

FEB 15 2005

CITY OF CLINTON AGENDA ITEM FACT SHEET CITY OF CLINTON

BOARD MEETING DATE: February 15, 2005

AGENDA ITEM NO. 7

CONSENT AGENDA:

TO:

FOR:

ACCT. NO.

DISCUSSION/ACTION: Set Public Hearing Hazard Mitigation Plan for the City of Clinton

INTRODUCED BY:

TELEPHONE:

EXHIBITS FOR REVIEW:Minutes
Ordinance
ResolutionInvoice
Plans, Maps
ContractOther:

RECOMMENDATION:

*Set Public Hearing for
Hazard Mitigation Plan
on March 11, 2005
at 10: AM in City Hall.*BOARD ACTION:MOTION MADE BY: *Touchton*SECONDED BY: *Brantley*VOTE CAST:"AYE""NAY"ACTION TAKEN:Brabham
Hisaw
Greer
Brantley
Fisher
Touchton
Lott*absent*

Mayor Aultman

AGENDA ITEMS MUST BE TURNED IN TO THE CITY CLERK WITH ALL ATTACHMENTS NO LATER THAN 5 P.M. ON THE WEDNESDAY PRECEEDING THE TUESDAY BOARD MEETING TO BE INCLUDED ON THE AGENDA. THIS DEADLINE WILL BE STRICTLY ENFORCED.

BOARD APPROVED

FEB 15 2005

NOTICE OF PUBLIC HEARING

CITY OF CLINTON

The City of Clinton, Mississippi has been working to develop a Hazard Mitigation Plan. The purpose of this plan is to identify natural hazards that affect the community, and identify actions the community can take to eliminate or reduce the risk posed by those natural hazards.

More specific details regarding the development of this plan will be provided at a public hearing that will be held in the Conference Room at City Hall, 300 Jefferson Street, Clinton, Mississippi on the 11th day of March, 2005 at 10:00 am. The purpose of this hearing will be to obtain citizen input on the Mitigation Plan. Members of the community are encouraged to view a DRAFT COPY of the plan prior to the public meeting. Public copies of the plan can be reviewed at City Hall starting Tuesday, March 1, 2005.

NOTE: Publish in the Legal Section one (1) time.

Publish Date: _____

BILL TO:

City of Clinton
Wayne Derrick, City Clerk
Post Office Box 156
Clinton, Mississippi 39060

SEND ADDITIONAL PROOF OF PUBLICATION TO:

Lesley Pickens
Central Mississippi Planning and Development District
Post Office Box 4935
Jackson, Mississippi 39296-4935

BOARD APPROVED

FEB 15 2005

CITY OF CLINTON AGENDA ITEM FACT SHEET

CITY OF CLINTON

BOARD MEETING DATE: February 15, 2005

AGENDA ITEM NO. **8**

CONSENT AGENDA:

TO:

FOR:

ACCOUNT NO:

DISCUSSION/ACTION: Resolution Authorizing and Approving Mayor Aultman to Execute a Lease-Purchase

Agreement with First Continental Leasing

INTRODUCED BY: Wayne Derrick, City Clerk

BOARD ACTION:

MOTION MADE BY:

Brubham

SECONDED BY:

Greer

VOTE CAST:

"AYE"

"NAY"

ACTION TAKEN:

Brubham

Hisaw

Greer

Brantley

Fisher

Touchton

Lott

Mayor Aultman

[Handwritten marks in AYE column]

Absent

AGENDA ITEMS MUST BE TURNED IN TO THE CITY CLERK WITH ALL ATTACHMENTS NO LATER THAN 5 P.M. ON THE WEDNESDAY PRECEEDING THE TUESDAY BOARD MEETING TO BE INCLUDED ON THE AGENDA. THIS DEADLINE WILL BE STRICTLY ENFORCED.

FIRST CONTINENTAL LEASING*a Division of BancorpSouth***P. O. Box 15097****HATTIESBURG, MS 39404**

601-544-3252 - 800-222-1610 - FAX 800-322-1611

Wednesday, January 05, 2005

Sent via Fax: No. 601-925-4605

City of Clinton
P.O. Box 156
Clinton, Ms

It is a pleasure to submit for your consideration the following proposal to provide lease purchase financing based on the terms and conditions set forth below:

1. Lessor: First Continental Leasing, a division of BancorpSouth Bank
2. Lessee: City of Clinton
3. Equipment Description: Dump Truck
4. Equipment Cost: \$67,200.00
5. Lease Term: 5 years
6. Lease Payment: (These are approximate payment amounts. The actual payment will be determined at funding date.)

60 months @ \$1,213.78
payments in arrears
7. Lease Rate: 3.21%
8. Funding Date: This proposal is contingent upon the equipment being delivered and the lease being funded prior to February 28, 2005. If the equipment is not delivered and the lease is not funded prior to February 28, 2005 this proposal is null and void. Any extension of the funding date must be in writing.
9. Purchase Option: Title is passed to Lessee at the lease expiration for no further consideration.
10. Non appropriation/Termination: The lease provides that Lessee is to make reasonable efforts to obtain funds to satisfy the obligation in each fiscal year. However, the lease may be

terminated without penalty in the event of non appropriation. In such event, the lessee agrees to provide an attorney's opinion confirming the events of non appropriation and Lessee's exercise of diligence to obtain funds.

11. Bank Qualification: This lease-purchase shall be designated as a bank qualified tax-exempt transaction as per the 1986 Federal Tax Bill. **This means that the Lessee's governing body will pass a resolution stating that it does not anticipate issuing more than \$10 million in General Obligation debt or other debt falling under the Tax Bill's definition of qualifying debt during the calendar year that the lease is funded.**

12. Tax Status: This proposal is subject to the Lessee being qualified as a governmental entity or "political subdivision" within the meaning of Section 103(a) of the Internal Revenue code of 1954 as amended, within the meaning of said Section. Lessee agrees to cooperate with Lessor in providing evidence as deemed necessary or desirable by Lessor to substantiate such tax status.

13. Net Lease: This will be a net lease transaction whereby maintenance, insurance, taxes, (if applicable), compliance with laws and similar expenses shall be borne by Lessee.

14. Financial Statements: Complete and current financial statements must be submitted to Lessor for review and approval of Lessee credit worthiness.

15. Lease Documentation: This equipment lease-purchase package is subject to the mutual acceptance of lease-purchase documentation within a reasonable time period, otherwise payments will be subject to market change.

If the foregoing is acceptable, please so indicate by signing this letter in the space provided below and returning it to First Continental Leasing. **The proposal is subject to approval by First Continental's Credit Committee and to mutually acceptable terms, conditions and documentation.**

This proposal expires as of the close of business on January 31, 2005. Extensions must be approved by the undersigned.

Sincerely,

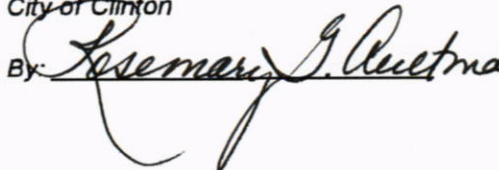


Bob Lee

Municipal Finance Manager

Acceptance

City of Clinton

By:  Date: 1-26-2005

FEB 15 2005

CITY OF CLINTON AGENDA ITEM FACT SHEET CITY OF CLINTON

BOARD MEETING DATE: February 15, 2005

AGENDA ITEM NO. 9.

CONSENT AGENDA:

TO:

FOR:

ACCT. NO.

DISCUSSION/ACTION: Appointment of Jim Parks to the City Election Commission

INTRODUCED BY: Mayor Rosemary Aultman

TELEPHONE:

EXHIBITS FOR REVIEW:Minutes
Ordinance
ResolutionInvoice
Plans, Maps
ContractOther:

RECOMMENDATION:

*unapproved term
mel Malpen*BOARD ACTION:MOTION MADE BY: BrantleySECONDED BY: GreerVOTE CAST:"AYE""NAY"ACTION TAKEN:Brabham
Hisaw
Greer
Brantley
Fisher
Touchton
Lott1

*absent*_____

Mayor Aultman

AGENDA ITEMS MUST BE TURNED IN TO THE CITY CLERK WITH ALL ATTACHMENTS NO LATER THAN 5 P.M. ON THE WEDNESDAY PRECEEDING THE TUESDAY BOARD MEETING TO BE INCLUDED ON THE AGENDA. THIS DEADLINE WILL BE STRICTLY ENFORCED.

FEB 15 2005

CITY OF CLINTON

AGENDA ITEM NO. 10

INTRODUCED BY:

Rubbish Buried on Site

MOTION MADE BY:

SECONDED BY:

ACTION TAKEN:

about

[illegible]

TO APPROVE CHANGE ORDER IN THE AMOUNT
GO BACK TO RESPONSIBLE TO REASON
THE DAMAGES INCURRED BY CITY.



February 9, 2005

Tim Rogers
Director of Public Works
City of Clinton, MS
PO BOX 156
Clinton, MS 39060

Re: Clinton Public Works Complex

Dear Mr. Rogers:

Please have Change Order Number 1 added to the agenda for the next city council meeting. The change is required to remove rubbish that was found buried on site. The amount of the changes is \$20,400.55. **18,247.67**

Let me know if you need any additional information regarding this issue.

Sincerely,
JH&H Architects/Planners/Interiors

A handwritten signature in cursive script, appearing to read 'Rick Williams'.

Rick Williams, CSI
Construction Administrator

Copies to: Paul Bagley
file

A Professional Association

J. Carl Franco, AIA • Paul J. Bagley, AIA • J. Mack Sorrell, AIA • A. Bruce Wood, AIA
3760 I-55 North • Suite 200 • Jackson, MS 39211 • p: 601.948.4601 f: 601.355.6200
www.jhnharchitects.com

AIA[®] Document G701[™] – 2001

Change Order

PROJECT (Name and address): Clinton Public Works Public Works Complex Clinton, Mississippi	CHANGE ORDER NUMBER: 001 DATE: February 11, 2005	OWNER: ☒ ARCHITECT: ☒ CONTRACTOR: ☒ FIELD: ☐ OTHER: ☐
TO CONTRACTOR (Name and address): Benchmark Construction Corporation P.O. Box 31177 Jackson, MS 39286-1177	ARCHITECT'S PROJECT NUMBER: 00130 CONTRACT DATE: November 15, 2004 CONTRACT FOR: General Construction	

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

Remove rubbish in area of 60' X 100' X 2.5' as recommended by Geoscience.

The original Contract Sum was	\$ 2,862,000.00
The net change by previously authorized Change Orders	\$ 0.00
The Contract Sum prior to this Change Order was	\$ 2,862,000.00
The Contract Sum will be increased by this Change Order in the amount of	\$ 18,247.67
The new Contract Sum including this Change Order will be	\$ 2,880,247.67

The Contract Time will be increased by Ten (10) days.

The date of Substantial Completion as of the date of this Change Order therefore is January 14, 2006 (original date was January 4, 2006)

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

JH&H Architects Planners Interiors

ARCHITECT (Firm name)

3760 I-55 North, Suite 200, Jackson, MS
39211-6323

ADDRESS

BY (Signature)

Rick Williams

(Typed name)

DATE

2-14-05

Benchmark Construction Corporation

CONTRACTOR (Firm name)

P.O. Box 31177, Jackson, MS 39286-
1177

ADDRESS

BY (Signature)

John Allgood

(Typed name)

DATE

2/14/05

City of Clinton

OWNER (Firm name)

P.O. Box 156, Clinton, Mississippi
39060-0156

ADDRESS

BY (Signature)

Rosemary Aultman

(Typed name)

DATE

2-17-05

Benchmark Construction Corporation

1867 Crane Ridge Dr.
Suite 200-A
Jackson, MS 39216

Phone: 601-362-6110
Fax: 601-362-9812

PROPOSED CHANGE ORDER

No. 00001

REVISED

TITLE: Undercut SW Parking

DATE: 2/10/2005

PROJECT: CLINTON PUBLIC WORKS COMPLEX

JOB:

TO: JH&H/LTD
3760 I-55 North
Suite 200
Jackson, MS 39212

CONTRACT NO:

ATTN: Rick Williams

RE: CIC

To:

From:

Number:

DESCRIPTION OF PROPOSAL

Benchmark Construction is requesting an additional 10 days for this proposed change order.

Item Description	Stocks	Quantity	Units	Unit Price	Tax Rate	Tax Amount	Net Amount
00005 Tire Removal - 2 dumpsters		2.000	ea	\$800.00	3.50%	\$56.00	\$1,600.00
00006 Steel Removal - Tandem Load		8.000	ea	\$190.00	3.50%	\$53.20	\$1,320.00
00007 Bond		1.000	ea	\$176.00	3.50%	\$6.16	\$176.00
00008 Insurance		1.000	ea	\$176.00	3.50%	\$6.16	\$176.00
00009 Overhead & Profit		1.000	ea	\$2,299.00	3.50%	\$80.47	\$2,299.00
00001 Undercut & Haul Off		536.000	cy	\$6.26	3.50%	\$121.82	\$3,480.56
00002 Sand Fill		334.000	cy	\$19.86	3.50%	\$232.16	\$6,633.24
00003 Onsite Backfill		223.000	cy	\$4.06	3.50%	\$31.69	\$905.38
00004 Geotextile Fabric		667.000	sy	\$1.26	3.50%	\$29.42	\$840.42

Unit Cost: \$17,630.60

Unit Tax: \$617.07

Lump Sum: \$0.00

Lump Tax: \$0.00

Total: \$18,247.67

APPROVAL:

By: Gary Chamblee
Gary Chamblee

By: _____
Rick Williams

Date: _____

Date: _____

Delta Construction and Land Co., LLC
P.O. Box 1317
Ridgeland, MS 39158

Lincense # 11892

CHANGE ORDER #

No. 1

Date: 2/7/2004

Job Name: Clinton Public Works Complex

Job Location: Clinton, MS

GC: Benchmark Construction

We hereby propose to furnish materials and labor necessary for the completion of: Undercut and haul off unsuitable materials and replace with initial 1.5 of fill with course sand over fabric and fill with onsite material to grade.

Note: This area in question that was been excavated as of 2/7/06 will be considered a part of the 60' X 100' X 2.5'. Supply and install the following:

- ★ 1) Remove rubbish in area of 60' X 100' X 2.5' as recommended by Geoscience.
- 2) Haul debris to Clinton's landfill (no disposal fees) with exception of tires and steel.
- 3) Fill initial lift with course sand over geotextile fabric.
- 4) Remainder of fill will be on site material to proposed grading.
- 5) Tire and steel removal will be based off of unit pricing and is not included in lump sum.

Unit Pricing:

- 1) Undercut and haul off: \$6.28 / CY (FM)
- 2) Sand Fill: \$19.88 / CY (FM)
- 3) Geotextile Fabric: \$1.26 / SY
- 4) On site earth back fill: \$4.06 / CY (FM)
- 5) Tire Removal: \$800.00 / Roll Off Canister (Estimated 1-2 Canisters)
- 6) Steel Removal: \$180.00 / TANDEM LOAD (Estimated 5-8 Loads)

OUR PRICE INCLUDES ALL APPLICABLE TAXES.

WE PROPOSE hereby to furnish material and labor - complete in accordance with above specifications for the sum of: eleven thousand eight hundred and fifty-ahr dollars (\$ 11,856.00)
Payment as follows: net 30

All material is guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to specifications submitted, per standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance. If either party commences legal action to enforce its rights pursuant to this agreement, the prevailing party in said legal action shall be entitled to recover its reasonable attorney's fees and costs of litigation relating to said litigation, as determined by a court of competent jurisdiction.

Authorized Signature

NOTE: this proposal may be withdrawn by us if not accepted within 10 days.

ACCEPTANCE OF PROPOSAL The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature

Signature

Date of Acceptance

BOARD APPROVED

FEB 15 2005

CITY OF CLINTON AGENDA ITEM FACT SHEET

CITY OF CLINTON

BOARD MEETING DATE: February 15, 2005

AGENDA ITEM NO. 11.

CONSENT AGENDA:

Discussion/action of project agreement with
NaturalResourcesConservation Service.

INTRODUCED BY: Tim Rogers, Director of Public Works TELEPHONE: 924-2239

EXHIBITS FOR REVIEW:

Minutes
Ordinance
Resolution

Invoice
Plans, Maps
Contract

Other :

RECOMMENDATION:

BOARD ACTION:

MOTION MADE BY: Touchton

SECONDED BY: Brantley

VOTE CAST:

"AYE" "NAY"

ACTION TAKEN:

Brabham
Hisaw
Greer
Brantley
Fisher
Touchton
Lott

absent

Mayor Aultman

AGENDA ITEMS MUST BE TURNED IN TO THE CITY CLERK WITH ALL ATTACHMENTS NO
LATER THAN 5 P.M. ON THE WEDNESDAY PRECEEDING THE TUESDAY BOARD MEETING TO BE
INCLUDED ON THE AGENDA. THIS DEADLINE WILL BE STRICTLY ENFORCED.

United States Department of Agriculture



Natural Resources Conservation Service
311 Airport Road
Pearl, MS 39208

Subject: PDM – EWP City of Clinton, MS

Date: February 2, 2005

To: Larry Golden
District Conservationist
NRCS, Hinds County, MS

File
Code: 390

Enclosed are the following documents needed for the subject project:

1. Three copies of Project Agreement
2. One copy of Standard of Conduct
2. One copy of Attachment A
3. One copy of Attachment B

Please present these to the Sponsor for signatures and return them to me as soon as possible.

A handwritten signature in dark ink, appearing to read "Steven M. Vodrazka".

Steven M. Vodrazka, PE
Supervisory Engineer

Enclosures

cc: Maurice Manning, Area Conservationist
Verlene Ratliff, Contracting Officer
Kim Harris, State Conservation Engineer

BOARD APPROVED

FEB 15 2005

STATE: MISSISSIPPI
EWP: CITY OF CLINTON

CITY OF CLINTON

AGREEMENT NO. _____

**UNITED STATES DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE**

**PROJECT AGREEMENT
LOCALLY LED CONTRACTING**

THIS AGREEMENT, made this 15th day of February, 2005 by and between CITY OF CLINTON, MS called the **Sponsor** and the **Contracting Local Organization**; and the **Natural Resources Conservation Service, United States Department of Agriculture**, called **NRCS**.

WITNESSETH THAT:

WHEREAS, under the provisions of Section 216 of Public Law 81-516, Emergency Watershed Protection Program, and Title IV of the Act of 1978, Public Law 95-334, NRCS is authorized to assist the Sponsor in relieving hazards created by natural disasters that cause a sudden impairment of a watershed, and

WHEREAS, NRCS and the Sponsors agree to install emergency watershed protection measures to relieve hazards created by storm of April 2003.

NOW THEREFORE, in consideration of the premises and of the several promises to be faithfully performed by the parties hereto as set forth, the Sponsor and NRCS do hereby agree as follows:

- A.** It is agreed that the followings described work is to be performed at an estimated cost of \$150,000.00. Any increase in cost must be approved by NRCS before expenses re-incurred.

INSTALLATION OF STREAMBANK AND ROAD BANK STABILIZATION MEASURES ON NORTH SIDE SQUARE, SEWER MAIN, CAMP GARAYWA ROAD, CITY OF CLINTON, HINDS COUNTY, MS

B. The Sponsor will:

1. Provide 15 percent (cash) of the cost of constructing the emergency watershed protection measures described in Section A. This cost to the sponsor is estimated to be \$22,500.00. Additionally, the Sponsor will furnish, or provide 100% of the cost of the culverts necessary to do the work.

2. Prepare a design, construction specifications, and drawings in accordance with standard engineering principles and be in compliance with NRCS programmatic requirements. The construction plans shall be reviewed and approved by the Sponsor prior to submittal to NRCS. The construction plans for works of improvement will be reviewed and approved by a Professional Engineer **registered in State of Mississippi**, prior to submittal to NRCS.

3. The following individual is designated as the liaison between the sponsor and NRCS:

Name: Rosemary G. Gaultman, Mayor
Address: P.O. Box 156 Clinton, MS 39060
Telephone No. 601.924.5462

4. Provide certification that real property rights have been obtained for installation of emergency watershed protection measures prior to advertising for construction. Certification will be provided on Form NRCS-ADS-78, Assurances Relating to Real Property Acquisition. An Attorney's opinion as to the adequacy of landrights is required.
5. Accept all financial and other responsibility for excess costs resulting from their failure to obtain, or their delay in obtaining adequate land and water rights, permits, and licenses needed for the emergency watershed protection measures described in Section A.
6. Contract for engineering services, professional services, and construction of the emergency watershed protection measures described in Section A in accordance with 7 CFR 3016.36, applicable state requirements and the Sponsor's procurement regulations.
7. Comply with the applicable requirements in *Attachments A and B* to this agreement.
8. Ensure that all contracts for construction of emergency watershed protection measures include the provisions contained in *Attachment B* to this agreement.
9. Provide copies of site maps to appropriate Federal and State agencies for environmental review. Sponsor will notify NRCS of environmental clearance, modification of construction plans, or any unresolved concerns prior to award of the contract(s) for construction of the emergency watershed protection measures.
10. Ensure that requirements for compliance with environmental and/or cultural resource laws are incorporated into the project.

11. Pay the contractor as provided in the contract(s). Submit billings for reimbursement of incurred costs to NRCS on Form SF-270, Request for Advance or Reimbursement. The request will be supported by documents that will permit NRCS to reasonably assure itself that such costs were adequately documented, and incurred for the NRCS cost-shared items of work described in Section A of this agreement.
12. Receive payment under this agreement using electronic funds transfer (EFT) procedures in accordance with 31 CFR 208. EFT procedures will comply with USDA National Finance Center (NFC) requirements.
13. Take reasonable and necessary actions to dispose of all contractual and administrative issues arising out of contract(s) awarded under this agreement. This includes, but is not limited to, disputes, claims, protests of award, source selection and evaluation and litigation that may result from the project. Such actions will be at the expense of the sponsor including legal expenses.
14. Hold and save NRCS free from any and all claims or causes of action whatsoever resulting from the obligations undertaken by the Sponsor under this agreement or resulting from the work provided for in this agreement.
15. Arrange for and conduct final inspection of completed emergency watershed protection measures. Provide a certification statement to NRCS that the project was installed in accordance with contractual requirements and the terms of this agreement.
16. Upon acceptance of the work from the contractor(s), assume responsibility for operation and maintenance **(in accordance with the Operation and Maintenance Agreement)**.
17. Be responsible for all administrative expenses necessary to arrange for and carry out the works of improvement described in Section A. These administrative matters include but shall not be limited to facilities, clerical expenses, and legal counsel, including the fees of such attorney or attorneys deemed necessary by NRCS to resolve any legal matters.
18. Retain all records dealing with the award and administration of contract(s) for 3 years from the date of the sponsor's submission of the FINAL Request for Reimbursement or until final audit findings have been resolved, whichever is longer. If any litigation is started before the expiration of the 3-year period, the records are to be retained until the litigation is resolved or the end of the 3-year period, whichever is longer. Make such records available to the Comptroller General of the United States or his or her duly authorized representative and accredited representatives of the U.S. Department of Agriculture or cognizant audit agency for the purpose of making audit, examination, excerpts, and transcripts.

C. NRCS will:

1. Provide 85 percent of the cost of constructing the emergency watershed protection measures described in Section A. This cost to NRCS is estimated to be \$127,500.00. The cost will be based on the Sponsors design engineer construction cost estimate or the actual construction contract cost **whichever is less**.
2. Not be substantially involved with the technical or contractual administration of this agreement. However, NRCS will periodically check progress and agreement compliance by the Sponsor; and provide advice and counsel as needed.
3. Review and concur with construction plans as identified in Section B. of this agreement.
4. Make payment to the Sponsor covering NRCS' share of the cost upon receipt and approval of Form SF-270, Request for Advance or Reimbursement.
5. Be available to participate in final inspections.
6. The following individual is designated as the liaison between the Sponsor and NRCS.

Name: Larry Golden
Address: 322 New Market Drive, MS 39209
Telephone No.: (601) 965-5682

D. It is mutually agreed that:

1. This agreement is effective the date it is fully executed by all parties to this agreement. It shall become null and void 90 calendar days after the date NRCS has executed this agreement if a contract has not been awarded. All work required under this agreement must be completed by May 21, 2005.
2. The contracts for design services and construction described in Section A will not be awarded to the Sponsor or to any firm in which any Sponsor official or any member of such official's immediate family has direct or indirect interest in the pecuniary profits or contracts of such firms.
3. In the event of contractor default, any additional funds properly allocable as construction costs required to ensure completion of the project described in Section A. are to be contributed by the parties under the terms of this agreement. Any excess costs including interest resulting from a judgment collected for the defaulting contractor, or his or her surety, will be prorated between the Sponsor and NRCS in the same ratio as construction funds are contributed under the terms of the agreement.
4. This agreement may be amended as mutually agreed by written amendment duly executed by authorized officials of the signatory parties to this agreement.

5. The furnishing of financial and other assistance by NRCS is contingent upon the continuing availability of appropriations by Congress from which payment may be made and shall not obligate NRCS if Congress fails to so appropriate.
6. This agreement may be temporarily suspended by NRCS if NRCS determines that corrective action by the Sponsor is needed to meet the provisions of this agreement. Further, NRCS may suspend this agreement when it is evident that a termination is pending.
7. NRCS may terminate this agreement in whole or in part if it is determined by NRCS that the Sponsor has failed to comply with any of the conditions of this agreement. NRCS shall promptly notify the sponsor in writing of the determination and reasons for the termination, together with the effective date. Payments made by or recoveries made by NRCS under this termination shall be in accord with the legal rights and liabilities of NRCS and the Sponsor.
8. No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.
9. By signing this agreement the recipient assures the Department of Agriculture that the program or activities provided for under this agreement will be conducted in compliance with all applicable Federal civil rights laws, rules, regulations, and policies.

CITY OF CLINTON, MS

By: Rosemary J. Aultman This action authorized at an official meeting of
Title: Mayor Mayor & Aldermen on the 15 day of
Date: 2-18-05 February, 2005, at _____
_____ Clinton _____, State
of Mississippi.

(Signature)

(Title)

UNITED STATES DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

By: _____
Title: _____
Date: _____

STATE: _____

WATERSHED: _____

CONTRACT NO.: _____

STANDARDS OF CONDUCT

The Contracting Local Organization for the City of Clinton hereby agrees that: its officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. The contract or other procurement action shall not be awarded to a sponsor, the Contracting Local Organization, or firm in which any official of such organization, or any member of such official's immediate family, has direct or indirect interest in the recurring profits or contracts of such firms. To the extent permissible by state or local laws, rules or regulations, such standards as herein stated above shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the Contracting Local Organization officers, employees, or agents, or by contractors or their agents.

Rosemary J. Quetman

BY: _____

TITLE: Mayor

DATE: 2.18.2005

This action authorized at an official meeting of the

Mayor and Aldermen

on the 15 day of February, 2005
at the Clinton, State
of Mississippi.

W. J. Smith

(Signature)

City Clerk

(Title)

ATTACHMENT A - SPECIAL PROVISIONS

- I. DRUG-FREE WORKPLACE CERTIFICATION**
- II. CERTIFICATION REGARDING LOBBYING**
- III. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND
OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED
TRANSACTIONS**
- IV. CLEAN AIR AND WATER CERTIFICATION**
- V. ASSURANCES AND COMPLIANCE**
- VI. EXAMINATION OF RECORDS**

ATTACHMENT A - SPECIAL PROVISIONS

The signatories (grantee, recipient sponsor, or cooperator) agrees to comply with the following special provisions which are hereby attached to this agreement.

I. Drug-Free Workplace.

By signing this agreement, the recipient is providing the certification set out below. If it is later determined that the recipient knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the NRCS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of (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 manufacturing, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirements; consultants or independent contractors not on the grantees' payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification:

A. The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about --

- (1) The danger of drug abuse in the workplace;
- (2) The grantee's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph 9a) that, as a condition of employment under the grant, the employee will --

(1) Abide by the terms of the statement; and

(2) Notifying the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such a conviction;

(e) Notifying NRCS in writing, within ten calendar days after receiving notice under paragraph 9(d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted --

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily 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;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

(h) Agencies shall keep the original of all disclosure reports in the official files of the agency.

B. The recipient may provide a list of the site(s) for the performance of work done in connection with a specific project or other agreement.

II. Certification Regarding Lobbying (7 CFR 3018) (Applicable if this agreement exceeds \$100,000)

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

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

(3) The recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

III. Certification Regarding Debarment, Suspension, and Other Responsibility matters - Primary Covered Transactions, (7 CFR 3017)

(1) The recipient certifies to the best of its knowledge and belief, that it and its principals:

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

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

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

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

(2) Where the primary recipient is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this agreement.

IV. Clean Air and Water Certification (Applicable if this agreement exceeds \$100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-8(c)(1) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) and is listed by EPA, or is not otherwise exempt.)

The recipient signatory to this agreement certifies as follows:

(a) Any facility to be utilized in the performance of this proposed agreement is _____, is not _____, listed on the Environmental Protection Agency List of Violating Facilities.

(b) To promptly notify the State or Regional Conservationist prior to the signing of this agreement by NRCS, of the receipt of any communication from the Director, Office of Federal Activities, U. S. Environmental Protection Agency, indicating that any facility

which he/she proposes to use for the performance of the agreement is under consideration to be listed on the Environmental Protection Agency List of Violating Facilities.

(c) To include substantially this certification, including this subparagraph (c), in every nonexempt subagreement.

Clean Air and Water Clause

(Applicable only if the agreement exceeds \$100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-8(c)(1) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) and is listed by EPA or the agreement is not otherwise exempt.)

A. The recipient agrees as follows:

(1) To comply with all the requirements of section 114 of the Clean Air Act as amended (42 U.S.C. 1857, et seq., as amended by Public Law 91-604) and section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq., as amended by Public Law 92-500), respectively, 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, respectively, and all regulations and guidelines issued thereunder before the signing of this agreement by NRCS.

(2) That no portion of the work required by this agreement will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this agreement was signed by NRCS unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use their best efforts to comply with clean air standards and clean water standards at the facilities in which the agreement is being performed.

(4) To insert the substance of the provisions of this clause in any nonexempt subagreement, including this subparagraph A. (4).

B. The terms used in this clause have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Public Law 91-604).

(2) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Public Law 92-55).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. 1857c-5(d)), and approved implementation procedure or plan under section 111(c) or section 111(d), respectively, of the Air Act (42 U.S.C. 1857c-6(c) or (d)), or an approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standards, or other requirement which is promulgated pursuant to the Water Act or

contained a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by a local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (3 U.S.C. 1317).

(5) The term "compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with the scheduled or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or any air or water pollution control issued pursuant thereto.

(6) The term "facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location or site of operations, owned leased, or supervised by a sponsor, to be utilized in the performance of an agreement or subagreement. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collated in one geographical area.

V. Assurances and Compliance

As a condition of the grant or cooperative agreement, the recipient assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive Orders and other generally applicable requirements, including those set out in 7 CFR 3015, 3016, 3017, 3018, 3019, and 3052 which hereby are incorporated in this agreement by reference, and such other statutory provisions as are specifically set forth herein.

VI. Examination of Records

Give the NRCS or the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to this agreement. Retain all records related to this agreement for a period of three years after completion of the terms of this agreement in accordance with the applicable OMB Circular.

ATTACHMENT B

- I. EQUAL OPPORTUNITY (SCS-AS-83)**
- II. EQUAL OPPORTUNITY (FEDERAL ASSISTED CONSTRUCTION)
(SCS-AS-83)**
- III. NOTICE TO CONTRACTING LOCAL ORGANIZATION OF REQUIREMENTS
FOR CERTIFICATIONS OF NONSEGREGATED
FACILITIES**
- IV. NOTICE TO PROSPECTIVE FEDERALLY ASSISTED CONSTRUCTION
CONTRACTORS**
- V. NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS
FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES**
- VI. CERTIFICATION OF NONSEGREGATED FACILITIES (SCS-AS-818)**
- VII. STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE
ORDER 11246)**

ATTACHMENT B - SPECIAL PROVISIONS

CONSTRUCTION

I - EQUAL OPPORTUNITY

The Contracting Local Organization agrees to incorporate, or cause to be incorporated, into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor at 41 CFR, Chapter 60, which is paid for, in whole or in part, with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following Equal Opportunity (Federally Assisted Construction) clause:

II - EQUAL OPPORTUNITY (FEDERALLY ASSISTED CONSTRUCTION)

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

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff determination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity (Federally Assisted Construction) clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The Contractor will send to each labor union or representative of workers, with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Contractor's noncompliance with the Equal Opportunity (Federally Assisted Construction) clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September

24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as provided by law.

7. The Contractor will include this Equal Opportunity (Federally Assisted Construction) clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The Contracting Local Organization further agrees that it will be bound by the above Equal Opportunity (Federally Assisted Construction) clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, however, that if the Contracting Local Organization so participating is a State or local government, the above Equal Opportunity (Federally Assisted Construction) clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Contracting Local Organization agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors with the Equal Opportunity (Federally Assisted Construction) clause and the rules, regulations and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The Contracting Local Organization further agrees that it will refrain from entering into any contractor contract modification subject to Executive Order No. 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the Equal Opportunity (Federally Assisted Construction) clause as may be imposed upon Contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D, of the Executive Order. In addition, the Contracting Local Organization agrees that if it fails or refuses to comply with these undertakings the administering agency may take any or all of the following actions: Cancel, terminate, or suspend, in whole or in part, this grant; refrain from extending any further assistance to the Contracting Local Organization under the program with respect to which its failure or refusal occurred until satisfactory assurance of future compliance has been received from such Contracting Local Organization; and refer the case to the Department of Justice for appropriate legal proceedings.

III - NOTICE TO CONTRACTING LOCAL ORGANIZATIONS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

(a) A Certification of Nonsegregated Facilities must be submitted by the Contracting Local Organization prior to any agreement for Federal financial assistance where the Contracting Local

Organization will itself perform a federally assisted construction contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause.

(b) The Contracting Local Organization shall notify prospective federally assisted construction contractors of the Certification of Nonsegregated Facilities required, as follows:

IV - NOTICE TO PROSPECTIVE FEDERALLY ASSISTED CONSTRUCTION CONTRACTORS

(a) A Certification of Nonsegregated Facilities must be submitted prior to the award of a federally assisted construction contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause.

(b) Contractors receiving federally assisted construction contract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause will be required to provide for the forwarding of the following notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity clause.

V - NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

(a) A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause.

(b) Contractors receiving subcontract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause will be required to provide for the forwarding of this notice to prospective subcontractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity clause.

VI - CERTIFICATION OF NONSEGREGATED FACILITIES

(Applicable to federally assisted construction contracts and related subcontracts exceeding \$10,000 which are not exempt from the Equal Opportunity Clause.)

The federally assisted construction contractor certifies that he/she does not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she does not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The federally assisted construction contractor certifies further that he/she will not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she will not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The federally assisted construction contractor agrees that a breach of this section is a violation of the Equal Opportunity Clause in this contract. As used in this caption, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, dg fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national of because of habit, local custom, or otherwise. The federally assisted construction contractor agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that he/she will retain such certifications in his/her files.

NOTE-. The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

Contractor

Signature

Title

Date

**VII - STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS**

(EXECUTIVE ORDER 11246)

- I. As used in these specifications:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract act Compliance Program, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 94 1.
 - d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cub Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all groups having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000, the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which the contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through as association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO Clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in

an approved Plan does not excuse any covered Contractors or Subcontractors failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in Paragraphs 7. a. through 7. p. of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female tuition that the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or Federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the *Federal Register* in notice of and such notices may be obtained from any Office of Federal Contract Compliance Programs or from Federal procurement Contracting Officers. The Contractor is expected to make substantially uniform progress toward meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractors obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting 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.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractors compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all at which the Contractors employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractors obligations to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
 - c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority and female referral

from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.

- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process had impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities, and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under Paragraph 7.b. above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; specific review of the policy with all management personnel and with all minority and female employees at least once a year, and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and action obligations under these specifications with all employees having any responsibility for hiring, assessment, layoff, termination, or their employment decisions, including specific review of these items with on-site supervisory personnel such as Superintendents, General Fore etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipate doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minorities and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of the applications for apprenticeship or other, training by any recruitment sources, the Contractor shall send written

notification, to organizations such as the above, describing the openings, screening procedure, and tests to be used in the selection process.

- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractors workforce.
 - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classification work assignments, and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of the affirmative action obligations (7.a- through 7.p). The efforts of a contractor association, joint contractor-union, contractor-community, or other share group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under Paragraphs 7.a. through 7.p. of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractors minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to

take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables of affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easy understandable and retrievable form however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.
14. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in Paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 604.8.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for 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).