative remedies, including suspension and debarment; and (3) Be ineligible for participation in programs conducted under the authority of the Act. (FAR 52.219-1.)

11. WOMEN-OWNED SMALL BUSINESS REPRESENTATION (APRIL 1984).

11.1. REPRESENTATION. The offeror represents that it  is  is not a women-owned small business concern.

11.2. DEFINITIONS.

"Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria and size standards in 13 CFR 121.

"Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business. (FAR 52.219-3.)

CERTIFICATION AND REPRESENTATIONS

12. SMALL DISADVANTAGED BUSINESS CONCERN REPRESENTATION (DoD FAR SUPPLEMENT DEVIATION) (APR 1990).

12.1. DEFINITION. "Small disadvantaged business concern," as used in this provision, means a small business concern, including mass media, owned and controlled by individuals who are both socially and economically disadvantaged, as defined in regulations prescribed by the U.S. Small Business Administration at 13 CFR Part 124, the majority of earnings of which directly accrue to such individuals. (13 CFR Part 124 generally provides that a small disadvantaged business concern is a small business concern (1) which is at least fifty-one percent (51%) unconditionally owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least fifty-one percent (51%) of the voting stock of which is unconditionally owned by one or more socially and economically disadvantaged individuals, and (2) whose management and daily business operations are controlled by one or more such individuals.) (See 13 CFR 124.101 through 124.109.) This term also means a small business concern that is owned and controlled by an economically disadvantaged Indian tribe or Native Hawaiian Organization and which meets the requirements of 13 CFR 124.112 or 13 CFR 124.113 respectively.

12.2. REPRESENTATIONS. The Offeror represents that its qualifying ownership falls within at least one of the following categories (check the applicable categories):

- Subcontinent Asian (Asian-Indian) American (U.S. Citizen with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, or Nepal)
- Asian-Pacific American (U.S. Citizen with origins from Japan, China, the Phillipines, Vietnam, Korea, Somoa, Guam, U.S. Trust Territory of the Pacific Islands (Republic of Palau), the Northern Mariana Islands, Laos, Kampuchea (Cambodia), Taiwan, Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Republic of the Marshall Islands, or the Federated States of Micronesia)
- Black American (U.S. Citizen)
- Hispanic American (U.S. Citizen with origins from South America, Central America, Mexico, Cuba, the Dominican Republic, Puerto Rico, Spain or Portugal)
- Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians, including Indian tribes or Native Hawaiian Organizations)
- Individual/concern certified for participation in the Minority Small Business and Capital Ownership Development Program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).
- Other

12.3. CERTIFICATION.

(1) The Offeror represents and certifies, as part of its offer, that it is [ ], is not [ ] a small disadvantaged business concern.

## CERTIFICATION AND REPRESENTATIONS

(2) The Offeror represents and certifies, as part of its offer, that the Small Business Administration (SBA) has [ ], has not [ ] made a determination concerning the Offeror's status as a small disadvantaged business concern. If the SBA has made such a determination, the date of the determination was \_\_\_\_\_ and the Offeror certifies that it:

\_\_\_\_\_ was found by the SBA to be socially and economically disadvantaged as a result of that determination and that no circumstances have changed to vary that determination.

\_\_\_\_\_ was found by the SBA not be socially and economically disadvantaged as a result of that determination, but circumstances which caused the determination have changed.

12.4. NOTIFICATION. The Offeror agrees to notify the Contracting Officer before award of any change in its status as a small disadvantaged business concern occurring between the submission of its offer and contract award.

12.5. PENALTIES AND REMEDIES. The Offeror represents and certifies that the above information is true and understands that whoever for the purpose of securing a contract or subcontract under subsection (a) of Section 1207 of Public Law 99-661 misrepresents the status of any concern or person as a small business concern owned and controlled by a minority (as described in subsection (12.1)) shall (i) be punished by imposition of a fine, imprisonment, or both; (ii) be subject to administrative remedies including suspension and disbarment; and (iii) be ineligible for participation in programs conducted under the authority of the Small Business Act . (DFARS 252.219-7005)

## 13. SMALL BUSINESS CONCERN REPRESENTATION FOR THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (JUL 1991).

13.1. DEFINITION. "Emerging small business", as used in this solicitation, means a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the standard industrial classification code assigned to a contracting opportunity.

13.2. (Complete only if Offeror has certified itself under the provision at FAR 52.219-1 as a small business concern under the size standards of this solicitation.) The Offeror represents and certifies as part of its offer that it [ ] is, [ ] is not an emerging small business.

13.3. (Complete only if the Offeror is a small business or an emerging small business, indicating its size range.)

**CERTIFICATION AND REPRESENTATIONS**

Offeror's number of employees for the past 12 months (check this column if size standard stated in solicitation is expressed in terms of number of employees) or Offeror's average annual gross revenue for the last 3 fiscal years (check this column if size standard stated in solicitation is expressed in terms of annual receipts). (Check one of the following.)

| No. of Employees | Average Annual Gross Revenues   |
|------------------|---------------------------------|
| ___ 50 or fewer  | ___ \$1 million or less         |
| ___ 51 - 100     | ___ \$1,000,001 - \$2 million   |
| ___ 101 - 250    | ___ \$2,000,001 - \$3.5 million |
| ___ 251 - 500    | ___ \$3,500,001 - \$5 million   |
| ___ 501 - 750    | ___ \$5,000,001 - \$10 million  |
| ___ 751 - 1,000  | ___ \$10,000,001 - \$17 million |
| ___ Over 1,000   | ___ Over \$17 million           |

(FARS 52.219-19)

**13A. SMALL BUSINESS SIZE REPRESENTATION FOR TARGETED INDUSTRY CATEGORIES UNDER THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (JUL 1991).**

(Complete only if the Offeror has certified itself under the provision at 52.219-1 as a small business concern under the size standards of this solicitation.)

Offeror represents and certifies as follows:

Offeror's number of employees for the past 12 months (check this column if size standard stated in solicitation is expressed in terms of number of employees) or Offeror's average annual gross revenue for the last 3 fiscal years (check this column if size standard in solicitation is expressed in terms of annual receipts). (Check one of the following.)

| No. of Employees | Average Annual Gross Revenues   |
|------------------|---------------------------------|
| ___ 50 or fewer  | ___ \$1 million or less         |
| ___ 51 - 100     | ___ \$1,000,001 - \$2 million   |
| ___ 101 - 250    | ___ \$2,000,001 - \$3.5 million |
| ___ 251 - 500    | ___ \$3,500,001 - \$5 million   |

CERTIFICATION AND REPRESENTATIONS

|                   |                                   |
|-------------------|-----------------------------------|
| _____ 501 - 750   | _____ \$5,000,001 - \$10 million  |
| _____ 751 - 1,000 | _____ \$10,000,001 - \$17 million |
| _____ Over 1,000  | _____ Over \$17 million           |

(FARS 52.219-21)

14. CERTIFICATION OF NONSEGREGATED FACILITIES (APRIL 1984).

14.1. "Segregated facilities," as used in this provision, means any waiting rooms, work areas, restrooms and washrooms, 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.

14.2. 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.

14.3. 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 Nonsegregated 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, semi-annually, or annually).

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001. (FAR 52.222-21.)

CERTIFICATION AND REPRESENTATIONS

15. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (APRIL 1984). The offeror represents that:

15.1. It [ ] has [ ] has not participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation, the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114.

15.2. It [ ] has [ ] has not, filed all required compliance reports.

15.3. Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards. (FAR 52.222-22.)

16. CLEAN AIR AND WATER CERTIFICATION (APRIL 1984). The offeror certifies that:

16.1. Any facility to be used in the performance of this proposed contract [ ] is [ ] is not listed on the Environmental Protection Agency List of Violating Facilities;

16.2. The offeror will immediately notify the Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, 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

16.3. The offeror will include a certification substantially the same as this certification, including this paragraph 16.3, in every nonexempt subcontract. (FAR 52.223-1.)

17. CERTIFICATION REGARDING A DRUG-FREE WORKPLACE (JUL 1990).

17.1. DEFINITIONS. As used in this provision,

"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.

## CERTIFICATION AND REPRESENTATIONS

"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.

17.2. By submission of its offer, the offeror, if other than an individual, who is making an offer that equals or exceeds \$25,000, certifies and agrees, that with respect to all employees of the offeror to be employed under a contract resulting from this solicitation, it will -- no later than 30 calendar days after contract award (unless a longer period is agreed to in writing), for contracts of 30 calendar days or more performance duration; or as soon as possible for contracts of less than 30 calendar days performance duration; but in any case, by a date prior to when performance is expected to be completed--

(1) Publish a statement notifying such 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 on-going 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;



## CERTIFICATION AND REPRESENTATIONS

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph 17.2(1) of this provision;

(4) Notify such employees in writing the statement required by subparagraph 17.2(1) of this provision, that as a condition of continued employment on the contract resulting from this solicitation, 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 conviction for a violation occurring in the workplace no later than five (5) calendar days after such conviction;

(5) Notify the Contracting Officer in writing within ten (10) calendar days after receiving notice under subdivision 17.2(4)(ii) of this provision, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee; and

(6) Within 30 calendar days after receiving notice under subdivision 17.2(4)(ii) of this provision of a conviction, take one of the following actions with respect to any employee who is convicted of drug abuse violations occurring in the workplace;

(i) Take 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.

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 17.2(1) through 17.2(6) of this provision.

17.3. By submission of its offer, the offeror, if an individual who is making an offer of any dollar value, certifies and agrees that the offeror will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the performance of the contract resulting from this solicitation.

17.4. Failure of the offeror to provide the certification required by paragraphs 17.2 or 17.3 of this provision, renders the offeror unqualified and ineligible for award. (See FAR 9.104-1(g) and 19.602-1(a)(2)(i).)

17.5. In addition to other remedies available to the Government, the certification in paragraphs 17.2 and 17.3 of this provision concerns a matter within the jurisdiction of an agency of the United States and the making of a

CERTIFICATION AND REPRESENTATIONS

false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001. (FAR 52.223-5)

18. NOTICE OF RESTRICTIONS ON CONTRACTING WITH SANCTIONED PERSONS (APR 1991).

18.1. Statutory prohibitions have been imposed on contracting with sanctioned persons, as specified in Federal Acquisition Regulation (FAR) 25.10 and in the clause at 52.225-13, Restrictions on Contracting with Sanctioned Persons.

18.2. By submission of this offer, the Offeror represents that no products or services delivered to the Government under any contract resulting from this solicitation will be products or services of a sanctioned person, as defined in the clause referenced in paragraph 18.1 of this provision, unless one of the exceptions in subparagraphs (d)(1) or (d)(2) of the clause referenced above applies or unless listed below.

Product or Service

Sanctioned Person

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

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

(List as necessary)

(FAR 52.225-12)

19. UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (NOV 1990)

19.1. This clause applies only if the contract includes a subcontracting plan incorporated under the terms of the clause entitled, Small Business and Small Disadvantaged Business Subcontracting Plan. It does not apply to contracts awarded based on a subcontracting plan submitted and approved under FAR 52.219-9, paragraph (g).

19.2. Definitions. As used in this clause:

"Indian organization" means the governing body of any Indian tribe (as defined by 25 U.S.C. 1452(c)) or entity established or recognized by the governing body for the purposes of Chapter 17, Title 25, U.S.C.

"Indian-owned economic enterprise" means any Indian-owned (as determined by the Secretary of Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership shall constitute not less than 51 percent of the enterprise.

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"Interested party" means a prime contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

19.3. It is the policy of the United States that Indian organizations and Indian-owned economic enterprises shall have the maximum practicable opportunity to participate in performing contracts awarded by Federal agencies.

19.4. The Contractor agrees to use its best efforts to give Indian organizations and Indian-owned economic enterprises the maximum practicable opportunity to participate in the subcontracts it awards in the performance of this contract.

(1) The Contractor may rely on the written representation of the Indian organization or Indian-owned economic enterprise that it meet the eligibility requirements of this clause.

(2) If the cost of subcontracting with an Indian organization or Indian-owned economic enterprise exceeds the cost of acquiring the supplies or services from a non-Indian source, the Contractor may request an equitable adjustment to:

- (i) The estimated cost of a cost-type prime contract,
- (ii) The target cost of a cost-plus-incentive-fee prime contract,
- (iii) The target cost and ceiling of a fixed-price incentive prime contract, or
- (iv) The price of a firm-fixed price prime contract.

(3) The amount of the equitable adjustment to the prime contract shall be the lessor of:

(i) The difference between the estimated cost, target cost or firm-fixed-price included in the subcontract initially awarded to the Indian organization or enterprise and the corresponding estimated cost, target cost or firm-fixed-price which would have been included in a subcontract with the otherwise low, non-Indian offeror; or

(ii) Five percent of the estimated cost, target cost or firm-fixed-price included in the subcontract initially awarded to the Indian organization or enterprise.

(4) The Contractor has the burden of proving the amount claimed and must assert its request for an adjustment prior to completion of contract performance.

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19.5. The Contracting Officer shall decide the amount of the adjustment and modify the contract accordingly. The Contracting Officer's decision is final and not subject to the Disputes clause of this contract.

(DFAR 252.226-7002)

ZERO ACCIDENTS

## SPECIFICATIONS FOR CONSTRUCTION OF

## NEW LAKE BOTTOM INTAKE SYSTEM

## CHARLEVOIX, MICHIGAN

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## ZERO ACCIDENTS

SECTION 01100  
SPECIAL CLAUSES

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38. APPLICABILITY OF DAVIS-BACON ACT

1. COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK. The Contractor shall commence work under this contract within ten (10) calendar days after the date of receipt by him of Notice to Proceed, prosecute said work diligently, and complete the entire work ready for use not later than 15 June 1992. The

foregoing completion date is based on the assumption that the successful bidder will receive the Notice to Proceed by 31 January 1992. The Government will extend the completion date by the number of calendar days after the above date that the Contractor receives the Notice to Proceed, except to the extent that the delay in issuance of the Notice to Proceed results from the failure of the Contractor to execute the contract and give the required performance and payment bonds within the time specified in the bid. The time stated for completion shall include final cleanup of the premises.

1.1. **START WORK.** Evidence that the Contractor has started procurement of materials, preparation and submission of shop drawings, preparation of subcontracts, and other preparatory work will satisfy the requirement that work commence within ten (10) calendar days after receipt of Notice to Proceed. Therefore, work need not be commenced at the construction site within ten (10) calendar days. (based on FAR 52.212-3)

## 2. LIQUIDATED DAMAGES-CONSTRUCTION.

2.1. **FAILURE TO COMPLY.** If the Contractor fails to complete the work within the time specified in the contract, or any extension, the Contractor shall pay to the Government as liquidated damages, the sum of \$430.00 for each day of delay.

2.2. **CONTRACT TERMINATED.** If the Government terminates the Contractor's right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned the Government in completing the work.

2.3. **CONTRACT NOT TERMINATED.** If the Government does not terminate the Contractor's right to proceed, the resulting damage will consist of liquidated damages until the work is completed or accepted. (based on FAR 52.212-5)

2.4. **COMPUTING COMPLETION DATES FOR NON-WORK PERIOD.** No work will be required at the construction site during the period 1 December 1991 through 15 April 1992 inclusive. The days in this period will not be counted when computing the calendar days for completion of the work. The Contractor may perform work at the site during all or any part of this period upon giving prior written notice to the Contracting Officer. No time extensions will be granted for delays during this period.

## 2A. ORDER OF WORK.

2A.1. The following steps are a guide to the order of work:

- a. Secure materials and mobilize.
- b. Locate existing intake pipe at point of connection.
- c. Place corner indicator posts to assist layout.
- d. Excavate existing pipe and cut hole.
- e. Install tapping sleeve, reducer and valve with box.
- f. Excavate trench, install pipe and backfill up to infiltration gallery.
- g. Excavate infiltration gallery (All or by parts, Steps h thru k).
- h. Place coarse aggregate below screen.
- i. Lay screens and header.
- j. Place remaining coarse aggregate.
- k. Place 2-foot of stockpiled sand.
- l. Level surface and place remaining indicator posts.
- m. Place concrete bags around valve box and access.

n. Remove excess side cast materials to disposal site and level area.

2A.2. All preparatory work indicated in paragraph: START WORK above shall be complete prior to 15 April 1992.

3. CONTRACT DRAWINGS AND SPECIFICATIONS.

3.1. SETS FURNISHED. Seven (7) sets of half-size bid drawings and specifications including amendments (except applicable publications incorporated into the Technical Provisions by reference) will be mailed to the Contractor when the Notice To Proceed is issued. The bid drawings as amended shall be utilized in the performance of the work until contract drawings (i.e., bid drawings that have been posted with all amendment changes) are mailed to the Contractor. Eleven (11) sets of contract drawings (4 sets full size and 7 sets half-size) will be mailed to the Contractor as soon as possible, but no later than fifteen (15) days after Notice to Proceed. The work shall conform to the contract drawings, set out in the drawing index, all of which form a part of these specifications. The work shall also conform to the standard details bound or referenced herein.

3.2. NOTIFICATION OF DISCREPANCIES. The Contractor shall check all drawings furnished him immediately upon their receipt and shall promptly notify the Contracting Officer of any discrepancies. Dimensions marked on drawings shall be followed in lieu of scale measurements. Enlarged plans and details shall govern where the same work is shown at smaller scales. The Contractor shall compare all drawings and verify the figures before laying out the work and will be responsible for any errors which might have been avoided thereby.

3.3. OMISSIONS. Omissions from the drawings or specifications or the misdescription of details of work which are manifestly necessary to carry out the intent of the drawings and specifications, or which are customarily performed, shall not relieve the Contractor from performing such omitted or misdescribed details of the work but they shall be performed as if fully and correctly set forth and described in the drawings and specifications.

4. SUBMITTALS. See Section 01305 - Submittal Procedures.

4.1. SUBMITTALS REQUIRED BY THIS SECTION shall be in accordance with Section 01300 Submittal Descriptions.

\\*SD-07 SCHEDULES\*\

\\*DESCRIPTIONS OF SOUNDING/POSITIONING EQUIPMENT AND QUALIFICATIONS OF SURVEY PERSONNEL\*\; \\*GA2\*\ (Para. 10.8)

\\*SD-08 STATEMENTS\*\

\\*DESCRIPTIONS OF SOUNDING/POSITIONING EQUIPMENT AND QUALIFICATIONS OF SURVEY PERSONNEL\*\; \\*GA2\*\ (Para. 10.8)

5. PHYSICAL DATA. Pursuant to CONTRACT CLAUSES clause: "Site Investigation and Conditions Affecting the Work," information and data furnished or referred to below are furnished for general information only and the Government may not be held liable for any interpretation or conclusions drawn therefrom by the Contractor.



5.1. SOURCE OF DATA. The physical conditions indicated on the drawings and in the specifications are the result of site investigations by surveys and core borings test pits. The data shown graphically and by symbol for each respective boring represents the actual geologic features observed and logged at the location given on the drawings. While the borings are representative of subsurface conditions at their respective locations and for their respective vertical reaches, local minor variations characteristic of the subsurface materials of this region could occur.

5.2. WEATHER. Weather conditions shall have been investigated by the Contractor to satisfy himself as to the hazards likely to arise therefrom. Complete weather records and reports may be obtained from the local U.S. Weather Bureau.

5.3. ACCESS ROUTES. Transportation facilities shall have been investigated by the Contractor to satisfy himself as to the existence of access highways and railroad facilities. (based on FAR 52.236-4)

## 6. PAYMENT.

6.1. PROMPT PAYMENT ACT. Pay requests authorized in CONTRACT CLAUSES clause: "Payments Under Fixed-Price Construction Contracts", will be paid pursuant to the clause, "Prompt Payment for Construction Contracts". Pay requests will be submitted on ENG Form 93 and 93a, "Payment Estimate-Contract Performance" and "Continuation". All information and substantiation required by the identified contract clauses will be submitted with the ENG Form 93, and the required certification will be included on the last page of the ENG Form 93a, signed by an authorized contractor official and dated when signed. The designated billing office is the Office of the Area Engineer.

6.2. PAYMENTS FOR MODIFICATIONS. Payments may be made for cost bearing change orders within the scope of the contract only to the extent funds are authorized in the order on a two-part modification. Contractor pricing proposed must be submitted at the earliest possible time after the change order is issued, or at a specific time as directed by the Contracting Officer. At the discretion of the Contracting Officer, any and all payments may be withheld on the modification until the Contractor has submitted a qualifying price proposal, in as much detail as required by the Contracting Officer, and the final price has been agreed.

6.3. PAYMENT FOR MATERIALS DELIVERED OFFSITE. In accordance with CONTRACT CLAUSES clause: "Payments Under Fixed-Price Construction Contracts," the Contracting Officer, at his discretion, may authorize material delivered to the Contractor at locations other than the site be taken into consideration in the preparation of payment estimates. Such materials delivered to the Contractor offsite will only be considered if the Contractor furnishes satisfactory evidence that he has acquired title to such material and that it will be utilized in the work covered under this contract.

7. AVAILABILITY OF UTILITY SERVICES. The Contractor shall be responsible for providing all required amounts of domestic water and electricity required under this contract.

8. UTILITY SERVICE INTERRUPTIONS. The Contractor shall submit written notification not less than 15 calendar days in advance of each interruption of each utility service to or within existing buildings and facilities being used by others. No single outage will exceed 4 hours unless approved in writing.

The time and duration of all outages will be coordinated with the Using Agency by the Contracting Officer. The Contractor shall coordinate with the City of Charlevoix, Michigan through the Contracting Officer regarding the downtime of the intake system. The maximum time the intake can be out of service shall be limited to the period of time the City of Charlevoix can provide service from stored water.

9. **LAYOUT OF WORK.** The Contractor shall lay out his work from Government established base lines and bench marks indicated on the drawings and shall make all measurements in connection therewith. The Contractor shall furnish all stakes, templates, platforms, equipment, tools, and materials and labor as may be required in laying out any part of the work from the base lines and marks established by the Government. The Contractor shall execute the work to the lines and grades established or indicated and shall maintain and preserve all stakes and other control points established by the Contracting Officer until authorized to remove them. If such marks are destroyed by or through negligence of the Contractor, prior to their authorized removal, they may be replaced by the Contracting Officer at his discretion and the expense of replacement will be deducted from any amounts due or to become due the Contractor. (based on FAR 52.236-17)

#### 10. **HYDROGRAPHIC SURVEYS.**

10.1. **PRIOR SURVEY.** Prior to commencing any work at the project site, the Contractor shall conduct a hydrographic survey of the lake bottom in the area set aside for the temporary storing of dredged materials.

10.2. The Contractor shall provide all equipment necessary to complete this survey electronically utilizing automatic positioning and depth recording equipment capable of a horizontal accuracy of 5 feet and vertical accuracy of 0.1 foot.

10.3. The prior survey and any necessary baselines shall be established in such a manner as to exceed all perimeters of the stockpile area by a minimum of 200 feet.

10.4. Soundings shall be taken at 100 foot intervals with individual depth reading on 10 foot centers along each interval line. Lines shall be run perpendicularly to the long axis of the storage area perimeter.

10.5. The results of both the prior and after survey shall be plotted both in plan and cross-sectional view at a scale of 1 inch = 100 Feet. All survey notes and sonic sounding tapes shall become the property of the Government upon completion of the plotting process.

10.6. **AFTER SURVEY.** As soon as practicable after the removal of dredged material from the stockpile area, the Contractor shall conduct an after survey of the area along the same lines as established for the prior survey. Plotting and provision of the data shall be described for the prior survey.

10.7. The results of the after survey shall be utilized by the Contracting Officer to insure that lake bottom conditions are substantially the same after use of the area as they were prior to use of the area. Should the Contracting Officer decide that changes are substantial, the Contractor shall, at no additional cost, drag/sweep or dredge the area in such a manner as will restore the area to near original condition.

10.8. \\*DESCRIPTIONS OF SOUNDING/POSITIONING EQUIPMENT AND QUALIFICATIONS OF SURVEY PERSONNEL\*\ shall be submitted, for approval, to the Contracting Officer prior to hydrographic surveying.

11. TIME EXTENSIONS FOR UNUSUALLY SEVERE WEATHER.

11.1. This clause specifies the procedure for the determination of time extensions for unusually severe weather in accordance with the contract clause entitled "Default: (Fixed-Price Construction)." In order for the Contracting Officer to award a time extension under this clause, the following conditions must be satisfied:

11.1.1. The weather experienced at the project site during the contract period must be found to be unusually severe, that is, more severe than the adverse weather anticipated for the project location during any given month.

11.1.2. The unusually severe weather must actually cause a delay to the completion of the project. The delay must be beyond the control and without the fault or negligence of the contractor.

11.2. The following schedule of monthly anticipated adverse weather delays is based on National Oceanic and Atmospheric Administration (NOAA) or similar data for the project location and will constitute the base line for monthly weather time evaluations. The contractor's progress schedule must reflect these anticipated adverse weather delays in all weather dependent activities.

MONTHLY ANTICIPATED ADVERSE WEATHER DELAY  
WORK DAYS BASED ON (7) DAY WORK WEEK

| JAN   | FEB   | MAR   | APR   | MAY  | JUN  | JUL  | AUG  | SEP  | OCT  | NOV   | DEC   |
|-------|-------|-------|-------|------|------|------|------|------|------|-------|-------|
| ( 31) | ( 29) | ( 31) | ( 19) | ( 6) | ( 4) | ( 4) | ( 4) | ( 6) | ( 8) | ( 10) | ( 31) |

11.3. Upon acknowledgment of the Notice to Proceed (NTP) and continuing throughout the contract, the contractor will record on the daily CQC report, the occurrence of adverse weather and resultant impact to normally scheduled work. Actual adverse weather delay days must prevent work on critical activities for 50 percent or more of the contractor's scheduled work day. The number of actual adverse weather delay days shall include days impacted by actual adverse weather (even if adverse weather occurred in previous month), be calculated chronologically from the first to the last day of each month, and be recorded as full days. If the number of actual adverse weather delay days exceeds the number of days anticipated in paragraph 11.2. above, the contracting officer will convert any qualifying delays to calendar days, giving full consideration for equivalent fair weather work days, and issue a modification in accordance with the contract clause entitled "Default (Fixed Price Construction)".

12. NOT USED.

13. INSURANCE REQUIRED. In accordance with CONTRACT CLAUSES clause: "Insurance Work on a Government Installation," the Contractor shall procure the following minimum insurance:

| Type  | Amount  |
|---|---|
| Workmen's Compensation and Employer's Liability Insurance | \$100,000   |
| General Liability Insurance                               | \$500,000 per occurrence                          |
| Automobile Liability Insurance                            |   |
| Bodily injury   | \$200,000 per person and \$500,000 per occurrence |
| Property damage   | \$ 20,000 per occurrence                          |

(Coverages per FAR 28.307-2)

14. NOT USED.

15. CONTRACTOR QUALITY CONTROL (CQC). See Section 01440 - Contractor Quality Control.

16. NONDOMESTIC CONSTRUCTION MATERIALS. The requirements of this contract entitled Buy American Act Construction Materials do not apply to construction materials or their components included in the list set forth in paragraph 25.108 of the Federal Acquisition Regulation.

17. NOTICE OF PRIORITY RATING FOR NATIONAL DEFENSE USE (MAY 1986). Any contract awarded as a result of this solicitation will be a DO rated order certified for national defense use under the Defense Priorities and Allocations System (DPAS) (15 CFR. 350), and the Contractor will be required to follow all of the requirements of this regulation. (based on FAR 52.212-7)

18. DAILY WORK SCHEDULES. In order to closely coordinate work under this contract, the Contractor shall prepare for and attend a weekly coordination meeting with the Contracting Officer and Using Service at which time the Contractor shall submit for coordination and approval, his proposed daily work schedule for the next two week period. Required temporary utility services, time and duration of interruptions, and protection of adjoining areas shall be included with the Contractor's proposed 2-week work schedule. At this meeting, the Contractor shall also submit his schedule of proposed dates and times of all preparatory inspections to be performed during the next 2 weeks. Coordination action by the Contracting Officer relative to these schedules will be accomplished during these weekly meetings.

19. EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE.

19.1. Allowable cost for construction and marine plant and equipment in sound workable condition owned or controlled and furnished by a Contractor or subcontractor at any tier shall be based on actual cost data when the Government can determine both ownership and operating costs for each piece of equipment or equipment groups of similar serial and series from the Contractor's accounting records. When both ownership and operating costs cannot be determined from the Contractor's accounting records, equipment costs shall be based upon the applicable provisions of EP 1110-1-8, "Construction Equipment Ownership and Operating Expense Schedule," S/N-008-022-0255-3, Vol. 2, Region II. Copies of

each regional schedule may be obtained from the U.S. Government Printing Office (202-783-3238) at a cost of \$13.00 per schedule. Working conditions shall be considered to be average for determining equipment rates using the schedule unless specified otherwise by the Contracting Officer. For equipment not included in the schedule, rates for comparable pieces of equipment may be used or a rate may be developed using the formula provided in the schedule. For forward pricing, the Schedule in effect at the time of negotiations shall apply. For retrospective pricing, the Schedule in effect at the time the work was performed shall apply.

19.2. Equipment rental costs are allowable, subject to the provisions of FAR 31.105(d)(ii) and FAR 31.205-36, substantiated by certified copies of paid invoices. Rates for equipment rented from an organization under common control, lease-purchase, or sale-leaseback arrangements will be determined using the schedule except that rental costs leased from an organization under common control that has an established practice of leasing the same or similar equipment to unaffiliated lessees are allowable. Costs for major repairs and overhaul are unallowable.

19.3. When actual equipment costs are proposed and the total amount of the pricing action is over \$25,000, cost or pricing data shall be submitted on Standard Form 1411, "Contract Pricing Proposal Cover Sheet." By submitting cost or pricing data, the Contractor grants to the Contracting Officer or an authorizing representative the right to examine those books, records, documents, and other supporting data that will permit evaluation of the proposed equipment costs. After price agreement, the Contractor shall certify that the equipment costs or pricing data submitted are accurate, complete, and current. (EFARS 31.105)

20. AS-BUILT DRAWINGS. The Contractor shall maintain two separate sets of red-lined full scale, as-built construction drawings marked-up to fully indicate as-built conditions. These drawings shall be maintained in a current condition at all times until completion of the work and shall be available for review by Government personnel at all times. The location, general description, approximate depth below finished grade of all underground utilities encountered, and all variations from the contract drawings, for whatever reason, including those occasioned by optional materials and the required coordination between trades, shall be indicated. These variations shall be shown in the same general detail utilized in the initial contract drawings. Both sets of as-built construction drawings shall be furnished to the Contracting Officer on the date of final inspection. The submittal requirement for as-built construction drawings shall be shown as a separate activity on the Contractor prepared progress bar chart or network analysis system, whichever is applicable.

- 21. NOT USED.
- 22. NOT USED.
- 23. NOT USED.
- 24. NOT USED.
- 25. NOT USED.
- 26. NOT USED.

27. PROGRESS CHARTS submitted in accordance with the CONTRACT CLAUSES clause entitled "Schedule for Construction Contracts" shall indicate the required data for each of the principal features of the work.

28. NOT USED.

29. PERFORMANCE EVALUATION OF CONTRACTOR. The Contractor's performance will be evaluated upon final acceptance of the work. However, interim evaluation may be prepared at any time during contract performance when determined to be in the best interest of the Government. The format for the evaluation will be SF 1420, and the Contractor will be rated either outstanding, satisfactory, or unsatisfactory in the areas of Contractor Quality Control, Timely Performance, Effectiveness of Management, Compliance with Labor Standards, and Compliance with Safety Standards. The Contractor will be advised of any unsatisfactory rating, either in an individual element or in the overall rating, prior to completing the evaluation, and all Contractor comments will be made a part of the official record. The final report will be supplemented or amended as necessary through the warranty period of the contract to reflect changes in the evaluation of performance elements based on compliance with warranty requirements. Performance Evaluation Reports will be available to all DOD Contracting offices for their future use in determining Contractor responsibility, in compliance with DFARS 236.201(c)(1). (based on EFARS 36.201 AND DFARS 236.201.

30. PERFORMANCE OF WORK BY CONTRACTOR (1984 APR). The Contractor shall perform on the site, and with its own organization, work equivalent to at least twenty (20) percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government. (FAR 52.236-1)

31. NOT USED.

32. NOT USED.

33. INTERIM CHANGE TO CONTRACT CLAUSE FAR 52.236-13 ACCIDENT PREVENTION. Delete subparagraph (b) and substitute the following:

(b) 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.

34. PROFIT.

34.1. Weighted guidelines method of determining profit shall be used on any equitable adjustment change order or modification issued under this contract. The profit factors shall be as follows:

| <u>Factor</u>               | <u>Rate</u> | <u>Weight</u> | <u>Value</u> |
|-----------------------------|-------------|---------------|--------------|
| Degree of Risk              | 20          |               |              |
| Relative difficulty of work | 15          |               |              |
| Size of Job                 | 15          |               |              |
| Period of performance       | 15          |               |              |
| Contractor's investment     | 5           |               |              |
| Assistance by Government    | 5           |               |              |
| Subcontracting              | 25          |               |              |
|                             | 100         |               |              |

34.2. Based on the circumstances of each procurement action, each of the above factors shall be weighted from .03 to .12 as indicated below. The value shall be obtained by multiplying the rate by the weight. The value column when totalled indicates the fair and reasonable profit percentage under the circumstances of the particular procurement.

34.2.1. Degree of Risk. Where the work involves no risk or the degree of risk is very small, the weighting should be .03; as the degree of risk increases, the weighting should be increased up to a maximum of .12. Lump sum items will have, generally, a higher weighted value than the unit price items for which quantities are provided. Other things to consider: the portion of the work to be done by subcontractors, nature of work, where work is to be performed, reasonableness of negotiated costs, amount of labor included in costs, and whether the negotiation is before or after performance of work.

34.2.2. Relative Difficulty of Work. If the work is most difficult and complex, the weighting should be .12 and should be proportionately reduced to .03 on the simplest of jobs. This factor is tied in to some extent with the degree of risk. Some things to consider: the nature of the work, by whom it is to be done, where, and what is the time schedule.

34.2.3. Size of Job. All work not in excess of \$100,000 shall be weighted at .12. Work estimated between \$100,000 and \$5,000,000 shall be proportionately weighted from .12 to .05.

34.2.4. Periods of Performance. Jobs in excess of 24 months are to be weighted at .12. Jobs of lesser duration are to be proportionately weighted to a minimum of .03 for jobs not to exceed 30 days. No weight where additional time not required.

34.2.5. Contractor's Investment. To be weighted from .03 to .12 on the basis of below average, average, and above average. Things to consider: amount of subcontracting, mobilization payment item, Government furnished property, equipment and facilities, and expediting assistance.

34.2.6. Assistance by Government. To be weighted from .12 to .03 on the basis of average to above average. Things to consider: use of Government-owned property, equipment and facilities, and expediting assistance.

34.2.7. Subcontracting. To be weighted inversely proportional to the amount of subcontracting. Where 80 percent or more of the work is to be subcontracted, the weighting is to be .03 and such weighting proportionately increased to .12 where all the work is performed by the Contractor's own forces.

- 35. NOT USED.
- 36. NOT USED.
- 37. NOT USED.

38. **APPLICABILITY OF DAVIS-BACON ACT.** It is the position of the Department of Defense that the Davis-Bacon Act, 40 U.S.C. 276a is applicable to temporary facilities such as batch plants, sandpits, rock quarries, and similar operations, located off the immediate site of the construction but set up exclusively to furnish required materials for a construction project on the site of the work. Clause "Payrolls and Basic Records" of the CONTRACT CLAUSES is applicable to such operations.





1.8. In the event the Contractor's warranty under paragraph 1.2 above has expired, the Government may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

1.9. 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 Governmentfurnished material or design.

1.10. 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.

1.11. 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. (Based on FAR 52.246-21)

2. WARRANTY SERVICE CALLS. The Contractor shall furnish to the Contracting Officer the names of local service representatives and/or Contractors that are available for warranty service calls and who will respond to a call within 24 hours.

SECTION 01300

SUBMITTAL DESCRIPTIONS

INDEX

- PART 1 GENERAL
  - 1.1 SUMMARY (Not Applicable)
  - 1.2 REFERENCES
  - 1.3 SUBMITTALS
  
- PART 2 PRODUCTS (Not Applicable)
  
- PART 3 EXECUTION (Not Applicable)

## SECTION 01300

### SUBMITTAL DESCRIPTIONS

#### PART 1 GENERAL

##### 1.1 SUMMARY (Not Applicable)

##### 1.2 REFERENCES (Not Applicable)

##### 1.3 SUBMITTALS

The submittals described below are those required and further described in other sections of the specifications. Other requirements pertaining to submittals are included in the SPECIAL CLAUSES and Section 01305 SUBMITTAL PROCEDURES. Submittals required by the CONTRACT CLAUSES and other nontechnical parts of the contract are not included in this section.

###### SD-01 Data

Submittals which provide calculations, descriptions, or documentation regarding the work.

###### SD-04 Drawings

Submittals which graphically show relationship of various components of the work, schematic diagrams of systems, details of fabrication, layouts of particular elements, connections, and other relational aspects of the work.

###### SD-06 Instructions

Preprinted material describing installation of a product, system or material, including special notices and material safety data sheets, if any, concerning impedances, hazards, and safety precautions.

###### SD-07 Schedules

Tabular lists showing location, features, or other pertinent information regarding products, materials, equipment, or components to be used in the work.

###### SD-08 Statements

A document, required of the Contractor, or through the Contractor, from a supplier, installer, manufacturer, or other lower tier Contractor, the purpose of which is to confirm the quality or orderly progression of a portion of the

work by documenting procedures, acceptability of methods or personnel, qualifications, or other verifications of quality.

#### SD-09 Reports

Reports of inspections or tests, including analysis and interpretation of test results. Each report shall be properly identified. Test methods used shall be identified and test results shall be recorded.

#### SD-13 Certificates

Statement signed by responsible official of a manufacturer of a product, system or material, attesting that the product, system or material meets specified requirements. The statement must be dated after the award of this contract, must name the project, and must list the specific requirements which are being certified.

#### SD-14 Samples

Samples, including both fabricated and unfabricated physical examples of materials, products, and units of work as complete units or as portions of units of work.

#### SD-18 Records

Documentation to record compliance with technical or administrative requirements.

#### SD-19 Operation and Maintenance Manuals

Data which forms a part of an operation and maintenance manual.

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION (Not Applicable)

## SECTION 01305

## SUBMITTAL PROCEDURES

INDEX

## PART 1. GENERAL

- 1.1 SUMMARY (Not Applicable)
- 1.2 REFERENCES (Not Applicable)
- 1.3 RESPONSIBILITIES
- 1.4 SUBMITTAL CLASSIFICATION
- 1.5 CATEGORIES OF SUBMITTALS
- 1.6 DISAPPROVED SUBMITTALS
- 1.7 WITHHOLDING OF PAYMENT

## PART 2 PRODUCTS (Not Applicable)

## PART 3 EXECUTION

- 3.1 GENERAL
- 3.2 SUBMITTAL REGISTER (ENG Form 4288)
- 3.3 SCHEDULING
- 3.4 TRANSMITTAL FORM (ENG Form 4025)
- 3.5 SUBMITTAL PROCEDURE
- 3.6 CONTROL OF SUBMITTALS
- 3.7 GOVERNMENT APPROVED SUBMITTALS
- 3.8 INFORMATION ONLY SUBMITTALS
- 3.9 STAMPS

## SECTION 01305

### SUBMITTAL PROCEDURES

#### ATTACHMENTS:

Submittal Register (ENG Form 4288)  
Transmittal Form (ENG Form 4025)

#### PART 1 GENERAL

##### 1.1 SUMMARY (Not Applicable)

##### 1.2 REFERENCES (Not Applicable)

##### 1.3 RESPONSIBILITIES

###### 1.3.1 Contractor Responsibilities

The Contractor is responsible for total management of his work including scheduling, control, and certification of all submittals. The submittal management system provided in these specifications is intended to be a complete system for the Contractor to use to control the quality of materials, equipment and workmanship provided by manufacturers, fabricators, suppliers and subcontractors. The Contractor will review each submittal for contract compliance. Submittals that comply will be forwarded to the Government. Submittals that do not conform will be returned to the originator to be corrected. The Submittal Register (ENG Form 4288) will be utilized to log and monitor all submittal activities. No construction or installation activities shall be performed prior to required approvals of applicable submittals. The Contractor will perform a check to assure that all materials and/or equipment have been tested, submitted and approved during the preparatory phase of quality control inspections.

###### 1.3.2 Government Responsibilities

The Government will prepare a list of submittals required for each contract. This list will be prepared ENG Form 4288 (Submittal Register) and will be limited to columns "c" through "o". The Government will review submittals designated for Government approval and approve those that conform to contract requirements. The approval of submittals by the Contracting Officer shall not be construed as a complete check, but will indicate only that the general method of construction, materials, detailing and other information are satisfactory. Approval will not relieve the Contractor of the responsibility for any error which may exist, as the Contractor under the CQC requirements of this contract is responsible for the dimensions and design of adequate connections, details and satisfactory construction of all work. After submittals have been approved by the Contracting Officer, no resubmittal for the purpose of substituting materials or equipment will be given consideration unless accompanied by justification as to why a substitution is necessary.

#### 1.4 SUBMITTAL CLASSIFICATION

Submittals are classified as follows:

##### 1.4.1 Government Approved

Governmental approval is required for extensions of design, critical materials, deviations, equipment whose compatibility with the entire system must be checked, and other items as designated by the Contracting Officer. Within the terms of the Contract Clause entitled "Specifications and Drawings for Construction," they are considered to be "shop drawings." See paragraph: CATEGORIES OF SUBMITTALS below.

##### 1.4.2 Information Only

All submittals not requiring Government approval will be for information only. They are not considered to be "shop drawings" within the terms of the Contract Clause referred to above. See paragraph: CATEGORIES OF SUBMITTALS below.

#### 1.5 CATEGORIES OF SUBMITTALS

##### 1.5.1 Category I

All Category I submittals are subject to Government approval. Category I submittals may also be noted as "GA1" in the technical specifications and Submittal Register.

##### 1.5.2 Category II

Category II submittals may be required for "Government Approval" or "For Information Only." Within the terms of the CONTRACT CLAUSES clause entitled "Specifications and Drawings for Construction," Category II submittals for "Government Approval" are considered to be "shop drawings" and Category II submittals "for information only" are not considered to be "shop drawings." Category II submittals for Government approval are noted as "GA2" or "For Approval" in the technical specifications and Submittal Register. Category II submittals for information only are noted as "FIO" or "For Information Only" in the technical specifications and Submittal Register.

#### 1.6 DISAPPROVED SUBMITTALS

The Contractor shall make all corrections required by the Contracting Officer and promptly furnish a corrected submittal in the form and number of copies as specified for the initial submittal. The Contractor shall examine his quality control plan and organization to determine why his controls did not identify the deficiency. Appropriate adjustments will be made in the quality control program and/or implementation. If the Contractor considers any correction indicated on the submittals to constitute a change to the contract, notice as required under the Contract Clause entitled "Changes" shall be given promptly to the Contracting Officer.



## 1.7 WITHHOLDING OF PAYMENT

Payment for materials incorporated in the work will not be made if required submittals/approvals have not been obtained.

## PART 2 PRODUCTS (Not Applicable)

## PART 3 EXECUTION

### 3.1 GENERAL

The Contractor shall submit all items listed on the Submittal Register (ENG Form 4288) or specified in the other sections of these specifications. The Contracting Officer may request submittals in addition to those listed when deemed necessary to adequately describe the work covered in the respective sections. Units of weights and measures used on all submittals shall be the same used in the contract drawings. Submittals shall be made in the respective number of copies and to the respective addresses set forth below. Each submittal shall be complete and in sufficient detail to allow ready determination of compliance with all contract requirements. Prior to submittal, all items shall be checked and approved by the Contractor's Quality Control (CQC) representative and each respective transmittal form (ENG Form 4025) shall be stamped, signed, and dated by the CQC representative certifying that the accompanying submittal complies with all the contract requirements. Proposed deviations from the contract requirements shall be clearly identified. Submittals shall include items such as: Contractor's, manufacturer's, or fabricator's drawings; descriptive literature including (but not limited to) catalog cuts, diagrams, operating charts or curves; test reports; test cylinders; samples; O&M manuals including parts list; certifications; warranties and other such required submittals. Submittals requiring Government approval shall be scheduled and made prior to the acquisition of the material or equipment covered thereby.

### 3.2 SUBMITTAL REGISTER (ENG Form 4288)

The Contractor will be furnished one (1) set of ENG Forms 4288 at the preconstruction conference on which will be listed each item of equipment and material of each type for which fabricators drawings, and/or related descriptive data, test reports, samples, spare parts lists, O&M manuals, or other types of submittals are required by the specifications. An advance copy of the ENG Form 4288 may be obtained by written request to GEMRO-ED-DI, 215 N. 17th Street, Omaha, NE 68102-4978. Columns "c" thru "o" have been completed by the Government. The Contractor shall complete columns "a," "b," and "p" thru "u" and return Six (6) completed copies to the Contracting Officer for approval within twenty (20) calendar days after the preconstruction conference. The ENG Forms 4288 will become a part of the contract after approval. Column b shall be left blank for use later to record the respective transmittal and item number corresponding to those listed on the transmittal form entitled: "TRANSMITTAL OF SHOP DRAWINGS, EQUIPMENT DATA, MATERIAL SAMPLES, OR MANUFACTURER'S CERTIFICATES OF COMPLIANCE" (ENG Form 4025). The approved submittal register will become the scheduling document and will be used to control submittals throughout the life of the contract. This register and the progress schedules shall be coordinated.

### 3.3 SCHEDULING

Submittals covering component items forming a system or items that are interrelated shall be scheduled to be coordinated and submitted concurrently. Certifications to be submitted with the pertinent drawings shall be so scheduled. Adequate time (a minimum of twenty (20) calendar days exclusive of mailing time) shall be allowed on the register for review and approval. No delays damages or time extensions will be allowed for time lost in late submittals.

### 3.4 TRANSMITTAL FORM (ENG Form 4025)

The sample transmittal for (ENG Form 4025) attached to this section shall be used for submitting both Government approved and information only submittals in accordance with the instructions on the reverse side of the form. These forms will be furnished to the Contractor. This form shall be properly completed by filling out all the heading blank spaces and identifying each item submitted. Special care will be exercised to ensure proper listing of the specification paragraph and/or sheet number of the contract drawings pertinent to the data submitted for each item.

### 3.5 SUBMITTAL PROCEDURE

Submittals shall be made as follows:

#### 3.5.1 Procedures

##### 3.5.1.1 Category I Submittals

All items listed as Category I submittals in the various sections or on the Submittal Register shall be mailed directly to the addressee shown below as directed. For each submittal, a completed information copy of the attached transmittal form shall also be mailed to the Resident Engineer and to the Construction Division of the Detroit District.

#### Technical Reviewer

Mailing address of Architect-Engineer Firm  
McNamee, Porter & Seeley, Inc.  
3131 S. State Street  
Ann Arbor, Michigan 48108

Each required submittal which is in the form of a drawing shall be submitted as one (1) reproducible and one (1) print of the drawing. Drawing prints shall be either blue or black line permanent-type prints on a white background or blueprint. Reproducibles shall be brownline diazo or sepia and shall be of such quality that prints made therefrom are sufficiently clear for microfilm copying. All catalog and descriptive data shall be submitted in eight (8) copies. Catalog cuts and other descriptive data which have more than one model, size, or type or which shows optional equipment shall be clearly marked to show the model, size, or type and all optional equipment which is proposed for approval. Submittals on component items forming a system or that are interrelated shall

be submitted at one time as a single submittal in order to demonstrate that the items have been properly coordinated and will function as a unit.

#### 3.5.1.2 Category II Submittals

Except as noted below, data for all items listed as Category II Submittals in the various sections shall be submitted in five (5) copies to the Resident Engineer using the transmittal form. Items not to be submitted in multiples, such as samples and test cylinders, shall be submitted to the Resident Engineer accompanied by five (5) copies of the transmittal form.

#### 3.5.1.3 Certificates of Compliance

Each certificate shall be signed by an official authorized to certify in behalf of the manufacturing company and shall contain the name and address of the Contractor, the project name and location, and the quantity and date or dates of shipment or delivery to which the certificates apply. Copies of laboratory test reports submitted with certificates shall contain the name and address of the testing laboratory and the date or dates of the tests to which the report applies. Certification shall not be construed as relieving the Contractor from furnishing satisfactory material, if, after tests are performed on selected samples, the material is found not to meet the specific requirements.

#### 3.5.1.4 Purchase Orders

Copies of purchase orders shall be furnished to the Contracting Officer when the Contractor requests assistance for expediting deliveries of equipment or materials, or when requested by the Contracting Officer for the purpose of quality assurance review. Each purchase order issued by the Contractor or his subcontractors for materials and equipment to be incorporated into the project shall (1) be clearly identified with the applicable DA contract number, (2) carry an identifying number, (3) be in sufficient detail to identify the material being purchased, (4) indicate a definite delivery date, and (5) display the DMS priority rating.

#### 3.5.2 Deviations

For submittals which include proposed deviations requested by the Contractor, the column "variation" of ENG Form 4025 shall be checked. The Contractor shall set forth in writing the reason for any deviations and annotate such deviations on the submittal. The Government reserves the right to rescind inadvertent approval of submittals containing unnoted deviations.

### 3.6 CONTROL OF SUBMITTALS

The Contractor shall carefully control his procurement operations to ensure that each individual submittal is made on or before the Contractor scheduled submittal date shown on the approved "Submittal Register."

### 3.7 GOVERNMENT APPROVED SUBMITTALS

Upon completion of review of submittals requiring Government approval, the submittals will be identified as having received approval by being so stamped and dated.

#### 3.7.1 Category I

The drawing print and six (6) sets of all catalog data and descriptive literature will be retained by the Contracting Officer and the drawing reproducible and two (2) sets of catalog data and descriptive literature will be returned to the Contractor.

#### 3.7.2 Category II

Two (2) copies of Category II submittals for approval will be returned to the Contractor except for samples, test cylinders, and O&M manuals for which two (2) copies of the transmittal form only will be returned to the Contractor.

### 3.8 INFORMATION ONLY SUBMITTALS

"Information Only" submittals are noted in the specifications and Submittal Register. In the technical specifications, these submittals will be marked as "FIO" or "For Information Only". Normally submittals for information only will not be returned. Approval of the Contracting Officer is not required on information only submittals. These submittals will be used for information purposes. The Government reserves the right to require the Contractor to resubmit any item found not to comply with the contract. This does not relieve the Contractor from the obligation to furnish material conforming to the plans and specifications and will not prevent the Contracting Officer from requiring removal and replacement if nonconforming material is incorporated in the work. This does not relieve the Contractor of the requirement to furnish samples for testing by the Government laboratory or check testing by the Government in those instances where the technical specifications so prescribe.

### 3.9 STAMPS

Stamps used by the Contractor on the submittal data to certify that the submittal meets contract requirements shall be similar to the following:

CONTRACTOR

(Firm Name)

\_\_\_\_\_ Approved

\_\_\_\_\_ Approved with corrections as noted on submittal data and/or  
attached sheets(s).

SIGNATURE: \_\_\_\_\_

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

DATE: \_\_\_\_\_

-- End of Section --

| SUBMITTAL REGISTER  |                |                                      | CATEGORY<br>II  | SPECIFICATION SECTION<br>Gas Piping Systems |                            |                                 |                            |                                 |   |   |                       |   |   |                                 |  |                            |  |  |                  |                  |  |                  |                      |  |         |
|---|----------------|--------------------------------------|---|---|----------------------------|---------------------------------|----------------------------|---------------------------------|---|---|-----------------------|---|---|---------------------------------|--|----------------------------|--|--|------------------|------------------|--|------------------|----------------------|--|---------|
| TITLE AND LOCATION<br>AMMO STORAGE FACILITY, FT CARSON, CO  |                |                                      |   | CONTRACTOR                                  |                            |                                 |                            |                                 |   |   |                       |   |   | CONTRACT NUMBER                 |  |                            |  |  |                  |                  |  |                  |                      |  |         |
| HAS<br>ACTIVITY<br>CODE   | ITEM<br>NUMBER | SPECIFICATION<br>PARAGRAPH<br>NUMBER | DESCRIPTION OF<br>ITEM SUBMITTED                      | TYPE OF SUBMITTAL                           |                            |                                 |                            |                                 |   |   |                       |   |   |                                 | CLASSIFICATION                                 |                            |  | CONTRACTOR<br>SCHEDULE DATES   |                  |                  | CONTRACTOR<br>ACTION   |                  | GOVERNMENT<br>ACTION |  | REMARKS |
|   |                |                                      |   | S<br>D<br>P<br>C                            | S<br>A<br>M<br>P<br>L<br>E | C<br>U<br>R<br>R<br>E<br>N<br>T | M<br>E<br>T<br>R<br>I<br>C | F<br>E<br>E<br>S<br>I<br>T<br>Y | T<br>E<br>C<br>H<br>N<br>I<br>C<br>A<br>L | R<br>E<br>C<br>O<br>R<br>D<br>I<br>N<br>G | O<br>T<br>H<br>E<br>R | I<br>N<br>F<br>O<br>R<br>M<br>A<br>T<br>I<br>O<br>N | T<br>O<br>B<br>E<br>R<br>E<br>M<br>O<br>V<br>E<br>D | C<br>A<br>P<br>T<br>I<br>V<br>E | G<br>O<br>V<br>E<br>R<br>N<br>M<br>E<br>N<br>T | S<br>U<br>B<br>M<br>I<br>T | A<br>P<br>P<br>R<br>O<br>V<br>A<br>L<br>N<br>E<br>E<br>D<br>E<br>D<br>B<br>Y | M<br>A<br>T<br>E<br>R<br>I<br>A<br>L<br>N<br>E<br>E<br>D<br>E<br>D<br>B<br>Y | C<br>O<br>D<br>E | D<br>A<br>T<br>E | S<br>U<br>B<br>M<br>I<br>T<br>T<br>O<br>G<br>O<br>V<br>E<br>R<br>N<br>M<br>E<br>N<br>T | C<br>O<br>D<br>E | D<br>A<br>T<br>E     |  |         |
| a   | b              | c                                    | d   | e   | f                          | g                               | h                          | i                               | j   | k   | l                     | m   | n   | o                               | p  | q                          | r  | s  | t                | u                | v  | w                | x                    |  |         |
|   |                | 15350-2.4                            | Welding Procedures                                    |   |                            |                                 |                            |                                 |   |   |                       |   | X   | X                               |  |                            |  |  |                  |                  |  |                  |                      |  |         |
|   |                | 15350-2.4                            | Names and Identification Symbols of Qualified Welders |   |                            |                                 |                            |                                 |   |   |                       |   | X   | X                               |  |                            |  |  |                  |                  |  |                  |                      |  |         |
|   |                | 15350-2.5                            | Operating and Maintenance Instructions                |   |                            |                                 |                            |                                 |   |   |                       |   | X   | X                               |  |                            |  |  |                  |                  |  |                  |                      |  |         |
| <b>SAMPLE</b>   |                |                                      |   |   |                            |                                 |                            |                                 |   |   |                       |   |   |                                 |  |                            |  |  |                  |                  |  |                  |                      |  |         |
| IMPORTANT: THE DESCRIPTION OF EACH SUBMITTAL LISTED ABOVE SHALL BE DUPLICATED EXACTLY ON THE TRANSMITTAL FORM (ENG FORM 4025) |                |                                      |   |   |                            |                                 |                            |                                 |   |   |                       |   |   |                                 |  |                            |  |  |                  |                  |  |                  |                      |  |         |



## INSTRUCTIONS

1. Section I will be initiated by the Contractor in the required number of copies.
2. Each transmittal shall be numbered consecutively in the space provided for "Transmittal No.". This number, in addition to the contract number, will form a serial number for identifying each submittal. For new submittals or resubmittals mark the appropriate box; on resubmittals, insert transmittal number of last submission as well as the new submittal number.
3. The "Item No." will be the same "Item No." as indicated on ENG FORM 4288 for each entry on this form.
4. Submittals requiring expeditious handling will be submitted on a separate form.
5. Separate transmittal form will be used for submittals under separate sections of the specifications.
6. A check shall be placed in the "Variation" column when a submittal is not in accordance with the plans and specifications--also, a written statement to that effect shall be included in the space provided for "Remarks".
7. Form is self-transmittal, letter of transmittal is not required.
8. When a sample of material or Manufacturer's Certificate of Compliance is transmitted, indicate "Sample" or "Certificate" in column c, Section I.
9. U.S. Army Corps of Engineers approving authority will assign action codes as indicated below in space provided in Section I, column i to each item submitted. In addition they will ensure enclosures are indicated and attached to the form prior to return to the contractor. The Contractor will assign action codes as indicated below in Section I, column g, to each item submitted.

### THE FOLLOWING ACTION CODES ARE GIVEN TO ITEMS SUBMITTED

- |   |  |
|---|--|
| A -- Approved as submitted  | E -- Disapproved (See attached)  |
| B -- Approved, except as noted on drawings.   | F -- Receipt acknowledged  |
| C -- Approved, except as noted on drawings.<br>Refer to attached sheet resubmission required. | FX -- Receipt acknowledged, does not comply<br>as noted with contract requirements |
| D -- Will be returned by separate correspondence.   | G -- Other (Specify)   |
10. Approval of items does not relieve the contractor from complying with all the requirements of the contract plans and specifications.

Reverse of ENG Form 4025



## ZERO ACCIDENTS

SECTION 01400  
SPECIAL SAFETY REQUIREMENTS

## INDEX

1. GENERAL
2. PRECONSTRUCTION CONFERENCE
3. ACCIDENT PREVENTION PROPOSAL
4. EXCAVATION AND TRENCHING

1. **GENERAL.** This section provides additional requirements for implementing the accident prevention articles in CONTRACT CLAUSES clause: "Accident Prevention" and Safety and Health Requirements Manual EM 385-1-1.

2. **PRECONSTRUCTION CONFERENCE.** A preconstruction conference will be scheduled prior to beginning of site work at which time representatives of the Contracting Officer will review and discuss requirements relative to planning and administration of the overall safety program.

3. **ACCIDENT PREVENTION PROPOSAL.** The Contractor has the option to submit his own accident prevention proposal or utilize the basic safety program as outlined in subparagraphs 3.1 through 3.11. In the event the Contractor submits his own proposal, as a minimum it will incorporate or cover the basic points as outlined in subparagraphs 3.1 through 3.11.

3.1. **RESPONSIBLE INDIVIDUAL.** The Contractor shall designate an approved onsite employee as the individual responsible for insuring the accident prevention proposal is implemented, enforced, and that inspections of scaffolding, mechanical equipment and hand tools are made as required.

3.2. **INDOCTRINATION OF EMPLOYEE BEFORE START OF WORK.** The Contractor shall indoctrinate each employee to insure the following items are covered:

(a) Purpose of the accident prevention program (i.e., to minimize the hazards and reduce injuries).

(b) Review of representative hazards on the job and the precautions to be taken.

(c) Location of first aid and other emergency facilities and what to do in case of injury, fire or when a serious hazard is noted.

(d) Time and location of Tool Box Safety Meetings.

(e) Required protective equipment such as goggles, respirators, lifelines, and hard hats.

(f) Brief review of clean-up procedure.

(g) Location of company safety rules (posting or handout).

3.3. **TOOL BOX SAFETY MEETINGS.** Hold weekly Tool Box Safety Meetings for all contractor employees. Timely safety subjects shall be determined by a responsible individual. Submit written notice to the Contracting Officer.

3.4. **FIRE PROTECTION AND PREVENTION.** Insure adequate fire extinguishers, water barrels, or other fire-fighting equipment is located onsite. Extinguishers shall be on hand wherever welding or cutting is being accomplished, with the use of flammables and other special hazards.

3.5. **HOUSEKEEPING.** Daily clean-up of all debris and waste materials is required. Adequate disposal containers should be placed strategically around the site. Debris shall be removed on a regular basis.

3.6. **MECHANICAL EQUIPMENT INSPECTION.** All mechanical equipment (trucks, cranes, forklifts, backhoes, graders, etc.) shall be inspected prior to its use and at fixed intervals throughout the life of the contract.

3.7. **FIRST AID AND MEDICAL.** First aid facilities shall be made available on the job site. Arrangements for emergency medical attention shall be made prior to start of work. All emergency numbers (doctor, hospital, ambulance, fire department) shall be posted at the project superintendent's office.

3.8. **SANITATION FACILITIES.** Sufficient numbers of toilet facilities as specified in para. 03.B of EM 385-1-1 shall be provided unless permission is granted to use existing facilities. (Portable chemical are authorized.) Insure safe drinking water and individual cups are available. For the projects where corrosive or toxic materials are used, separate washing facilities are required.

3.9. **SAFETY PROMOTION.** The Contractor shall promote accident prevention by use of one or more of the following: posters, display materials, safety contests, awards programs and similar items.

3.10. **ACCIDENT REPORTING.** All accidents (employee injuries, vehicle, building, or equipment property damage), regardless of their severity, shall be reported to the onsite Government Representative or to the Area Engineer. The Contractor will be notified of the forms to be submitted.

3.11. **PHASE SAFETY PLANNING.** Before each phase of work begins, a phase plan listing the possible hazards that might be expected while accomplishing that phase of work and the procedures to be used to overcome or eliminate the hazards of that phase will be discussed between the Contractor and the onsite Government Representative. A phase is defined as an operation involving a type of work which presents hazards not experienced in previous operations or where new subcontractors are performing the work (i.e., earth moving, trenching, concrete work, roofing, electrical, masonry). The onsite Government Representative will determine the format and amount of detail required of the written plan. The amount of detail will be determined by the complexity of that phase of work.

3.12. **DIVE PLANNING.** As required by EM 385-1-1 a written comprehensive dive plan shall be prepared for all diving activities. In addition with the requirements of EM 385-1-1, the plan shall comply with the requirements of DM 385-1-1 dated 15 March 1990, OSHA 29 CFR 1910 subpart T, and NCDR 385-1-2 dated 14 December 1990.

4. **EXCAVATION AND TRENCHING.** The standards for excavation and trenching are outlined in 29 CFR Part 1926, subpart P dated October 31, 1989. These standards shall be followed in addition to those outlined in EM 385-1-1.

INTERIM CHANGE TO EM 385-1-1 - SAFETY AND HEALTH REQUIREMENTS MANUAL

1. Page 21, Section 07.A.03, replace with the following:

"07.A.03 - Protective footwear, such as rubber boots, protective covers, ice clamp-ons, and steel-toed safety boots, shall be worn by all persons exposed to hazards to the feet (including, but not limited to impact, puncture, slipping, electrical, or chemical hazards).

a. For all activities in which Corps or contractor personnel or official visitors are potentially exposed to foot hazards, the applicable job/activity hazard analysis, accident prevention plan, or project safety plan shall include an analysis of, and prescribe specific protective measures to be enforced for, foot hazards.

b. Footwear providing protection against impact and compressive forces, conduction hazards, electrical hazards, and sole puncture shall meet the applicable requirements of ANSI Z41."

2. Page 95, Section 15.D.12 and 15.D.13, replace with the following:

"15.D.12 - Temporary electrical distribution systems and devices shall be checked and accepted for polarity, ground continuity, and ground resistance prior to initial use and prior to use after modification. Ground resistance shall be measured using the "Fall-of-Potential" Method as outlined in the latest version of IEEE Std. 81. Measurements shall be taken upon installation. If this measurement is taken within 48 hours of rainfall, another measurement shall be taken after the first 48 hour period without rainfall. All measurements shall be recorded and furnished to the designated authority at the time of installation and shall comply with paragraph 15.C.06."

"15.D.13 - Contractors shall submit for approval drawings of proposed temporary power distribution systems before temporary power is installed. As a minimum, the drawings shall include a one-line diagram and a site plan. The one-line diagram shall indicate the sizes and types of conductors, circuit breakers, panelboards, etc., to be used. The site plan shall indicate the approximate locations of trailers, panelboards, end use loads, conductors, etc. The drawing shall be resubmitted if there is any change after installation of the temporary power distribution system."

3. Page 143, Section 18.C.05, replace with the following:

"18.C.05 - All load drums on loading-hoisting equipment shall be equipped with at least one positive holding device. This device should be applied directly to the motor shaft or some part of the gear train. It is not necessary that the positive holding device utilize shearing of metal to meet this requirement. Friction surfaces are acceptable."

4. Page 145, add Sections 18.C.24 and 18.C.25 which will read:

"18.C.24 - During personnel handling operations load and boom hoist drum brakes, swing brakes, and locking devices such as pawls or dogs shall be engaged when the occupied platform is in a stationary working position.

"18.C.25 - During personnel handling operations the load hoist drum shall have a system or device on the power train other than the load hoist brake, which regulates the lowering rate of speed of the hoist mechanism (controlled load lowering). Free fall is prohibited."

5. Page 146, Section 18.D.09, replace with the following:

"18.D.09 - All telescopic boom cranes engaged in standard lift operations (including concrete bucket) should be equipped with a two-block warning feature(s), a two-block damage prevention feature, or an anti-two block device for all points of two-blocking (i.e., jibs, extension, etc). In addition, all new telescopic boom cranes shall be equipped with an anti-two block device or a two-block damage prevention feature for all points of two-blocking. Cranes that are used exclusively as duty cycle machines (clamshell, dragline, grapple, pile driving operations) are exempt from this requirement but will meet the requirements of ANSI/ASME-B30.5-1982 (as revised). To alleviate difficulties associated with attaining compliance, an implementation time period until 1 January 1991 is granted. In all cases where cranes are utilized without these safeguards equivalent protection shall be established, documented and approved by the designated authority."

6. Page 146, add Sections 18.D.10 and 18.D.11, which will read:

"18.D.10 - All lattice boom cranes engaged in standard lift crane operations (including concrete bucket) shall be equipped with a two-block warning feature which functions for all points of two-blocking. Cranes that are used exclusively as duty cycle machines (clamshell, dragline, grapple, pile driving operations) are exempt from this requirement but will meet the requirements of ANSI/ASME-B30.5-1982 (as revised). To alleviate difficulties associated with attaining compliance, an implementation time period until 1 January 1991 is granted. In all cases where cranes are utilized without these safeguards equivalent protection shall be established and documented and then approved by the designated authority."

"18.D.11 - During personnel handling operations all telescopic and lattice boom cranes shall be equipped with a device which when activated disengages all functions whose movement can cause contact between the load block or overhaul ball and the boom tip (anti-two block device), or a system shall be used which deactivates the hoisting action before damage occurs in the event of a two-blocking situation (two-block damage prevention feature). The device or system must be installed for all points of two-blocking (i.e. jib or boom points) and in the case of the anti-two block device the crane must be equipped with automatic brakes on each hoist line; hoist lines not so equipped must be taken out of service while personnel lifts are being made."

## ZERO ACCIDENTS

SECTION 01430  
ENVIRONMENT PROTECTION

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1. GENERAL. The Contractor shall perform all work in such manner as to minimize the polluting of air, water, or land, and shall, within reasonable limits, control noise and the disposal of solid waste materials, as well as other pollutants.

2. IMPLEMENTATION. Within 20 calendar days after Notice to Proceed and prior to commencement of the work at the site, the Contractor shall:

2.1. Submit in writing his detailed proposal for implementing the requirements for environmental pollution control specified herein.

2.2. Meet with representatives of the Contracting Officer to review and alter his proposal as needed for compliance with the environmental pollution control program.

3. NOT USED.

4. PROTECTION OF LAND AREAS. Except for any work or storage area and access routes specifically assigned for the use of the Contractor under this contract, the land areas outside the limits of permanent work performed under this contract shall, in accordance with CONTRACT CLAUSES clause: "Protection of Existing Vegetation, Structures, Utilities and Improvements," be preserved in their present condition. Contractor shall confine his construction activities to areas defined for work on the plans or specifically assigned for his use. In accordance with CONTRACT CLAUSES clause: "Operations and Storage Areas," storage and related areas and access routes required temporarily by the Contractor in the performance of the work will be assigned by the Contracting Officer. No other areas on Government premises shall be used by the Contractor without written consent of the Contracting Officer.

5. NOT USED.

6. PROTECTION OF WATER RESOURCES. The Contractor shall control the disposal of fuels, oils, bitumens, calcium chloride, acids or harmful materials, both on and off the Government premises and shall comply with applicable Federal, State, County and Municipal laws concerning pollution of rivers and streams while performing work under this contract. Special measures shall be taken to prevent

chemicals, fuels, oils, greases, bituminous materials, herbicides, and insecticides from entering public waters.

7. **WASTE DISPOSAL.** As part of his proposed implementation under paragraph 2, and prior to on-site construction, the Contractor shall submit a description of his scheme for disposing of waste materials resulting from the work under this contract. If any waste material is dumped in unauthorized areas, the Contractor shall remove the material and restore the area to the condition of the adjacent undisturbed areas. Where directed, contaminated ground shall be excavated, disposed of as approved, and replaced with suitable fill material, all at the expense of the Contractor.

8. **BURNING.** Air pollution restrictions applicable to this project are as follows. Material shall not be burned on the Government premises. If the Contractor elects to dispose of waste materials off the Government premises, by burning, he shall make his own arrangements for such burning area and shall, as specified in CONTRACT CLAUSES clause: "Permits and Responsibilities," conform to all local regulations.

9. **DUST CONTROL.** The Contractor shall maintain all excavations, stockpiles, access roads, waste areas, and all other work areas free from excess dust to such reasonable degree as to avoid causing a hazard or nuisance to the Using Service or to others.

10. **EROSION CONTROL.** Surface drainage from access road and from borrow and waste disposal areas, shall be graded to control erosion within acceptable limits.

11. **CORRECTIVE ACTION.** The Contractor shall, upon receipt of a notice in writing of any noncompliance with the foregoing provisions, take immediate corrective action. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of a claim for extension of time or for excess costs of damages by the Contractor unless it was later determined that the Contractor was in compliance.

12. **POST-CONSTRUCTION CLEANUP OR OBLITERATION.** In accordance with CONTRACT CLAUSES clause: "Cleaning Up," the Contractor shall, unless otherwise instructed in writing by the Contracting Officer, obliterate all signs of temporary construction facilities such as haul roads, work areas, structures, foundations of temporary structures, stockpiles of excess or waste materials, and other vestiges of construction prior to final acceptance of the work. The disturbed areas shall be graded and filled and the entire area seeded.

SECTION 01440

CONTRACTOR QUALITY CONTROL

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SECTION 01440

CONTRACTOR QUALITY CONTROL

ATTACHMENTS: Daily Quality Control Report

PART 1 GENERAL

1.1 SUMMARY (Not Applicable)

1.2 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by basic designation only.

AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM)

ASTM D 3740 (1988) Evaluation of Agencies Engaged in the Testing and/or Inspection of Soil and Rock as Used in Engineering Design and Construction

ASTM E 329 (1990) Use in the Evaluation of Testing and Inspection Agencies as Used in Construction

1.3 PAYMENT

Separate payment will not be made for providing and maintaining an effective Quality Control program, and all costs associated therewith shall be included in the applicable unit prices or lump-sum prices contained in the Bidding Schedule.

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 GENERAL

The Contractor is responsible for quality control and shall establish and maintain an effective quality control system in compliance with the Contract Clause entitled "Inspection of Construction." The quality control system shall consist of plans, procedures, and organization necessary to produce an end product which complies with the contract requirements. The system shall cover all construction operations, both on-site and off-site, and shall be keyed to the proposed construction sequence.



## 3.2 QUALITY CONTROL PLAN

### 3.2.1 General

The Contractor shall furnish for review by the Government, not later than 10 days after receipt of notice to proceed, the Contractor Quality Control (CQC) Plan proposed to implement the requirements of the Contract Clause entitled "Inspection of Construction." The plan shall identify personnel, procedures, control, instructions, test, records, and forms to be used. The Government will consider an interim plan for the first 30 days of operation. Construction will be permitted to begin only after acceptance of the CQC Plan or acceptance of an interim plan applicable to the particular feature of work to be started. Work outside of the features of work included in an accepted interim plan will not be permitted to begin until acceptance of a CQC Plan or another interim plan containing the additional features of work to be started.

### 3.2.2 Content of the CQC Plan

The CQC plan shall include, as a minimum, the following to cover all construction operations, both on-site and off-site, including work by subcontractors, fabricators, suppliers and purchasing agents:

a. A description of the quality control organization, including a chart showing lines of authority and acknowledgment that the CQC staff shall implement the three phase control system for all aspects of the work specified. The staff shall include a CQC system manager who shall report to the project manager or someone higher in the Contractor's organization. Project manager in this context shall mean the individual with responsibility for the overall management of the project including quality and production.

b. The name, qualifications (in resume format), duties, responsibilities, and authorities of each person assigned a QC function.

c. A copy of the letter to the CQC System Manager signed by an authorized official of the firm which describes the responsibilities and delegates sufficient authorities to adequately perform the functions of the CQC System Manager including authority to stop work which is not in compliance with the contract. The CQC System Manager shall issue letters of direction to all other various quality control representatives outlining duties, authorities and responsibilities. Copies of these letters will also be furnished to the Government.

d. Procedures for scheduling, reviewing, certifying, and managing submittals, including those of subcontractors, off-site fabricators, suppliers and purchasing agents. These procedures shall be in accordance with Section 01305 CONTRACTOR SUBMITTAL PROCEDURES.

e. Control, verification and acceptance testing procedures for each specific test to include the test name, specification paragraph requiring test, feature of work to be tested, test frequency, and person responsible for each test. (Laboratory facilities will be approved by the Contracting Officer.)

f. Procedures for tracking preparatory, initial, and follow-up control phases and control, verification, and acceptance tests including documentation.

g. Procedures for tracking construction deficiencies from identification through acceptable corrective action. These procedures will establish verification that identified deficiencies have been corrected.

h. Reporting procedures, including proposed reporting formats.

i. A list of the definable features of work. A definable feature of work is a task which is separate and distinct from other tasks and has separate control requirements. It could be identified by different trades or disciplines, or it could be work by the same trade in a different environment. Although each section of the specifications may generally be considered as a definable feature of work, there are frequently more than one definable feature under a particular section. This list will be agreed upon during the coordination meeting.

### 3.2.3 Acceptance of Plan

Acceptance of the Contractor's plan is required prior to the start of construction. Acceptance is conditional and will be predicated on satisfactory performance during the construction. The Government reserves the right to require the Contractor to make changes in his CQC plan and operations including removal of personnel, as necessary, to obtain the quality specified.

### 3.2.4 Notification of Changes

After acceptance of the QC plan, the Contractor shall notify the Contracting Officer in writing, a minimum of seven calendar days prior to any proposed change. Proposed changes are subject to acceptance by the Contracting Officer.

### 3.3 COORDINATION MEETING

After the Preconstruction Conference, before start of construction, and prior to acceptance by the Government of the Quality Control Plan, the Contractor shall meet with the Contracting Officer or Authorized Representative and discuss the Contractor's quality control system. During the meeting, a mutual understanding of the system details shall be developed, including the forms for recording the CQC operations, control activities, testing, administration of the system for both on-site and off-site work, and the interrelationship of Contractor's Management and control with the Government's Quality Assurance. Minutes of the meeting shall be prepared by the Government and signed by both the Contractor and the Contracting Officer. The minutes shall become a part of the contract file. There may be occasions when subsequent conferences will be called by either party to reconfirm mutual understandings and/or address deficiencies in the CQC system or procedures which may require corrective action by the Contractor.

### 3.4 QUALITY CONTROL ORGANIZATION

#### 3.4.1 CQC System Manager

The Contractor shall identify an individual within his organization at the site of the work who shall be responsible for overall management of CQC and have the authority to act in all CQC matters for the Contractor. This CQC System Manager shall be on the site at all times during construction and will be employed by the Contractor, except as noted in the following. An alternate for the CQC System Manager will be identified in the plan to serve in the event of the system manager's absence. Period of absence may not exceed 2 weeks at any one time, and not more than 30 workdays during a calendar year. The requirements for the alternate will be the same as for the designated CQC manager.

#### 3.4.2 CQC Organizational Staffing

The Contractor shall provide a CQC staff which shall be at the site of work at all times during progress, with complete authority to take any action necessary to ensure compliance with the contract.

##### 3.4.2.1 CQC Staff

Following are the minimum requirements for the CQC staff. These minimum requirements will not necessarily assure an adequate staff to meet the CQC requirements at all times during construction. The actual strength of the CQC staff may vary during any specific work period to cover the needs of the work period. When necessary for a proper CQC organization, the Contractor will add additional staff at no cost to the Government. This listing of minimum staff in no way relieves the Contractor of meeting the basic requirements of quality construction in accordance with contract requirements. All CQC staff members shall be subject to acceptance by the Contracting Officer.

##### 3.4.2.2 CQC System Manager

The CQC system manager shall be an experienced construction person with a minimum of 5 years experience in related work. The CQC system manager shall be assigned as system manager but may have duties as project superintendent in addition to quality control.

##### 3.4.2.3 Supplemental Personnel

A staff shall be maintained under the direction of the CQC system manager to perform all QC activities. The staff must be of sufficient size to ensure adequate QC coverage of all work phases, work shifts, and work crews involved in the construction. CQC staff shall include a qualified diver. These personnel may perform other duties, but must be fully qualified by experience and technical training to perform their assigned QC responsibilities and must be allowed sufficient time to carry out these responsibilities. The QC plan will clearly state the duties and responsibilities of each staff member.

### 3.4.3 Organizational Changes

The Contractor shall obtain Contracting Officer's acceptance before replacing any member of the CQC staff. Requests shall include the names, qualifications, duties, and responsibilities of each proposed replacement.

### 3.5 SUBMITTALS

Submittals shall be as specified in Section 01305 SUBMITTAL PROCEDURES. The CQC organization shall be responsible for certifying that all submittals are in compliance with the contract requirements.

### 3.6 CONTROL

Contractor Quality Control is the means by which the Contractor ensures that the construction, to include that of subcontractors and suppliers, complies with the requirements of the contract. The controls shall be adequate to cover all construction operations, including both on-site and off-site fabrication, and will be keyed to the proposed construction sequence. The controls shall include at least three phases of control to be conducted by the CQC system manager for all definable features of work, as follows:

#### 3.6.1 Preparatory Phase

This phase shall be performed prior to beginning work on each definable feature of work and shall include:

- a. A review of each paragraph of applicable specifications.
- b. A review of the contract plans.
- c. A check to assure that all materials and/or equipment have been tested, submitted, and approved.
- d. A check to assure that provisions have been made to provide required control inspection and testing.
- e. Examination of the work area to assure that all required preliminary work has been completed and is in compliance with the contract.
- f. A physical examination of required materials, equipment, and sample work to assure that they are on hand, conform to approved shop drawing or submitted data, and are properly stored.
- g. A review of the appropriate activity hazard analysis to assure safety requirements are met.
- h. Discussion of procedures for constructing the work including repetitive deficiencies. Document construction tolerances and workmanship standards for that phase of work.

i. A check to ensure that the portion of the plan for the work to be performed has been accepted by the Contracting Officer.

j. The Government shall be notified at least 48 hours in advance of beginning any of the required action of the preparatory phase. This phase shall include a meeting conducted by the CQC system manager and attended by the superintendent, other CQC personnel (as applicable), and the foreman responsible for the definable feature. The results of the preparatory phase actions shall be documented by separate minutes prepared by the CQC system manager and attached to the daily QC report. The Contractor shall instruct applicable workers as to the acceptable level of workmanship required in order to meet contract specifications.

### 3.6.2 Initial Phase

This phase shall be accomplished at the beginning of a definable feature of work. The following shall be accomplished:

a. A check of preliminary work to ensure that it is in compliance with contract requirements. Review minutes of the preparatory meeting.

b. Verification of full contract compliance. Verify required control inspection and testing.

c. Establish level of workmanship and verify that it meets minimum acceptable workmanship standards. Compare with sample panels as appropriate.

d. Resolve all differences.

e. Check safety to include compliance with and upgrading of the safety plan and activity hazard analysis. Review the activity analysis with each worker.

f. The Government shall be notified at least 48 hours in advance of beginning the initial phase. Separate minutes of this phase shall be prepared by the CQC system manager and attached to the daily QC report. Exact location of initial phase shall be indicated for future reference and comparison with follow-up phases.

g. The initial phase should be repeated for each new crew to work on-site, or any time acceptable specified quality standards are not being met.

### 3.6.3 Follow-up Phase

Daily checks shall be performed to assure continuing compliance with contract requirements, including control testing, until completion of the particular feature of work. Each check performed shall be made a matter of record in the CQC documentation. Final follow-up checks shall be conducted and all deficiencies corrected prior to the start of additional features of work which may be affected by the deficient work. The Contractor shall not build upon or conceal non-conforming work.

### 3.6.4 Additional Preparatory and Initial Phases

Additional preparatory and initial phases may be conducted on the same definable features of work as determined by the Government if the quality of on-going work is unacceptable; or if there are changes in the applicable QC staff or in the on-site production supervision or work crew; or if work on a definable feature is resumed after a substantial period of inactivity, or if other problems develop.

### 3.7 TESTS

#### 3.7.1 Testing Procedure

The Contractor shall perform tests specified or required to verify that control measures are adequate to provide a product which conforms to contract requirements. Testing includes operation and/or acceptance tests when specified. The Contractor shall procure the services of a Corps of Engineers approved testing laboratory or establish an approved testing laboratory at the project site. A list of tests to be performed shall be furnished as a part of the CQC plan. The list shall give the test name, frequency, specification paragraph containing the test requirements, the personnel and laboratory responsible for each type of test, and an estimate of the number of tests required. The Contractor shall perform the following activities and record and provide the following data:

- a. Verify that testing procedures comply with contract requirements.
- b. Verify that facilities and testing equipment are available and comply with testing standards.
- c. Check test instrument calibration data against certified standards.
- d. Verify that recording forms and test identification control number system, including all of the test documentation requirements, have been prepared.
- e. Results of all tests taken, both passing and failing tests, will be recorded on the Quality Control report for the date taken. Specification paragraph reference, location where tests were taken, and the sequential control number identifying the test will be given. Actual test reports may be submitted later, if approved by the Contracting Officer, with a reference to the test number and date taken. An information copy of tests performed by an off-site or commercial test facility will be provided directly to the Contracting Officer. Failure to submit timely test reports, as stated, may result in nonpayment for related work performed and disapproval of the test facility for this contract.

### 3.7.2 Testing Laboratories

#### 3.7.2.1 Capability Check

The Government reserves the right to check laboratory equipment in the proposed laboratory for compliance with the standards set forth in the contract specifications and to check the laboratory technician's testing procedures and techniques. Laboratories utilized for testing soils, concrete, asphalt and steel shall meet criteria detailed in ASTM D 3740 and ASTM E 329.

#### 3.7.2.2 Capability Recheck

If the selected laboratory fails the capability check, the Contractor will be assessed the actual cost for the recheck to reimburse the Government for each succeeding recheck of the laboratory or the checking of a subsequently selected laboratory. Such costs will be deducted from the contract amount due the Contractor.

#### 3.7.3 On-Site Laboratory

The Government reserves the right to utilize the Contractor's control testing laboratory and equipment to make assurance tests and to check the Contractor's testing procedures, techniques, and test results at no additional cost to the Government.

#### 3.7.4 Furnishing or Transportation of Samples for Testing

Costs incidental to the transportation of samples or materials will be borne by the Contractor. Samples of materials for test verification and acceptance testing by the Government shall be delivered to the Corps of Engineers Division Laboratory, f.o.b., at the following address:

For delivery by mail: 420 S. 18th Street  
Omaha, Nebraska 68102-2586

For other deliveries: Same as above

Coordination for each specific test, exact delivery location and dates will be made through the Resident Office.

### 3.8 COMPLETION INSPECTION

At the completion of all work or any increment thereof established by a completion time stated in the Special Clause entitled "Commencement, Prosecution, and Completion of Work," or stated elsewhere in the specifications, the CQC system manager shall conduct an inspection of the work and develop a "punch list" of items which do not conform to the approved plans and specifications. Such a list of deficiencies shall be included in the CQC documentation, as required by paragraph DOCUMENTATION below, and shall include the estimated date by which the deficiencies will be corrected. The CQC system manager or staff shall make a second inspection to ascertain that all deficiencies have been corrected and so notify the Government. These

inspections and any deficiency corrections required by this paragraph will be accomplished within the time stated for completion of the entire work or any particular increment thereof if the project is divided into increments by separate completion dates.

### 3.9 DOCUMENTATION

The Contractor shall maintain current records of quality control operations, activities, and tests performed, including the work of subcontractors and suppliers. These records shall be on an acceptable form and shall include factual evidence that required quality control activities and/or tests have been performed, including but not limited to the following:

- a. Contractor/subcontractor and their area of responsibility.
- b. Operating plant/equipment with hours worked, idle, or down for repair.
- c. Work performed today, giving location, description, and by whom. When Network Analysis (NAS) is used, identify each phase of work performed each day by NAS activity number.
- d. Test and/or control activities performed with results and references to specifications/plan requirements. The control phase should be identified (Preparatory, Initial, Follow-up). List deficiencies noted along with corrective action.
- e. Material received with statement as to its acceptability and storage.
- f. Identify submittals reviewed, with contract reference, by whom, and action taken.
- g. Off-site surveillance activities, including actions taken.
- h. Job safety evaluations stating what was checked, results, and instructions or corrective actions.
- i. List instructions given/received and conflicts in plans and/or specifications.
- j. Contractor's verification statement.
- k. These records shall indicate a description of trades working on the project; the number of personnel working; weather conditions encountered; and any delays encountered. These records shall cover both conforming and deficient features and shall include a statement that equipment and materials incorporated in the work and workmanship comply with the contract. The original and one copy of these records in report form shall be furnished to the Contracting Officer's Representative on the first work day following the date covered by the report, except that reports need not be submitted for days on which no work is performed. As a minimum, one report shall be prepared and submitted for every seven days of no work and on the last day of a no work period. All calendar days shall be accounted for throughout the life of the contract. The first



report following a day of no work shall be for that day only. Reports shall be signed and dated by the CQC system manager. The report from the CQC system manager shall include copies of test reports and copies of reports prepared by all subordinate quality control personnel.

### 3.10 SAMPLE FORMS

Sample forms enclosed at the end of this section.

### 3.11 NOTIFICATION OF NONCOMPLIANCE

The Contracting Officer will notify the Contractor of any detected noncompliance with the foregoing requirements. The Contractor shall, after receipt of such notice, immediately take corrective action. Such notice, when delivered to the Contractor at the site of the work, shall be deemed sufficient for the purpose of notification. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

--END OF SECTION--





7. Submittals Reviewed:

| (a) Submittal No. | (b) Spec/Plan Reference | (c) By Whom | (d) Action |
|-------------------|-------------------------|-------------|------------|
| _____             | _____                   | _____       | _____      |
| _____             | _____                   | _____       | _____      |
| _____             | _____                   | _____       | _____      |
| _____             | _____                   | _____       | _____      |

8. Offsite Surveillance Activities, Including Action Taken:

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

9. Job Safety: (List items checked, results, instructions and corrective actions taken).

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

10. Remarks: (Instructions received or given. Conflict(s) in Plans and/or specifications. Delays encountered.).

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

Contractor's Verification: On behalf of the Contractor, I certify this report is complete and correct, and all materials and equipment used and work performed during this reporting period are in compliance with the contract plans and specifications, to the best of my knowledge, except as may be noted above.

\_\_\_\_\_  
CQC System Manager

\_\_\_\_\_  
Date

ZERO ACCIDENTS

SECTION 02221  
EXCAVATION, TRENCHING, AND BACKFILLING  
FOR UTILITIES SYSTEMS

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PART 1 - GENERAL

1. APPLICABLE PUBLICATIONS. The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by the basic designation only.

1.1. NOT USED.

1.2. AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) PUBLICATIONS.

MDOT 1990

Particle Size Analysis of Soils

D 2487-85

Classification of Soils for Engineering Purposes

E 548-84

Preparation of Criteria for Use in Evaluation of Testing Laboratories and Inspection Bodies

C 117-90

Materials Finer than 70  $\mu$ m (No. 200) Sieve in Mineral Aggregate by Washing

C136-84a

Sieve Analysis of Fine and Coarse Aggregates

E 11-87

Wire-Cloth Sieves for Testing Purposes

C 702-87

Standard Practice for Reducing Field Samples of Aggregate of Testing Size

D 75-87

Standard Practice for Sampling Aggregates

2. DEFINITIONS.

2.1. SUITABLE MATERIALS. Suitable materials for backfill are defined in paragraphs 2.4 and 2.5.

2.2. UNSUITABLE MATERIALS. Unsuitable materials include but are not limited to those materials containing roots and other organic matter, trash, debris, frozen materials and stones larger than 3 inches, cohesive materials, and materials classified in ASTM D 2487 as MH, PT, OH, and OL. Unsuitable materials also include landfill material, refuse material, debris from previous construction and materials too soft to properly support utility pipe, conduit, or appurtenance structures. During construction of existing intake some clay and boulders were encountered. These materials if found in job excavated materials are unsuitable.

2.3. COHESIONLESS AND COHESIVE MATERIALS. Cohesionless materials shall include materials classified in ASTM D 2487 as GW, GP, SW, and SP. Cohesive materials include materials classified as GC, SC, ML, CL, MH, and CH. Materials classified as GM and SM will be identified as cohesionless only when the fines are nonplastic.

2.4. COARSE AGGREGATE FILTER PACK MATERIAL. Coarse aggregate filter pack material shall be Michigan Series 28B with following sieve analysis:

| U.S. Std.<br>Sieve Size        | Total Percent<br>Passing |
|--------------------------------|--------------------------|
| 1/2"                           | 100                      |
| 3/8"                           | 95-100                   |
| No. 4                          | 25-50                    |
| No. 8                          | 0-15                     |
| 3 Percent max. loss by washing |                          |

2.5. SELECT GRANULAR MATERIAL. Select granular material shall consist of job-excavated sand and gravel composed of hard, tough and durable particles, and shall not contain more than 3 percent by weight of material passing a No. 200 mesh sieve nor more than 10 percent by weight passing the No. 60 mesh sieve. Sieve analysis of samples of lake bottom material are appended along with soil boring logs at end of project manual.

## PART 2 - EXECUTION

3. EXCAVATION. Excavation of every description and of whatever substances encountered shall be performed to the lines and grades indicated. During excavation, material suitable for backfilling shall be stockpiled in an orderly manner at a distance indicated on the Drawings. The stockpiles shall also be protected from contamination with unsuitable excavated material that may destroy the quality and fitness of the suitable stockpiled material. If the Contractor fails to protect the stockpiles and any material becomes unsatisfactory as a result, such material, if directed, shall be removed and replaced with satisfactory on-site or imported material from approved sources at no additional cost to the Government. Excavated material not required or not satisfactory for backfill shall be disposed of in waste areas shown on the drawings. Unauthorized overexcavation shall be backfilled in accordance with paragraph BACKFILLING at no additional cost to the Government.

3.1. TRENCH EXCAVATION. The trench below the top of the pipe shall not be excavated wider than the outside diameter of the pipe plus 48 inches for pipes of less than 24 inch inside diameter and no wider than the outside diameter of the pipe plus 60 inches for larger sizes. Trench walls above the top of pipe may be sloped or widened as necessary for the proper performance of the work.

3.1.1. NOT USED.

3.1.2. NOT USED.

3.1.3. Removal of Unsuitable Material. Where unsuitable material is encountered, such material shall be removed to the depth directed and replaced to the proper grade with select granular material as provided in paragraph BACKFILLING. When removal of unsuitable material is required due to the fault or neglect of the Contractor in his performance of work, the resulting material shall be excavated and replaced by the Contractor without additional cost to the Government.

3.2. EXCAVATION FOR INFILTRATION GALLERY. Excavation for infiltration gallery shall be sufficient to leave at least 12 inches clear between the outer pipe surfaces and the bottom of the excavation and at least 5 feet clear between

the pipe and the sides of the excavation. Removal of unsuitable material shall be as specified above. Positioning of drag line or dredging equipment and anchor lines shall be coordinated with U.S. Coast Guard to avoid unnecessary interference with marine traffic.

4. BACKFILLING. Backfill material shall consist of suitable select granular, or coarse aggregate filter pack material, as specified herein. The Contractor is responsible for obtaining materials meeting specified requirements.

4.1. TRENCH BACKFILL. Trenches shall be backfilled with select granular material from temporary stockpile to the grade existing prior to excavation.

4.1.1. Not Used.

4.1.2. Replacement of Unsuitable Material. Unsuitable material removed from the bottom of the trench or excavation shall be replaced with suitable material excavated from other areas of the project site.

4.2. BACKFILL FOR INFILTRATION GALLERY. As shown on the Drawings, two layers of backfill material shall be deposited in the infiltration gallery. The bottom layer up to 2 feet over the screen pipes shall be coarse aggregate filter pack material. The top layer up to original grade shall be select granular material. The backfill materials shall be placed so as to avoid sorting during deposition and so as to retain a homogeneous mixture of each material. Sorted backfill shall be mixed or removed and a method of depositing materials without sorting shall be demonstrated before backfilling operations proceed.

Care shall be taken to prevent migration of sand or silt into the layer of coarse aggregate filter pack material. The Contractor may choose to limit exposure by backfilling the gallery to full depth in sections. After strong winds and heavy seas, areas of coarse aggregate not yet brought up to final grade shall be inspected to ensure that contamination by sand has not occurred. All contaminated filter pack material shall be replaced whether caused by heavy seas or Contractor activities.

5. NOT USED.

6. SAMPLING AND TESTING FOR QUALITY CONTROL. Sampling and testing shall be the responsibility of the Contractor and shall be performed at no additional cost to the Government. Backfill materials used for the infiltration gallery shall be tested for conformity with specified gradation requirements given in paragraphs 2.4 and 2.5. Sampling and testing shall be performed by an approved commercial testing laboratory. Tests shall be performed at the frequency specified hereinafter. Copies of the test results shall be furnished to the Contracting Officer as soon as tests are performed. Test results shall be approved by the Contracting Officer prior to placement of materials in the gallery. Materials which do not meet gradation requirements shall not be used and if placed prior to obtaining test results shall be removed.

6.1 GENERAL: The Contractor shall select the source of materials and perform initial sampling and testing sufficiently in advance so as not to delay the work. The Contractor shall control his operations during production and placement of materials, so that materials in the completed course will meet specified requirements. All quality control sampling and testing shall be performed by the Contractor in accordance with SECTION 01440, CONTRACTOR QUALITY CONTROL, and as specified herein. To ensure that sorting by placement method or

contamination of filter pack by migrating sand and silt has not occurred, the Government may require that the contractor perform verification tests for final approval of materials in the completed course. In doing so, the Contracting Office may request that samples be taken from backfill materials already in place.

6.2 SAMPLES: All samples including those required and used by the Contractor for control of his operations, shall be representative of materials being placed. All samples shall be taken in conformance with ASTM D 75 unless otherwise approved or directed. Lake bottom samples shall be taken so as to minimize loss of fines. Samples of filter pack materials for preplacement tests can be taken at source. Samples of select granular material can be taken prior to stockpiling.

6.3 TESTS: The following tests shall be performed by the Contractor:

6.3.1 Sieve Analyses shall be made in accordance with ASTM C 117 and C 136. Sieves shall conform to ASTM E 11.

6.4 TESTING FREQUENCY:

6.4.1 Preplacement Tests: A minimum of 1 sieve analysis per 500 cubic yards of the filter pack materials and select granular material shall be made.

6.4.2 In-Place Verification Tests: Sieve tests shall be performed by the Contractor to demonstrate that backfilling procedure does not cause sorting in the final in-place backfill. Also, the Contractor shall perform sieve tests on the filter pack if the Contracting Officer suspects that migrating sands and/or silts have entered the coarse aggregate filter pack.

7. SUBMITTALS. In accordance with SECTION 01305, SUBMITTAL PROCEDURES, the Contractor shall submit data as specified herein on the following:

7.1 CATEGORY I:

Preplacement Sieve Analysis Tests Results (Para. 6).

7.2 CATEGORY II: (For Approval)

In-Place Verification Sieve Analysis Test Results (Para 6).

8. EQUIPMENT: All plant, equipment, tools and machines used in the performance of the work shall be subject to approval prior to commencement of work. This equipment shall be maintained in satisfactory working condition at all times.



ZERO ACCIDENTS

SECTION 02713

WATER LINES

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PART 1 - GENERAL

1. APPLICABLE PUBLICATIONS. The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by the basic designation only.

1.1. NOT USED.

1.2. AMERICAN NATIONAL STANDARDS INSTITUTE, INC. (ANSI) STANDARDS.

B16.1-1975 Cast Iron Pipe Flanges and Flanged Fittings,  
Class 25, 125, 250, and 800

1.3. AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM) PUBLICATIONS.

D 1248-84 Polyethylene Plastics Molding and Extrusion  
(R1989) Material

D 1784-81 Rigid Poly(Vinyl Chloride) (PVC), Compounds and  
Chlorinated Poly(Vinyl Chloride) (CPVC)  
Compounds

D 1785-86 Poly(Vinyl Chloride) (PVC) Plastic Pipe,  
Schedules 40, 80 and 120

D 2241-87 Poly(Vinyl Chloride) (PVC) Pressure-Rated Pipe  
(SDR-Series)

D 2321-83a Underground Installation of Flexible  
Thermoplastic Sewer Pipe

D 2447-89 Polyethylene (PE) Plastic Pipe, Schedules 40  
and 80 Based on Controlled Outside Diameter

D 2464-76 Threaded Poly(Vinyl Chloride) (PVC) Plastic  
Pipe Fittings, Schedule 80

D 2467-87 Socket-Type Poly(Vinyl Chloride) (PVC)  
Plastic Pipe Fittings, Schedule 80

D 2564-84 Solvent Cements for Poly(Vinyl Chloride)

D 2774-72 Underground Installation of Thermoplastic  
(R 1983) Pressure Piping

D 2837-88 Obtaining Hydrostatic Design Basis for  
Thermoplastic Pipe Materials

D 2855-83 Making Solvent Cemented Joints with Poly  
(Vinyl Chloride (PVC) Pipe and Fittings

D 2997-84 Centrifugally Cast Reinforced Thermosetting  
Resin Pipe

D 3035-89 Polyethylene (PE) Plastic Pipe (SDR-PR) Based  
on Controlled Outside Diameter

|                      |   |
|----------------------|---|
| D 3139-84            | Joints for Plastic Pressure Pipes Using Flexible Elastomeric Seals                                  |
| D 3261-88a           | Butt Heat Fusion Polyethylene (PE) Plastic Fittings for Polyethylene (PE) Plastic Pipe and Tubing   |
| D 3350-84            | Polyethylene Plastics (PE) Pipe and Fitting Materials   |
| F 477-76<br>(R 1985) | Elastomeric Seals (Gaskets) for Joining Plastic Pipe  |
| F 714-89b            | Polyethylene (PE) Plastic Pipe (SDR-PR) Based on Outside Diameter                                   |
| 1.4.                 | AMERICAN WATER WORKS ASSOCIATION (AWWA) STANDARDS.  |
| C104-85              | Cement-Mortar Lining for Ductile- Iron and Gray-Iron Pipe and Fittings for Water                    |
| C110-82              | Ductile-Iron and Gray-Iron Fittings, 3 In. Through 48 In., for Water and Other Liquids              |
| C111-85              | Rubber-Gasket Joints for Ductile- Iron and Gray-Iron Pressure Pipe and Fittings                     |
| C151-86              | Ductile-Iron Pipe, Centrifugally Cast in Metal Molds on Sand-Lined Molds for Water or Other Liquids |
| C504-80              | Rubber-Seated Butterfly Valves  |
| C600-82              | Installation of Ductile-Iron Water Mains and Their Appurtenances                                    |
| C800-84              | Standards for Underground Service Line Valves and Fittings  |
| C900-81<br>& Erratum | Polyvinyl Chloride (PVC) Pressure Pipe, 4 In. Through 12 In. for Water                              |
| M23-80               | PVC Pipe -- Design and Installation   |

2. GENERAL. This section covers water supply lines, infiltration gallery piping, and screen piping.

2.1. NOT USED.

2.2. PIPING FOR WATER SUPPLY LINES AND INFILTRATION GALLERY PIPING. Piping for water supply lines and gallery piping shall be ductile iron with cast iron fittings or high density polyethylene plastic pipe and fittings.

2.3. PIPING FOR SCREENS. Piping for screens shall be PVC plastic, unless otherwise shown or specified.

2.4. RECOMMENDATIONS OF THE MANUFACTURER. The Contractor shall, as a part of the shop drawings, submit to the Contracting Officer the manufacturer's recommendations for each material or procedure to be utilized which is required to be in accordance with such recommendations. The Contractor shall have a copy of the manufacturer's instructions available at the construction site at all times and shall follow these instructions unless otherwise directed by the Contracting Officer.

3. EXCAVATION, TRENCHING, AND BACKFILLING FOR WATER LINES AND HORIZONTAL PIPE SCREENS. Excavation, trenching, and backfilling shall be in accordance with the applicable provisions of SECTION 02221: EXCAVATION, TRENCHING, AND BACKFILLING FOR UTILITIES SYSTEMS except as modified herein.

4. SUBMITTALS. In accordance with SECTION 01100: SPECIAL CLAUSES, the Contractor shall submit data for the following items required by this section.

4.1. CATEGORY I.

Tapping sleeve installation (Para. 5.13, 6)  
Gallery piping (Para. 2.2, 5.1)  
Screen piping (Para. 2.3, 5.1)  
Valve (Para. 5.5)  
Valve box (Para. 5.8)

4.2. CATEGORY II.

4.2.1. For Information Only.  
Manufacturer's Recommendations for each type of pipe used (Para. 2.4)

PART 2 - PRODUCTS

5. MATERIALS shall conform to the respective specifications and other requirements specified below:

5.1. PIPE. Water line piping shall have a working pressure not less than 80 psi at 70°F and a depth of bury as shown.

5.1.1. NOT USED.

5.1.2. NOT USED.

5.1.3. Ductile-Iron Pipe. AWWA C151, working pressure not less than 150 psi and a depth of bury as shown. Pipe shall be cement-mortar lined in accordance with AWWA C104. Linings shall be standard thickness.

5.1.4. Poly(Vinyl Chloride) (PVC) Plastic Pipe. All pipe, couplings, and fittings shall be manufactured of material conforming to ASTM D 1784, Class 12454B, designated as PVC 1120 in ASTM D 1785.

5.1.4.1. NOT USED.

5.1.4.2. Pipe 4-Inch Through 12-Inch Diameter. Pipe, couplings, and fittings, 4-inch through 12-inch diameter, shall conform to the requirements of AWWA C900, Class 150, CI OD pipe dimensions only, elastomeric-gasket joint only, unless otherwise shown or specified.

5.1.5. THROUGH 5.1.14. NOT USED.

5.1.15 Polyethylene Plastic Pipe greater than 3 inches in diameter. All pipe shall be manufactured of materials with properties described by ASTM D-1248, Type III, Class C, Category 5, Grade 3408. Minimum SDR shall be 17 for pipe per ASTM D 3035 or F 714.

Bolts for flanges shall meet requirements of ANSI B16.1.

5.1.16 Screen Pipe. Screen pipe shall be made from PVC pipe specified in Paragraph 5.1.4.2. Screen pipe will have machined slots in a uniform pattern of spacings over bottom half of horizontally positioned pipe. Slot opening shall be #60 (0.060") slot opening with 0.005-inch tolerance. Slots shall be free of stringers and burrs. Total opening area of slots shall be greater than 3.2% of pipe interior surface area. Screen pipe shall be delivered free of oils, grease, paint and dirt and each piece shall be individually encased in protective wrapping to be removed just prior to installation.

5.2. JOINTS.

5.2.1. NOT USED.

5.2.2. NOT USED.

5.2.3. Ductile-Iron Pipe.

5.2.3.1. Mechanical Joints shall be of the stuffing box type and shall conform to AWWA C111.

5.2.3.2. Push-on Joints shall conform to AWWA C111.

5.2.3.3. Rubber Gaskets and Lubricant shall conform to the applicable requirements of AWWA C111.

5.2.3.4. Flanged Joints shall be used where shown on the Drawings. Flanged joints shall conform to AWWA C 110 or ANSI B16.1 and shall be suitable for a working pressure of at least 150 psi.

5.2.4. Poly(Vinyl Chloride) Pipe. Joints for pipe 4 inches in diameter and larger shall be of the elastomeric gasket type. Joints connecting pipe of differing materials shall be made in accordance with the manufacturer's recommendations as approved by the Contracting Officer.

5.2.5. Polyethylene (PE) Pipe. The joints shall be butt heat fused per ASTM D 3261 or mechanically joined by steel flanges or couplings. Spigots for push-on joint with screen bell shall be permitted if pipe outside diameter is compatible with gasket and bell of screen pipe. Joints connecting pipe of differing materials shall be made in accordance with the manufacturer's recommendation as approved by the Contracting Officer.

5.3. FITTINGS AND SPECIALS.

5.3.1. NOT USED.

5.3.2. NOT USED.

5.3.3. For Ductile-Iron Pipe. Fittings and specials shall be suitable for 150 psi pressure rating, unless otherwise specified. Fittings and specials for flanged and mechanical joint pipe shall conform to AWWA C110. Fittings and specials for use with push-on pipe shall conform to AWWA C110 and AWWA C111. Fittings and specials shall be cement-mortar lined in accordance with AWWA C104. Linings shall be standard thickness.

5.3.4. For Poly(Vinyl Chloride) (PVC) Pipe.

5.3.4.1. NOT USED.

5.3.4.2. For Pipe 4-Inch Through 12-Inch Diameter. Fittings and specials shall be cast iron, bell end in accordance with AWWA C110, 150 psi pressure rating, unless otherwise shown or specified, except that profile of bell may have special dimensions as required by the pipe manufacturer; or may be fittings and specials of the same material as the pipe with elastomeric gaskets, all in conformance with the requirements of AWWA C900. Cast-iron fittings and specials shall be cement-mortar lined (standard thickness) in accordance with AWWA C104. Fittings shall be for bell and spigot pipe or plain end pipe, or as applicable.

5.3.5. THROUGH 5.3.8 NOT USED

5.3.9. For Polyethylene Pipe. Fitting material and joints shall be same as specified for pipe. Gussets shall be fused on 8" x 24" tees or crosses to give side support.

5.4. NOT USED.

5.5. VALVES.

5.5.1. NOT USED.

5.5.2. NOT USED.

5.5.3. Rubber-Seated Butterfly Valves. Rubber-seated butterfly valves shall conform to the performance requirements of AWWA C504. All tests required by AWWA C504 must be met.

5.6. NOT USED.

5.7 EXTENSION STEM: Extension stems shall be 1-1/4" 304 or 303 stainless steel shaft with self-centering device for installation inside valve box.

5.8. VALVE BOXES. Valve boxes shall be cast iron and shall be extension type with screw-type adjustment. The minimum thickness of metal shall be 3/16 inch. The word "WATER" shall be cast in the cover. The boxes shall be of such length as will be adapted, without full extension, to a depth of cover required over the pipe at the valve location. The base shall be attached to valve or sealed so as to prevent entry of sand into box.

5.9. THROUGH 5.12 NOT USED.

5.13. MISCELLANEOUS ITEMS.

5.13.1. - 5.13.4 NOT USED.

5.13.5. Tapping Sleeves of the sizes indicated for connection to existing main shall be the cast gray, ductile, high density polyethylene, or fused bonded (12 mil-dry) epoxy-coated malleable iron or steel, split-sleeve type with flanged outlet, and with stainless steel bolts, follower rings and gaskets on each end of the sleeve. Construction shall be suitable for a maximum working pressure of 50 psi. Bolts shall have square heads and hexagonal nuts. Longitudinal gaskets, and mechanical joints with gaskets shall be as recommended by the manufacturer of the sleeve.

5.13.6. For ACCESSWAY COVER. Cover shall be 1/4" coated fabricated steel plate with 10 bolt holes to match with standard 125 pound template.

5.13.7. Water Line Plugs of the sizes indicated on the drawings shall be cast gray or ductile iron conforming to AWWA C110. Plugs shall be suitable for a minimum working pressure of 150 psi.

5.13.8. THROUGH 5.13.10 NOT USED.

5.13.11. Corrosion Protection shall be provided for all buried gray or ductile-iron piping, fittings, valves, and other metal water line appurtenances, except PVC or Polyethylene pipe materials. Corrosion protection shall consist of a coating and/or wrapping system. The coating system shall have a minimum dry coating thickness of 12 mils for fusion bonded epoxy or 22 mils for coal-tar epoxy types and other approved systems. Wrapping systems shall have a minimum thickness of 20 mils. Pipe primer shall be used when required. For highly irregular surfaces, fillers, putty, or coatings as recommended by tape manufacturer shall be used. Tape system shall be applied per manufacturer's recommendations. Polyethylene encasement shall not be used. Coatings on piping interiors shall be approved for use in potable water.

5.13.11.1. Inspection of Coatings and/or Wrappings. Any damage to the protective covering during transit and handling shall be repaired by the Contractor before installation.

### PART 3 - EXECUTION

#### 6. INSTALLATION.

6.1. HANDLING. Pipe and accessories shall be handled so as to insure delivery to the trench in sound, undamaged condition. Particular care shall be taken not to injure the pipe coating or lining. If the coating or lining of any pipe or fitting is damaged, the repair shall be made by the Contractor at his expense in a satisfactory manner. No other pipe or material of any kind shall be placed inside a pipe or fitting after the coating has been applied. Pipe shall be carried into position and not dragged. Use of pinch bars and tongs for aligning or turning pipe will be permitted only on the bare ends of the pipe. The interior of pipe and accessories shall be thoroughly cleaned of foreign

matter before being lowered into the trench and shall be kept clean during laying operations by plugging or other approved method. Before installation, the pipe shall be inspected for defects. Material found to be defective before or after laying shall be replaced with sound material without additional expense to the Government. Rubber gaskets that are not to be installed immediately shall be stored in a cool and dark place. Polyvinyl chloride screen pipe and fittings shall be handled and stored in accordance with the manufacturers recommendations.

6.1.1. NOT USED.

6.1.2. Polyethylene (PE) Pipe, Fittings, and Accessories shall be handled in accordance with manufacturer's recommendations.

6.2. CUTTING OF PIPE. Cutting of pipe shall be done in a neat and workmanlike manner without damage to the pipe. Unless otherwise recommended by the manufacturer, cutting shall be done with an approved type mechanical cutter. A wheel cutter shall be used when practicable.

6.3. NOT USED.

6.4. JOINT DEFLECTION.

6.4.1. NOT USED.

6.4.2. Ductile-Iron Pipe. The maximum allowable deflection shall be in accordance with AWWA C600. If the alignment requires deflection in excess of the above limitations, special bends or a sufficient number of shorter lengths of pipe shall be furnished to provide angular deflections within the limit set forth.

6.4.3. Flexible Plastic Pipe. Maximum offset in alignment between adjacent pipe joints shall be as recommended by the manufacturer, but in no case shall it exceed 5 degrees.

6.5. PLACING AND LAYING. Pipe and accessories shall be carefully lowered into the trench by means of derrick, ropes, belt slings, or other authorized equipment. Under no circumstances shall any of the water line materials be dropped or dumped into the trench. Care shall be taken to avoid abrasion of the pipe coating. Except where necessary in making connections with other lines or as authorized by the Contracting Officer, pipe shall be laid with the bells facing in the direction of laying. Pipe that has the grade or joint disturbed after laying shall be taken up and relaid. When work is not in progress, open ends of pipe, fittings, and valves shall be securely closed so that no earth, or other substance will enter the pipes or fittings. Where any part of the coating or lining is damaged, the repair shall be made by the Contractor at his expense in a satisfactory manner. Pipe ends left for future connections shall be valved, plugged, or capped and anchored, as shown.

6.5.1. Plastic Pipe. PVC shall be installed in accordance with AWWA M23.

6.5.1.1. Training. The manufacturer shall assist the Contractor by training and instructing the Contractor's personnel in proper installation procedures and techniques. The manufacturer's representative shall be a person regularly engaged in such service and technically qualified and experienced to supervise this training.

6.5.2. NOT USED.

6.5.3. NOT USED.

6.5.4. Connections. Where connections are made between new work and existing mains, the connections shall be made by using specials and fittings to suit the actual conditions and in conformance with manufacturer's requirements. Standard methods are available and shall be used for making

connections to various types of pipe, either under pressure or in the dewatered condition.

6.6. JOINTING.

6.6.1. NOT USED.

6.6.2. NOT USED.

6.6.3. Ductile-Iron Pipe. Mechanical and push-on type joints shall be installed in accordance with AWWA C600.

6.6.4. Poly(Vinyl Chloride) (PVC) Plastic Screen Pipe.

6.6.4.1. NOT USED.

6.6.4.2. Pipe 4-Inch Through 12-Inch Diameter. Joints shall be elastomeric-gasket as specified in AWWA C900. Joints utilizing or requiring solvent-cement will not be accepted. All pipe ends for push-on joints shall be beveled to facilitate assembly and marked to indicate when the pipe is fully seated. The gasket shall be prelubricated to prevent displacement. Care shall be exercised to assure the gasket and ring groove in the bell or coupling match. The manufacturer of the pipe or fitting must also supply the elastomeric-gasket. Couplings shall be provided with stops or centering rings to assure that the coupling is centered on the joint.

6.6.5. THROUGH 6.6.11 NOT USED

6.6.12. Connections between different types of pipe and accessories shall be made with transition fittings as recommended by the pipe manufacturer.

6.7. NOT USED.

6.8. NOT USED.

6.9. SETTING OF VALVES AND VALVE BOXES.

6.9.1. NOT USED.

6.9.2. Valves and Valve Boxes shall be installed where shown or specified, and shall be set plumb. Valve boxes shall be centered on the valve stem.

6.9.3. Valves after delivery shall have the interiors cleaned of all foreign matter before installation. Stuffing boxes shall be tightened and the valve shall be fully opened and fully closed to insure that all parts are in working condition.

7. NOT USED.

8. NOT USED.

9. CLEANUP. Upon completion of the installation of the water supply lines, infiltration gallery piping, screen pipe, and appurtenances, all debris and surplus materials resulting from the work shall be removed.

**APPENDIX A**  
**Log of Soil Borings**



# Gosling Czubak Associates



Engineers  
Surveyors

Gosling Czubak Associates, P.C.  
525 West Fourteenth  
Traverse City, MI 49684  
616 946-9191

PROJECT Water System  
LOCATION Charlevoix  
CLIENT City of Charlevoix

DATE STARTED 3/31/83  
DATE COMPLETED 3/31/83  
DRILLER BRK HELPER CDB

BORING NO. B-17  
Ground Surface Elev. \_\_\_\_\_  
Plugging Method Excavated soil

Weather Cloudy and cold  
Water Data \_\_\_\_\_  
Job No. 83042.01

| Depth      | Sample | Sampling Method | PENETR.: Blow Count |    |   | LINER | Soil Classification                                |
|------------|--------|-----------------|---------------------|----|---|-------|--|
|            |        |                 | 1                   | 2  | 3 |       |  |
| 5          |        |                 |                     |    |   | ✓     | LAKE MICHIGAN                                      |
| 10         |        |                 |                     |    |   |       |  |
| 15         |        | SS              | 44                  | 31 | — |       | SANDY GRAVEL<br>DROVE THROUGH<br>LIMESTONE COBBLES |
| 20         |        | SS              | 26                  | 27 | — |       | LIGHT BROWN<br>FINE TO COARSE<br>SAND W/ GRAVEL    |
| 25<br>25.5 |        | SS              | 50/2"               | —  | — |       |  |
| 30         |        |                 |                     |    |   |       | POSSIBLE WEATHER ROCK<br>END OF BORING             |
| 35         |        |                 |                     |    |   | A-2   |  |



PROJECT New Water System  
LOCATION City of Charlevoix  
CLIENT MPS - McNamee, Porter & Seely

DATE STARTED 3/31/83  
DATE COMPLETED 3/31/83  
DRILLER CDB HELPER BRK

BORING NO. B-20  
Ground Surface Elev. \_\_\_\_\_  
Plugging Method Excavated Soil

Weather Partly cloudy and cool  
Water Data \_\_\_\_\_  
Job No. 83042.01

| Depth | Sample | Sampling Method | PENETR.: Blow Count |    |     | LINER<br>✓ | Soil Classification                         |
|-------|--------|-----------------|---------------------|----|-----|------------|---|
|       |        |                 | 1                   | 2  | 3   |            |   |
| 0     |        |                 |                     |    |     |            | LAKE MICHIGAN                               |
| 20    |        |                 |                     |    |     |            |   |
| 22    |        |                 |                     |    |     |            |   |
| 25    |        | SS              | 20                  | 12 | 15  |            | BROWN<br>MEDIUM TO COARSE<br>SAND W/ GRAVEL |
| 30    |        | SS              | 11                  | 15 | 21  |            |   |
| 35    |        | SS              | 15                  | 18 | 32  |            |   |
| 36.5  |        |                 |                     |    |     |            | END OF BORING                               |
| 40    |        |                 |                     |    |     |            |   |
| 45    |        |                 |                     |    | A-3 |            |   |



Associates

PROJECT Charlevoix Water Treatment Plant DATE STARTED 3-16-83  
 LOCATION Charlevoix, Michigan DATE COMPLETED 3-16-83  
 CLIENT MPS-McNamee, Porter and Seeley DRILLER BRK HELPER JCM

BORING NO. B-18 Weather Cloudy - Cool - Calm  
 Ground Surface Elev. \_\_\_\_\_ Water Data N/A  
 Plugging Method N/A Job No. 83042.01

| Depth | Sample | Sampling Method | PENETR.: Blow Count |    |   | LINER | Soil Classification                           |
|-------|--------|-----------------|---------------------|----|---|-------|---|
|       |        |                 | 1                   | 2  | 3 |       |   |
| 5     |        |                 |                     |    |   |       | LAKE MICHIGAN                                 |
| 15    |        | SS              | 12                  | 17 | — |       | BROWN MEDIUM SAND                             |
|       |        | SS              | 35                  | 40 | — |       | BROWN MEDIUM SAND WITH TRACE SILT             |
| 20    |        | SS              | 65                  | —  | — |       | GREY CLAYEY SILT WITH GRAVEL<br>END OF BORING |
| 25    |        |                 |                     |    |   |       |   |
| 30    |        |                 |                     |    |   |       |   |
| 35    |        |                 |                     |    |   |       |   |

N 4



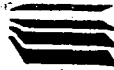
PROJECT Water System  
LOCATION Lake Michigan  
CLIENT City of Charlevoix

DATE STARTED 3/31/83  
DATE COMPLETED 3/31/83  
DRILLER BRK HELPER CDB

BORING NO. B-24  
Ground Surface Elev. \_\_\_\_\_  
Plugging Method \_\_\_\_\_

Weather Overcast and cool  
Water Data \_\_\_\_\_  
Job No. 83042.01

| Depth | Sample  | Sampling Method | PENETR.: Blow Count |    |    | LINER | Soil Classification                   |
|-------|---------|-----------------|---------------------|----|----|-------|---------------------------------------|
|       |         |                 | 1                   | 2  | 3  |       |                                       |
| 0     |         |                 |                     |    |    |       | LAKE MICHIGAN                         |
| 30    |         |                 |                     |    |    |       |                                       |
| 31.5  |         |                 |                     |    |    |       |                                       |
| 35    | 1       | SS              | 12                  | 18 | 18 |       | DENSE LIGHT BROWN FINE TO MEDIUM SAND |
| 40    | 2       | SS              | 18                  | 19 | 24 |       | W/ A TRACE COARSE SAND & FINE GRAVEL  |
| 45    | 0% REC. |                 | 12                  | 18 | 25 |       |                                       |
| 46.5  |         |                 |                     |    |    |       | END OF BORING                         |
| 50    |         |                 |                     |    |    |       |                                       |
|       |         |                 |                     |    | AS |       |                                       |



PROJECT Charlevoix Water Treatment Plant  
 LOCATION Charlevoix, Michigan  
 CLIENT MPS-McNamee, Porter and Seeley

DATE STARTED 3-16-83  
 DATE COMPLETED 3-16-83  
 DRILLER BRK HELPER JCM

BORING NO. B-21  
 Ground Surface Elev. \_\_\_\_\_  
 Plugging Method N/A

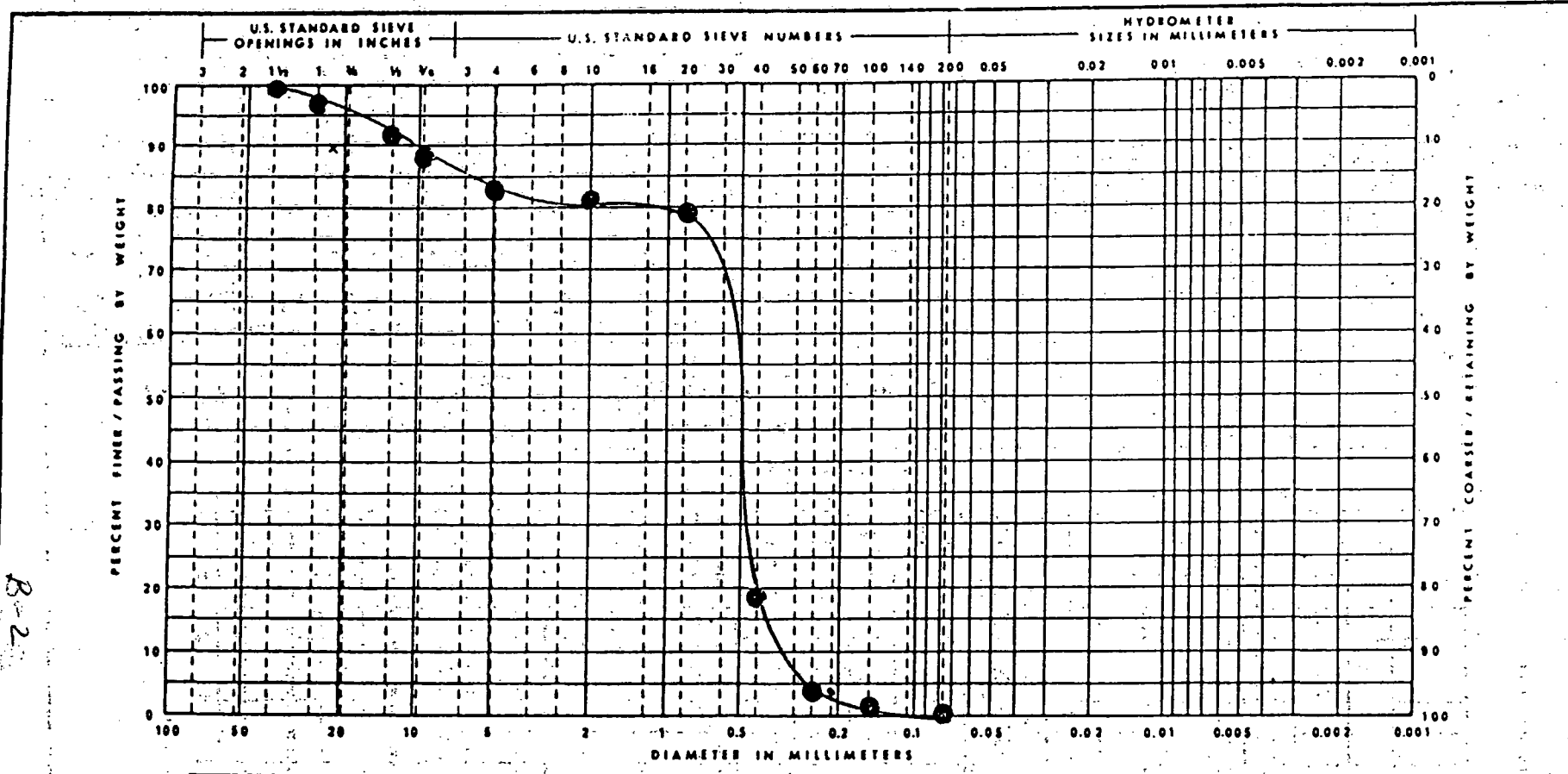
Weather Cloudy - Cool - Calm  
 Water Data N/A  
 Job No. 83042.01

| Depth | Sample | Sampling Method | PENETR.: Blow Count |    |    | LINER | Soil Classification |
|-------|--------|-----------------|---------------------|----|----|-------|---------------------|
|       |        |                 | 1                   | 2  | 3  |       |                     |
| 5     |        |                 |                     |    |    |       |                     |
| 10    |        |                 |                     |    |    |       | LAKE MICHIGAN       |
| 15    |        |                 |                     |    |    |       |                     |
| 20    |        |                 |                     |    |    |       |                     |
| 25    |        | SS              | 18                  | 10 | 11 |       | BROWN MEDIUM TO     |
|       |        | SS              | 27                  | 31 | —  |       | COARSE SAND         |
| 30    |        | SS              | 24                  | 28 | —  |       | AND GRAVEL WITH     |
|       |        | SS              | 63                  | —  | —  |       | TRACE SILT          |
| 35    |        |                 |                     |    |    |       | END OF BORING       |

**APPENDIX B**

**Lake Bottom Sand Sieve Analysis**

| <b>SAMPLE<br/>NUMBER</b> | <b>LOCATION<br/>FROM SHORE</b> | <b>DEPTH BELOW<br/>BOTTOM</b> |
|--------------------------|--------------------------------|-------------------------------|
| <b>A</b>                 | <b>750 FT.</b>                 | <b>0-4 IN.</b>                |
| <b>B</b>                 | <b>950 FT.</b>                 | <b>0-4 IN.</b>                |
| <b>C</b>                 | <b>750 FT.</b>                 | <b>1.5 FT.</b>                |
| <b>D</b>                 | <b>950 FT.</b>                 | <b>2.0 FT.</b>                |

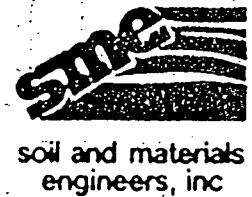


B-2

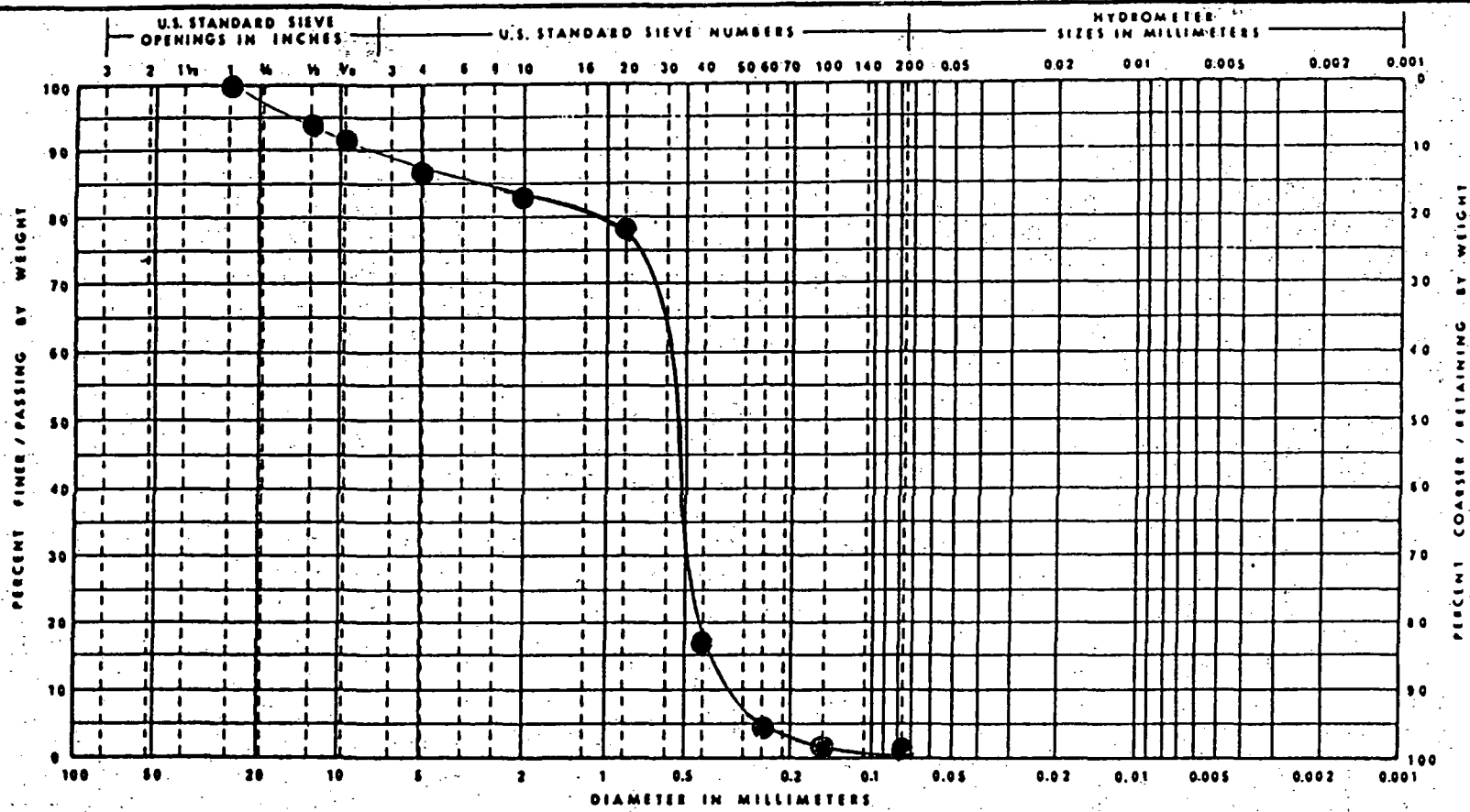
|        |        |      |             |           |      |              |      |
|--------|--------|------|-------------|-----------|------|--------------|------|
| ASTM.  | GRAVEL |      | SAND        |           |      | SILT & CLAY  |      |
|        | COARSE | FINE | COARSE      | MEDIUM    | FINE | SILT         | CLAY |
| AASHTO | GRAVEL |      | COARSE SAND | FINE SAND |      | SILT & CLAYS |      |

| CURVE NO. | BORING NO. | SAMPLE NO. | DEPTH (FT) | SAMPLE CLASSIFICATION                  | $d_{60}$<br>0.074 mm | PERMEABILITY | WATER INTAKE<br>CHARLEVOIX, MI |
|-----------|------------|------------|------------|--|----------------------|--------------|--------------------------------|
|           |            | -A         |            | Poorly Graded Sand with Gravel<br>(SP) | 0.0                  |              |                                |
|           |            |            |            |  |                      |              |                                |
|           |            |            |            |  |                      |              |                                |
|           |            |            |            |  |                      |              |                                |
|           |            |            |            |  |                      |              |                                |
|           |            |            |            |  |                      |              |                                |
|           |            |            |            |  |                      |              |                                |

DRAWN  
GD  
APP'D  
GE  
DATE  
5/2/91  
JOB  
E-16571



B-3



|        |        |      |             |           |              |             |      |
|--------|--------|------|-------------|-----------|--------------|-------------|------|
| ASTM   | GRAVEL |      | SAND        |           |              | SILT & CLAY |      |
|        | COARSE | FINE | COARSE      | MEDIUM    | FINE         | SILT        | CLAY |
| AASHTO | GRAVEL |      | COARSE SAND | FINE SAND | SILT & CLAYS |             |      |

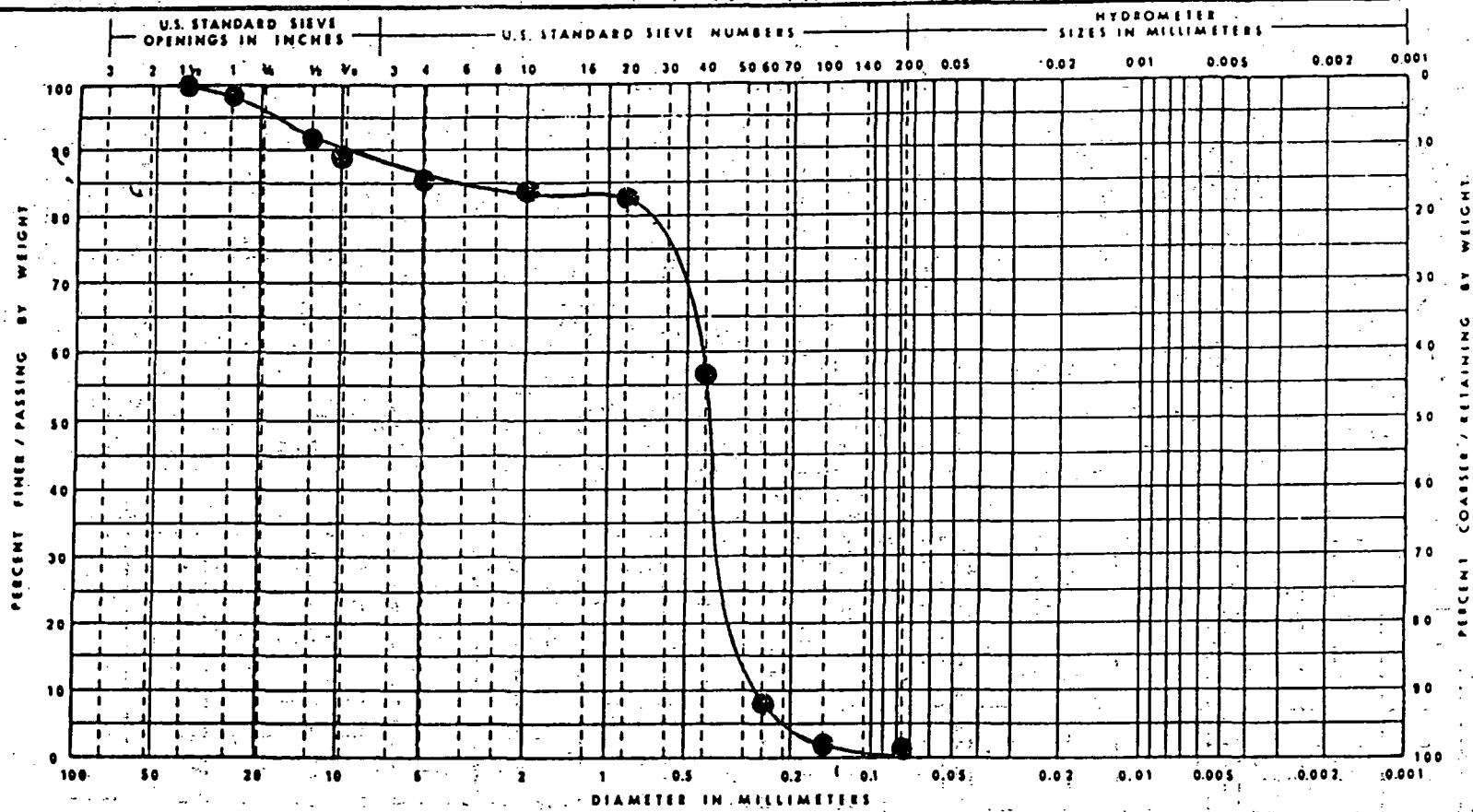
| CURVE NO. | BORING NO. | SAMPLE NO. | DEPTH (FT) | SAMPLE CLASSIFICATION   | % < 0.074 mm | PERMEABILITY | WATER INTAKE<br>CHARLEVOIX, MI |
|-----------|------------|------------|------------|-------------------------|--------------|--------------|--------------------------------|
|           |            | B          |            | Poorly Graded Sand (SP) | 0.2          |              |                                |
|           |            |            |            |                         |              |              |                                |
|           |            |            |            |                         |              |              |                                |
|           |            |            |            |                         |              |              |                                |
|           |            |            |            |                         |              |              |                                |
|           |            |            |            |                         |              |              |                                |

DRAWN  
GD  
APP'D  
GE  
DATE  
5/2/91  
JOB  
E-16571



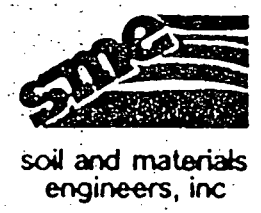
35





|        |        |      |             |           |              |             |      |
|--------|--------|------|-------------|-----------|--------------|-------------|------|
| ASTM   | GRAVEL |      | SAND        |           |              | SILT & CLAY |      |
|        | COARSE | FINE | COARSE      | MEDIUM    | FINE         | SILT        | CLAY |
| AASHTO | GRAVEL |      | COARSE SAND | FINE SAND | SILT & CLAYS |             |      |

| CURVE NO. | BORING NO. | SAMPLE NO. | DEPTH (FT) | SAMPLE CLASSIFICATION   | % < 0.075 mm | WATER INTAKE<br>CHARLEVOIX, MI |
|-----------|------------|------------|------------|-------------------------|--------------|--------------------------------|
|           |            | C          |            | Poorly Graded Sand (SP) | 0.2          |                                |
|           |            |            |            |                         |              | DRAWN<br>GD                    |
|           |            |            |            |                         |              | APP'D<br>GE                    |
|           |            |            |            |                         |              | DATE<br>5/7/91                 |
|           |            |            |            |                         |              | JOB<br>E-16571                 |







DEPARTMENT OF THE ARMY  
DETROIT DISTRICT, CORPS OF ENGINEERS

BOX 1027

DETROIT, MICHIGAN 48231-1027

August 26, 1991

IN REPLY REFER TO

Construction-Operations Division  
Regulatory Functions Branch - 91-56-53-9101/91-5-159

Mr. Mike Weisner, City Manager  
City of Charlevoix  
210 State Street  
Charlevoix, Michigan 49720

Dear Mr. Weisner:

Enclosed is Federal Permit No. 91-56-53-9101.

Your special attention is invited to Paragraph 2.a. under Further Information, which states, "That this permit does not obviate the requirement to obtain other Federal, state, or local authorizations required by law." It is suggested that you contact Michigan Department of Natural Resources, Lansing, Michigan, telephone 517-373-9244, to determine if state approval is required. WORK SHOULD NOT COMMENCE UNTIL STATE APPROVAL IS OBTAINED.

It is required that you inform this office immediately upon commencement of construction. Upon completion of the work, fill in and return the enclosed COMPLETION REPORT.

Any material changes in the location or plans of the work herein authorized must be submitted to the District Engineer prior to commencement of work. As required by law, the revised plans must have written approval of the Department of the Army.

You are responsible for assuring that your contractor abides by the conditions of this permit. For that purpose, enclosed is an unsigned copy of the permit, which you may wish to furnish him for his use. If you have any questions, please call Mr. James DeMunnik at 313-226-2221.

Sincerely,

William H. Davy, Jr.  
Chief, Processing Section A  
Regulatory Functions Branch

Enclosures

RECEIVED  
CITY OF CHARLEVOIX

DEPARTMENT OF THE ARMY PERMIT

Permittee City of Charlevoix

Permit No. 91-56-53-9101

Issuing Office USAED, Detroit

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: to construct a 160 x 172 x 6 foot water intake filter bed connecting an existing 24 inch diameter intake pipe; dredge approximately 6,300 cubic yards of material by mechanical and/or hydraulic means from the filter bed area; place about 2,300 cubic yards of dredged material in the filter bed along with approximately 4,000 cubic yards of 17A, 28B, or 20A aggregate sand, hauled in from an upland source; temporarily sidecast 3,500 cubic yards of dredged material in a 120 x 225 foot area 300 feet southwesterly from the project site until pipes, screens and course aggregate have been placed; deposit the remaining dredged/sidecast material in open water 1.5 miles northeasterly from the north Pier Light. The purpose of the project is to improve the present water intake system.

Project Location: in Lake Michigan at the foot of Clinton Street at Charlevoix, Michigan.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 1994. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

**Special Conditions:**

Removal of sidecast dredged material and restoration of the lake bottom to pre-construction contours shall be accomplished within 15 days after completion of the project but no later than December 15, of each year that construction is in progress and the permit is valid.

**Further Information:**

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

Section 404 of the Clean Water Act (33 U.S.C. 1344).

Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

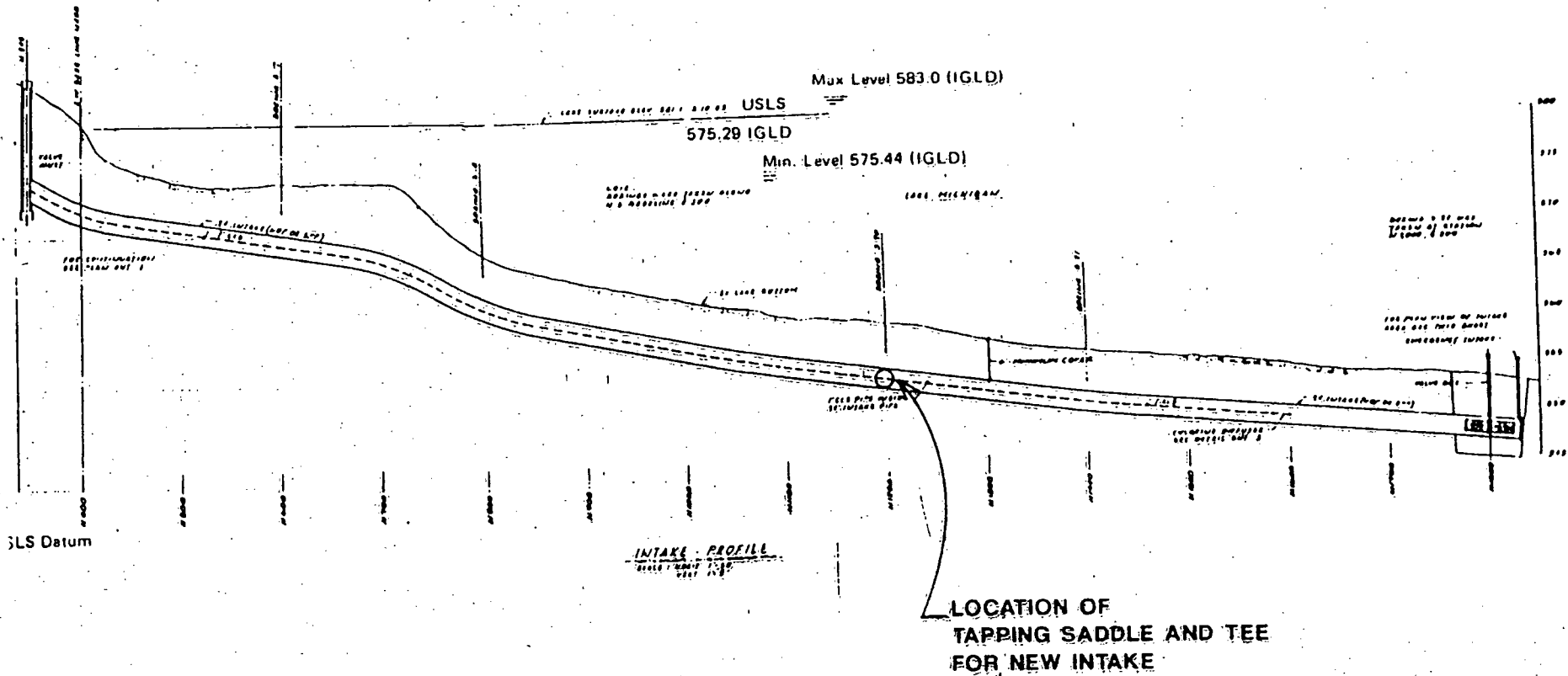
c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.



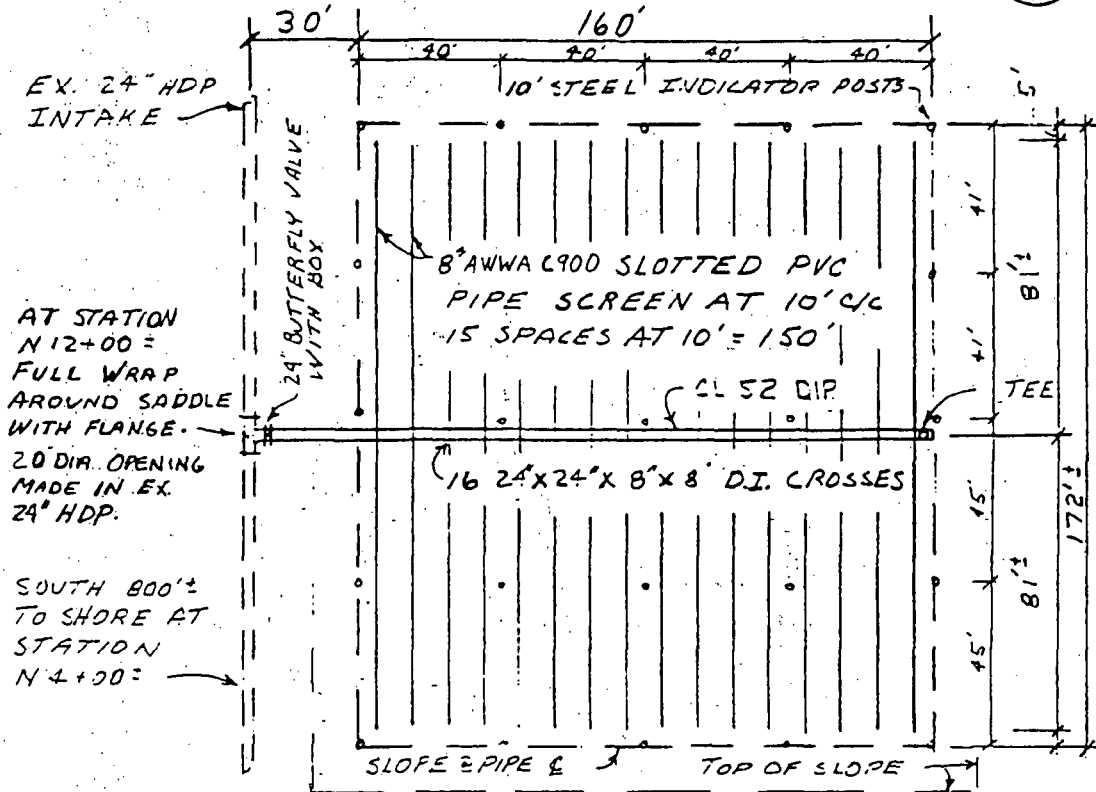


# CHARLEVOIX, MICHIGAN NEW LAKE BOTTOM INTAKE SYSTEM



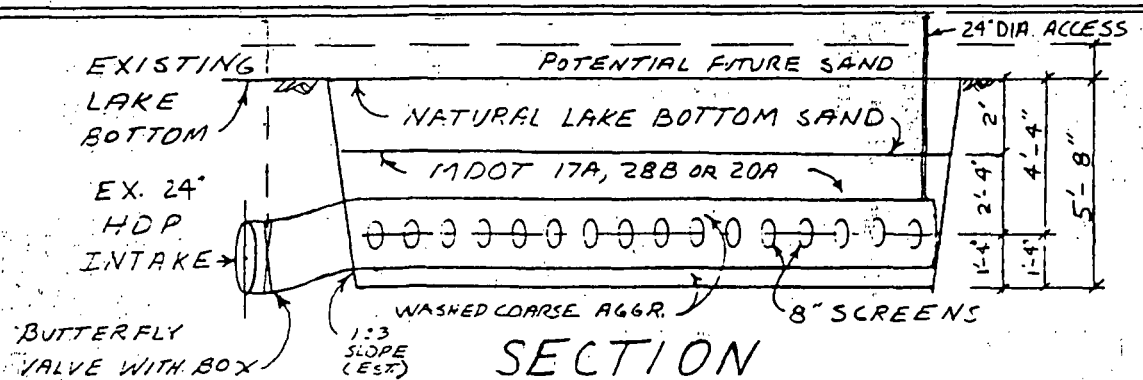


# NEW LAKE BOTTOM INTAKE CHARLEVOIX, MICHIGAN



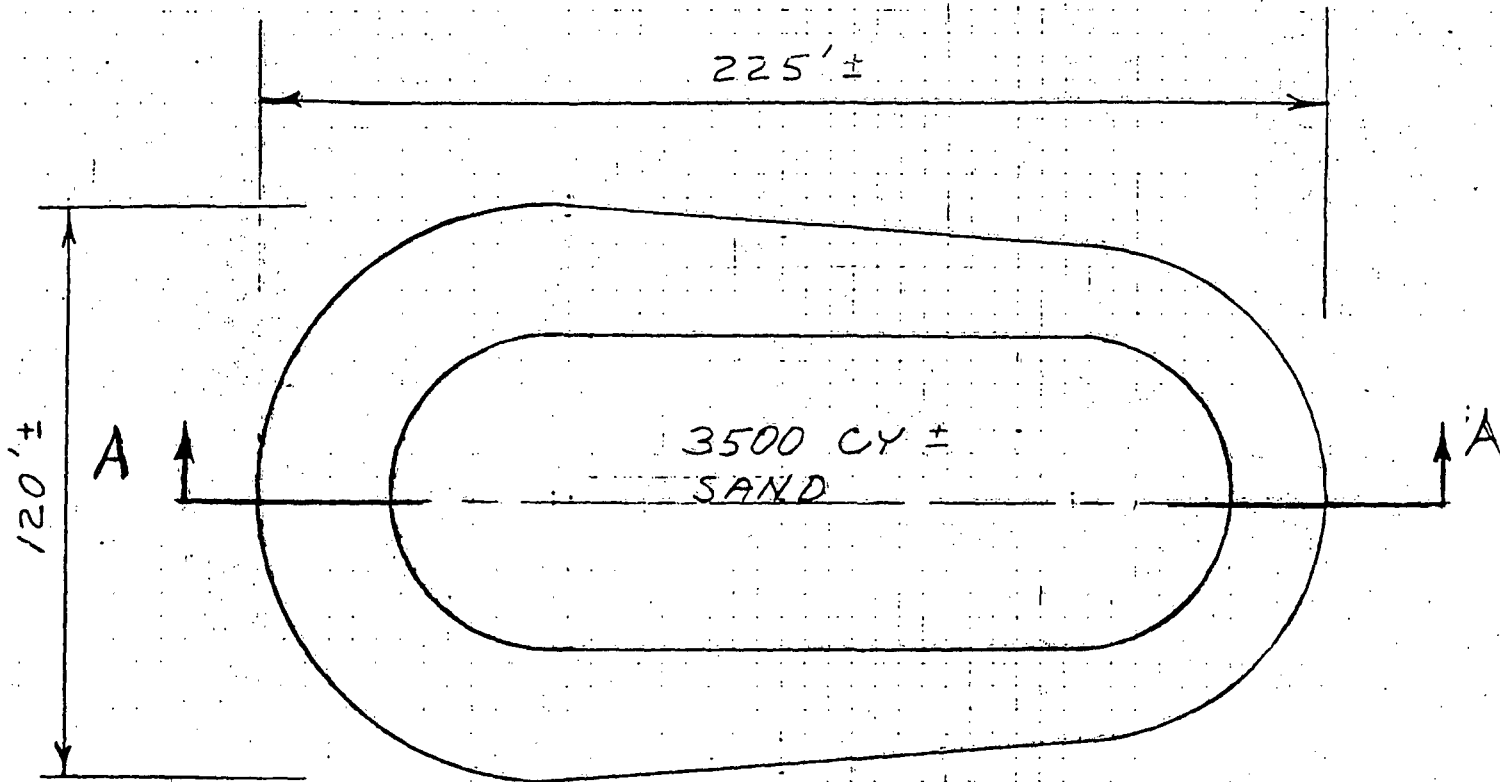
PLAN OF NEW LAKE BOTTOM INTAKE

SCALE: 1" = 50'

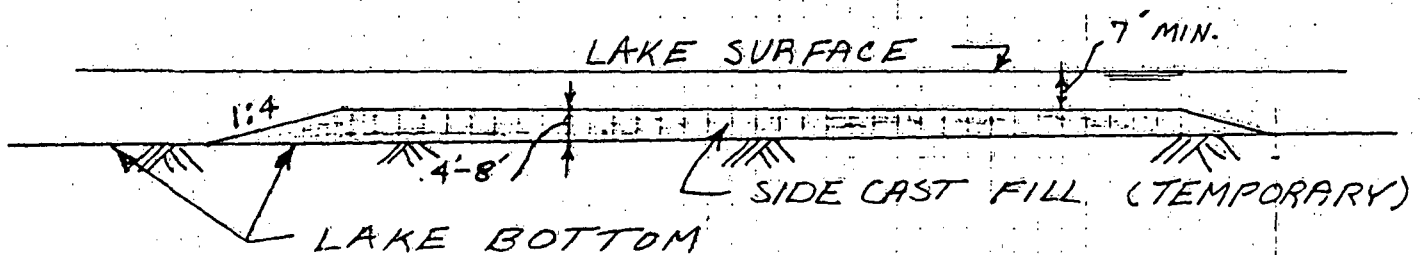


CHARLEVOIX, MICHIGAN  
NEW LAKE BOTTOM INTAKE SYSTEM





PLAN



SECTION A

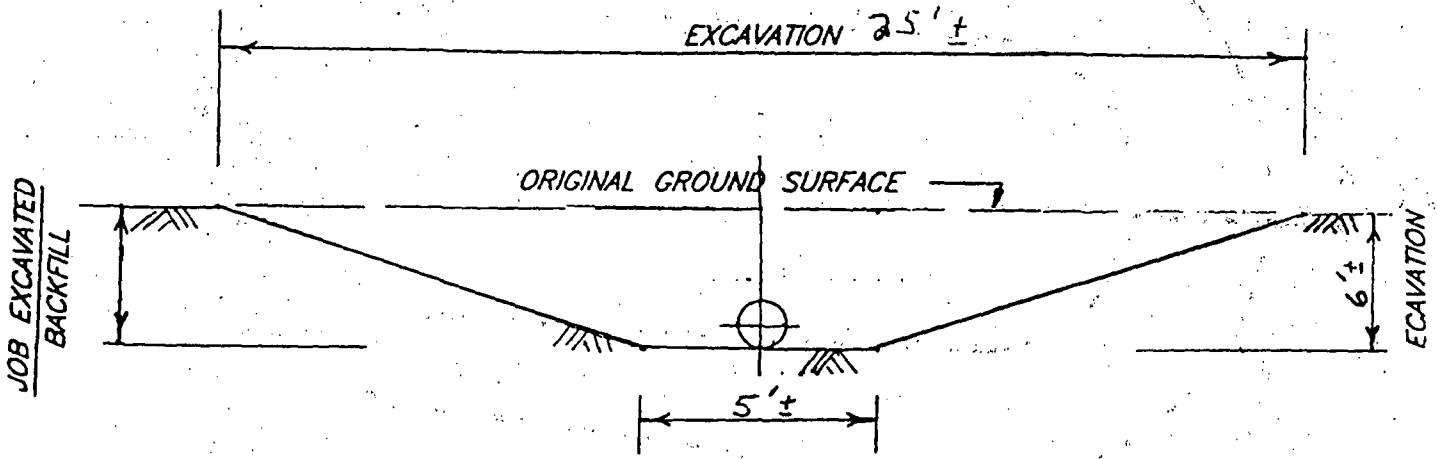
SIDE CAST FILL DETAIL

SCALE: 1" = 40'

NOTE:

AREA TO BE LOCATED APPROXIMATELY  
350 FT SSW OF INFILTRATION  
GALLERY.

CHARLEVOIX, MICHIGAN  
NEW LAKE BOTTOM INTAKE SYSTEM



**TRENCH EXCAVATION**  
**AND BACKFILL**

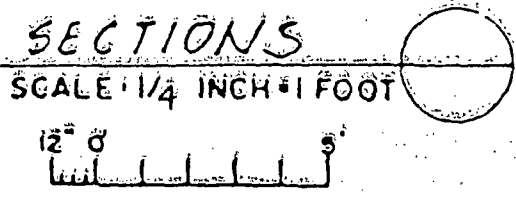
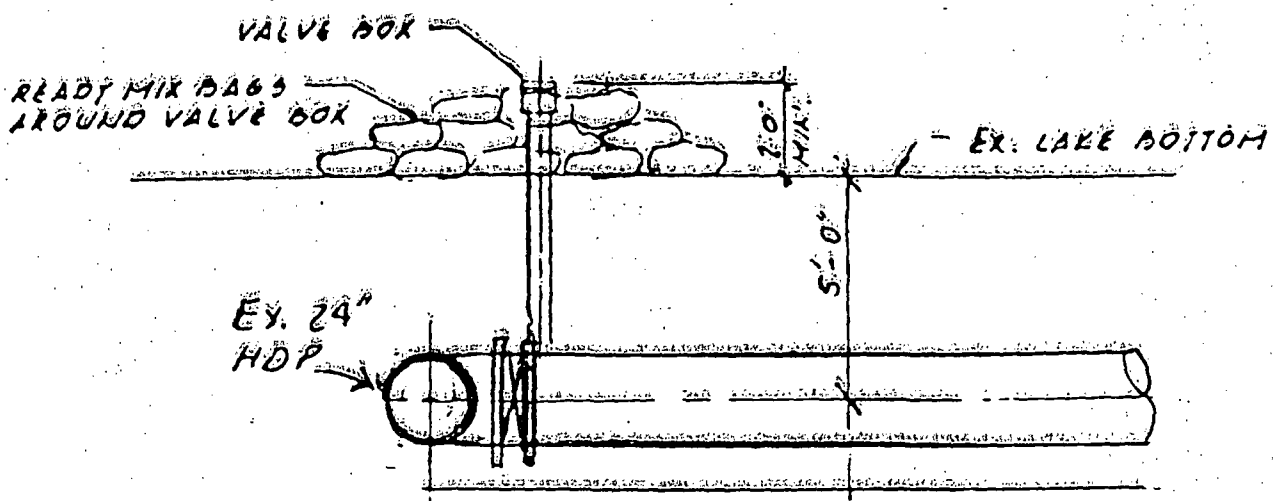
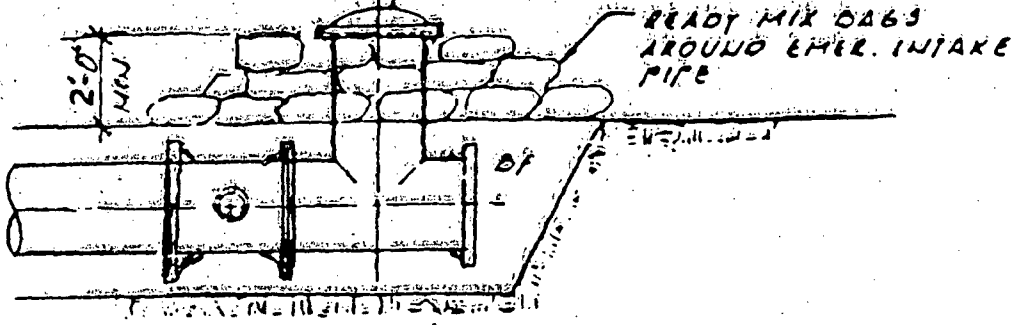
NO SCALE

CHARLEVOIX, MICHIGAN  
NEW LAKE BOTTOM INTAKE SYSTEM

C-9



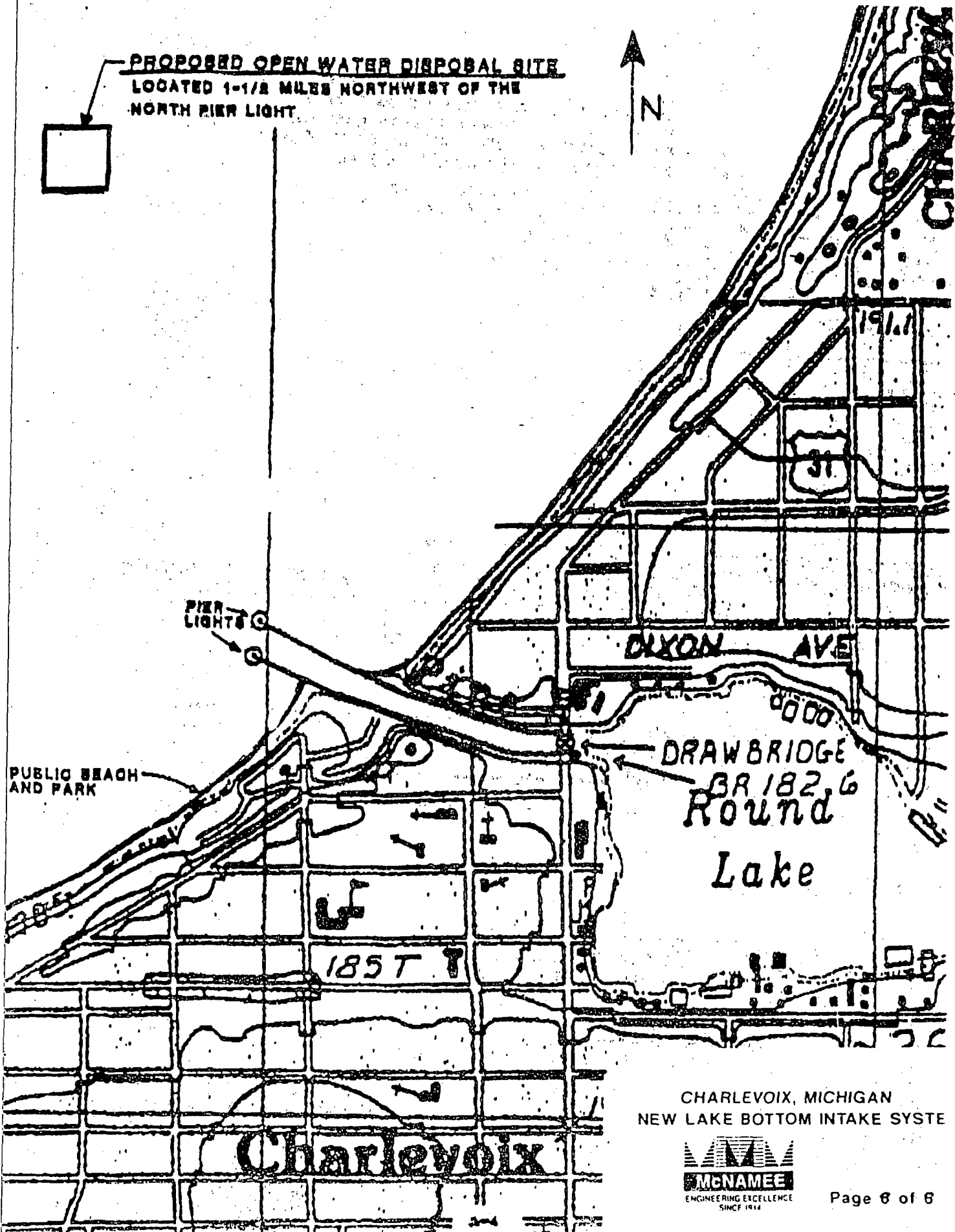
INTAKE MANHOLE COVER  
 W/ STANDARD 24" PIPE FITTING BOLT HOLES  
 NEENAH SERIES R-1916 - F. NEENAH, WIS; EAST JORDON IRON WORKS,  
 EAST JORDON, MI; MICHIGAN HYDRANT AND VALVE CO,  
 DETROIT, MICH.; OR APPROVED EQUAL



CHARLEVOIX, MICHIGAN  
 NEW LAKE BOTTOM INTAKE SYSTEM



**PROPOSED OPEN WATER DISPOSAL SITE  
LOCATED 1-1/8 MILES NORTHWEST OF THE  
NORTH RIVER LIGHT**



CHARLEVOIX, MICHIGAN  
NEW LAKE BOTTOM INTAKE SYSTE



C-17





**This notice of authorization must be  
conspicuously displayed at the site of work.**

United States Army Corps of Engineers

August 26, 1991

A permit to construct a water intake filter bed connecting to an existing  
intake pipe in Lake Michigan  
at Charlevoix, Michigan

Mike Weisner, City Manager  
has been issued to City of Charlevoix on Aug. 26, 1991

Address of Permittee 210 State Street, Charlevoix, Michigan 49720

Permit Number

91-56-53-9101

*Richard Kanda*  
Richard Kanda  
Colonel, U.S. Army  
District Commander



DEPARTMENT OF THE ARMY  
DETROIT DISTRICT, CORPS OF ENGINEERS

BOX 1027  
DETROIT, MICHIGAN 48231-1027

COMPLETION REPORT

IN REPLY REFER TO

CENCE-CO-L

August 26, 1991

(Date)

Commander  
U.S. Army Engineer District, Detroit  
ATTN: Regulatory Functions Branch  
Box 1027  
Detroit, Michigan 48231-1027

Dear Sir:

You are hereby notified that work under Department of the Army Permit No. 91-56-53-9101, issued to Mike Weisner, City Manager, City of Charlevoix, 210 State Street, Charlevoix, Michigan 49720 for constructing a water intake filter bed connecting to an existing intake pipe in Lake Michigan at Charlevoix, Michigan

\_\_\_\_\_ was completed in accordance with the permit on: \_\_\_\_\_  
(Date work completed)

\_\_\_\_\_  
(Permittee's Signature)

I M P O R T A N T

1. This COMPLETION REPORT MUST BE MAILED to the District Engineer within 10 days after completion of work covered by the FEDERAL PERMIT to insure an accurate Government record of data affecting navigation.
2. Where dredging soundings are made of projects which include dredging, a copy of the soundings should accompany this report. If the soundings are measured from the water surface and have not been corrected to International Great Lakes Datum plane, the hour and date soundings was made should be noted on sounding reports.

NOTE: Although permits authorizing structures carry an expiration date, REPAIRS that conform to the permit plans are also within the scope of the authorization. Therefore, it is recommended that expired permits NOT be destroyed, but retained as proof that the work to be repaired has received the Corps of Engineers' approval.



# PERMIT FOR WATER SYSTEM CONSTRUCTION

MICHIGAN DEPARTMENT OF PUBLIC HEALTH  
Bureau of Environmental and Occupational Health

THIS PERMIT IS ISSUED UNDER PROVISIONS OF SEC. 4 OF ACT 399 P.A. 1976, FOR CONSTRUCTION, OR ALTERATION, OF A WATER WORKS SYSTEM OR PORTIONS THEREOF DESCRIBED HEREON. IT DOES NOT OBTIATE THE NEED TO SATISFY VARIOUS REQUIREMENTS OF OTHER AGENCIES.

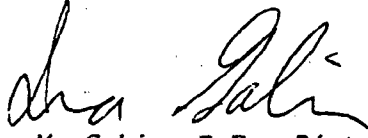
City of Charlevoix  
210 State Street  
Charlevoix, Michigan 49720

Attention: Mr. Michael Wiesner  
City Manager

DIVISION OF WATER SUPPLY  
MICHIGAN DEPT. OF PUBLIC HEALTH  
3423 N LOGAN ST., P.O. BOX 30195  
LANSING, MI 48909

DIVISION OF ENVIRONMENTAL HEALTH  
MICHIGAN DEPT. OF PUBLIC HEALTH  
3423 N LOGAN STREET  
P.O. BOX 30195  
LANSING, MI 48909

DIVISION OF UPPER PENINSULA  
MICHIGAN DEPT. OF PUBLIC HEALTH  
305 LUDINGTON STREET  
ESCANABA, MI 49829

|                          |                              |  |      |
|--------------------------|------------------------------|--|------|
| PERMIT NUMBER<br>W910782 | DATE ISSUED<br>July 24, 1991 | ISSUED TO<br>City of Charlevoix  | 1330 |
| July 25, 1991            |                              | ISSUED BY<br><br>Ira M. Gabin, P.E., District Engineer |      |

This permit is for installation of the following water system improvements in the City of Charlevoix in accordance with plans and specifications prepared by and submitted to this office by McNamee, Porter & Seeley, Inc.

New water treatment plant infiltration bed located 800 feet from shore and consisting of 16 - 160 foot long sections of 8-inch diameter slotted pipe with a minimum of 4 feet of cover.

Since four copies were received, we are retaining one copy for our records and are sending one approved copy each to you and McNamee, Porter & Seeley, Inc., and the U.S. Army Corps of Engineers.

IMG:lw

- cc: McNamee, Porter & Seeley, Inc.
- cc: U.S. Army Corps of Engineers, Mr. Paul Dappen
- cc: EPA Region V Superfund Office, Mr. John Kuhns
- cc: DNR, Mr. Gary Simons
- cc: District Health Department #3, Charlevoix

This permit consists of 1 page(s).

This permit is valid for 2 years from date of issuance. If construction is not commenced within 2 yrs., a permit extension may be applied for in writing by identifying the project and the number on the permit for which the extension is requested.

It is a condition of this permit that the permittee give notice to public utilities pursuant to Act No. 53 of the Public Acts of 1974, as amended (MCLA 460.701 et seq.), and comply with the requirements of that Act.

Issuance of this permit is in compliance with the provisions of Executive Order 1974-4 and issued pursuant thereto.