

TOWN OF CUMBERLAND

RESOLUTION: AUTHORIZING AND EMPOWERING MAYOR JEFFREY MUTTER TO ENTER INTO A CONTRACT WITH COLETTA CONTRACTING CO., INC. IN AN AMOUNT NOT TO EXCEED ONE HUNDRED TWENTY-SEVEN THOUSAND EIGHT HUNDRED FIFTY DOLLARS (\$127,850.00).

BE IT RESOLVED BY THE TOWN COUNCIL OF CUMBERLAND AS FOLLOWS:

WHEREAS: The Town of Cumberland solicited requests for proposals to remodel the existing kitchen within the Cumberland Senior Center located at 1464 Diamond Hill Road.

WHEREAS: The Town of Cumberland received four (4) proposals from: Coletta Contracting Co., Inc. for \$127,850.00, Stillwater Construction, Inc. for \$129,000.00 and Heroica Construction, Inc. for \$159,790.00, and Maron Construction for \$95,800.00.

WHEREAS Upon review the proposal submitted by Maron Construction for \$95,800.00 it was determined that they did not include pricing for all eighteen (18) items outlined in the Scope of Work by the posted bid opening time of 2 PM on April 16, 2020.

WHEREAS: The Senior Center Renovations Building Committee reviewed the second lowest cost bid submitted by Coletta Contracting and determined that their bid was complete and included all eighteen (18) items outlined in the Scope of Work.

WHEREAS: The Senior Center Renovations Building Committee met April 28, 2020 voted unanimously (5-0), with one member absent, to award the contract to Coletta Contracting Co., Inc. for \$127,850.00.

WHEREAS: Coletta Contracting Co., Inc. for \$127,850.00 (One hundred twenty-seven thousand eight hundred fifty dollars) was the lowest qualified bid and they met all requirements outlined in the Request for Proposal dated March 16, 2020.

WHEREAS: The Town of Cumberland finds that the bid in the sum not to exceed \$127,850.00 (One hundred twenty-seven thousand eight hundred fifty dollars) to be the lowest responsive and responsible bid.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CUMBERLAND, RHODE ISLAND AS FOLLOWS:

SECTION 1: MAYOR JEFFREY J. MUTTER IS AUTHORIZED AND EMPOWERED TO ENTER INTO A CONTRACT WITH KATOM KITCHEN SUPPLY FOR A SUM NOT TO EXCEED ONE HUNDRED TWENTY-SEVEN

50 THOUSAND EIGHT HUNDRED FIFTY DOLLARS (\$127,850.00) FOR THE
51 REMODEL OF THE CUMBERLAND SENIOR CENTER.

52

53 **SECTION 2:** THAT THIS RESOLUTION SHALL BECOME EFFECTIVE
54 IMMEDIATELY UPON ITS PASSAGE BY THE CUMBERLAND TOWN COUNCIL.

55

56 **Date Adopted:** May 8, 2020

57

58 **A True Copy, ATTEST:**

59

60

61



SANDRA M. GIOVANELLI, TOWN CLERK

TOWN OF CUMBERLAND

RESOLUTION: **AUTHORIZING AND EMPOWERING MAYOR JEFFREY MUTTER TO ENTER INTO A CONTRACT WITH COLETTA CONTRACTING CO., INC. IN AN AMOUNT NOT TO EXCEED ONE HUNDRED TWENTY-SEVEN THOUSAND EIGHT HUNDRED FIFTY DOLLARS (\$127,850.00).**

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56 **Date Adopted:** _____

57
58 **A True Copy, ATTEST:**

59
60 _____
61 **SANDRA M. GIOVANELLI, TOWN CLERK**

Town of Cumberland
Fiscal Note (R-20-56)

Proponent: Mayor's Office

Description of Ordinance, Rule, or Resolution:

RESOLUTION: **AUTHORIZING AND EMPOWERING MAYOR JEFFREY MUTTER TO ENTER INTO A CONTRACT WITH COLETTA CONTRACTING CO., INC. IN AN AMOUNT NOT TO EXCEED ONE HUNDRED TWENTY-SEVEN THOUSAND EIGHT HUNDRED FIFTY DOLLARS (\$127,850.00).**

Cost(s) of:

The costs totaling \$127,850 are for proposals to remodel the existing kitchen within the Cumberland Senior Center located at 1464 Diamond Hill Road.

Are said Costs/Revenue budgeted? If so, describe. If not, where shall the appropriation originate?

The costs associated with this expenditure will be advanced by the Town's General Fund and be reimbursed via a \$547,537 RI CDBG Program. Grant costs and reimbursements will be tracked via our accounting system (account 418 Series).

Effect on the Tax Rate of the Town:

There shall be No effect on the tax rate with the passage of this resolution.

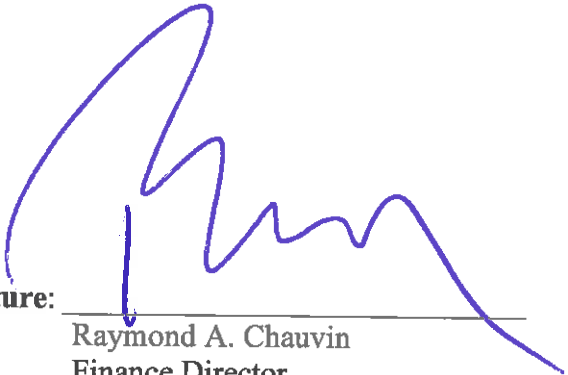
Source(s) of Data:

Mayor's Office

Bid Information:

Bid completed / see resolution

Proponent Signature:



Raymond A. Chauvin
Finance Director
April 30, 2020



BID SHEET

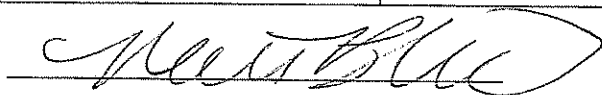
Town of Cumberland

RFP: Commercial Kitchen Remodel at the Cumberland Senior Center

BID OPEN DATE 4/16/2020 @ 2:00 PM RFP #2020-0416-09

Bidder Name & Address	Bid Amount	Notes
Maron Construction 180 button hole Dr. Providence, RI	\$95,800	
Coletta Contracting Co. 44 Hollister Rd. Seekonk, MA	\$ 127,850	
Heroica Construction 631 Douglas Ave. Providence, RI	\$ 159,790	
Stillwater Construction 44 Roosevelt Ave Pascag, RI	\$ 129,000	

Bids Opened by:



Certified by:

COPY

**Town of Cumberland
BID PROPOSAL**

TO: The Town of Cumberland
Finance Department
45 Broad St.
Cumberland, RI 02864

To Whom It May Concern:

We, the undersigned, propose to furnish to the Town of Cumberland with the "Commercial Kitchen Remodel at the Cumberland Senior Center" per attached specifications dated March 19, 2020.

Price in words: One Hundred Twenty Nine Thousand Dollars

Price in figures: \$ 129,000.00

Did you deviate from the specifications in any way: YES ☐ NO ☒ ?

(If yes, you must submit a detailed description of all deviations so that your product or service can be properly evaluated.)

Did you receive an addendum: YES ☒ NO ☐ ?

Delivery: 90 Days calendar days after receipt of order.

The below authorized representative agrees to all General Terms and Conditions of Purchase included in Appendix B.

By:


Authorized Signature

Daniel Kenney President

Print Name & Title

401-227-9032

Telephone/Email

04-16-2020

Date

Stillwater Construction, Inc.

Company Name

44 Roosevelt Ave

Address

Pascoag, RI 02859

Town/State/Zip Code

Please submit 10 sets of bid packages.

Town of Cumberland Bid Proposal

Appendix A

ANTI-KICKBACK ACKNOWLEDGMENT

ALL BIDDERS/OFFERORS MUST ATTEST TO THE FOLLOWING:

The vendor acknowledges, under the pains and penalties of perjury, that he/she has not been offered, paid, or solicited for any contribution or compensation, nor has he/she been granted a gift, gratuity, or other consideration, either directly or indirectly by any officer, employee or member of the governing body of the Town of Cumberland who exercises any functions or responsibilities in connection with either the award or execution of the project to which this contract pertains.

Further, the vendor acknowledges, under the pains and penalties of perjury, that he/she has not offered, paid, or solicited by way of any contribution or compensation, nor has he/she granted a gift, gratuity or other consideration either directly or indirectly to any officer, employee, or member of the governing body of the Town of Cumberland who exercises any functions or responsibilities in connection with either the award or execution of the project to which this project or contract pertains.


Signature of Officer

04-16-2020

Date

President

Title

Stillwater Construction, Inc.

Company

Commercial Kitchen Remodel @ Cumberland Senior Center

Title of RFP

ORIGINAL: OCTOBER 2018

REVISED: N/A

Town of Cumberland
BID PROPOSAL

TO: The Town of Cumberland
Finance Department
45 Broad St.
Cumberland, RI 02864

To Whom It May Concern:

We, the undersigned, propose to furnish to the Town of Cumberland with the "Commercial Kitchen Remodel at the Cumberland Senior Center" per attached specifications dated March 19, 2020.

Price in words: Ninety Five Thousand Eight Hundred Dollars

Price in figures: \$95,800.00

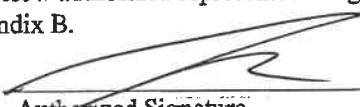
Did you deviate from the specifications in any way: YES X NO X SEE BELOW

(If yes, you must submit a detailed description of all deviations so that your product or service can be properly evaluated.)

Did you receive an addendum: YES X NO ?

Delivery: 75 calendar days after receipt of order.

The below authorized representative agrees to all General Terms and Conditions of Purchase included in Appendix B.

By: <u></u>	<u>4/16/20</u>	<u>Maron Construction Co. Inc.</u>
Authorized Signature	Date	Company Name
<u>Thomas Maron VP</u>	<u>180 Buttonhole Drive</u>	
Print Name & Title	Address	
<u>401-272-4930</u>	<u>Providence, RI 02909</u>	
Telephone/Email	Town/State/Zip Code	

Please submit 10 sets of bid packages.

Alternate 1- Add Acoustical Ceiling- \$6000

This bid does not include any ductwork, roof work associated with the Hood as this was stated this would be performed under separate contract

Town of Cumberland Bid Proposal

Town of Cumberland
BID PROPOSAL

TO: The Town of Cumberland
Finance Department
45 Broad St.
Cumberland, RI 02864

To Whom It May Concern:

We, the undersigned, propose to furnish to the Town of Cumberland with the "Commercial Kitchen Remodel at the Cumberland Senior Center" per attached specifications dated March 19, 2020.

Price in words: One hundred fifty nine thousand, seven hundred ninety dollars and zero cents

Price in figures: \$159,790.00

Did you deviate from the specifications in any way: YES ☐ NO ☒ ?

(If yes, you must submit a detailed description of all deviations so that your product or service can be properly evaluated.) See attached add Alternate #1- Asbestos Abatement Plan with the State of Rhode Island.

Did you receive an addendum: YES ☒ NO ☐ ?

Delivery: 56 calendar days after receipt of order.

The below authorized representative agrees to all General Terms and Conditions of Purchase included in Appendix B.

By: <u>Alison Kelley</u>	<u>April 15, 2020</u>	<u>Heroica Construction, Inc.</u>
Authorized Signature	Date	Company Name
<u>Alison Kelley, Project Manager</u>	<u>631 Douglas Avenue</u>	
Print Name & Title	Address	
<u>508-517-4662, alison@heroicaconstruction.com</u>	<u>Providence RI 02908</u>	
Telephone/Email	Town/State/Zip Code	

Please submit 10 sets of bid packages.

Town of Cumberland Bid Proposal

RFP# 2020-0416-09 “Commercial Kitchen Remodel at the Cumberland Senior Center”

Add Alternate #1-Asbestos Abatement Plan

Asbestos Abatement Plan: Includes Inspection, Sampling, Pre and Post Air Sampling and State of Rhode Island application fee.

Two Thousand, eight hundred dollars (\$2,800.00)

SCOPE OF WORK

The Town of Cumberland seeks proposals for the remodeling of an existing kitchen at the Cumberland Senior Center located at 1464 Diamond Hill Road, Suite 1, Cumberland, RI 02864.

Specifications

See Appendix F for kitchen layout. Kitchen layout and equipment have been approved by the Rhode Island Department of Health. Kitchen equipment will be purchased separately as noted.

The scope of work for the remodeling of the kitchen includes:

1. Asbestos abatement of floor tiles by licensed Rhode Island abatement professional.
2. Demolition and proper disposal of existing kitchen including:
 - a. Walls
 - b. Counters, cabinets, sinks, faucets, plumbing
 - c. All appliances EXCEPT dishwasher. Dishwasher will be used in new kitchen layout.
 - d. Overhead lighting
 - e. Emergency Exit Light
 - f. Wall mounted air conditioning unit is NOT to be permanently removed. The unit must be reinstalled back to its existing location.
3. Update all plumbing and electrical wiring as needed. Installation of all required outlets and switches. Replacement of remaining electrical switches, outlets and covers with white receptacles and covers.
4. Purchase and installation of recessed, covered LED lights (6) in ceiling.
5. Repair and paint (2 coats of semi-gloss, mildew resistant paint, white) plastered ceiling.
6. Preparation and installation of poured 2-part epoxy floor using a 100% solids single coat system (Commercial grade). Color: Blue or Light Gray. Addition of 3 color blend vinyl flakes – light coating in blues/white/gray. Two coat finish of clear epoxy or polyurethane.
7. Purchase and installation of reinforced fiberglass FRP wall panels – all walls, except under hood vent area. White.
8. Purchase and installation of 18-gauge stainless-steel wall panels to fit under hood vent. Ten (10) feet wide, ceiling height.
9. Purchase and installation of Commercial Grade Vinyl Wall Base Molding, 1/8" thick, 2 1/2" high, toeless. Gray.
10. Removal of two (2) existing doors and repair of walls to match kitchen and exterior spaces. Wall repair will need to be painted to match exterior spaces. Paint will be supplied.
11. Purchase and installation of Curtron Service-Pro Series 30 Double Swinging Traffic Door with Laminate Finish in White (or similar). 60" finished opening. Must include windows.
12. Purchase and installation of new LED lighted emergency exit sign with battery backup near new double swinging doors.
13. Purchase and installation of wall-mounted, stainless-steel, 16-gauge solid shelves:
 - a. To the left of the produce sink. Six (6) shelves: 3 feet wide, 24 inches deep
 - b. Above 3-bay sink. Two (2) shelves: 4 feet wide, 18 inches deep
 - c. Centered under hood vent. One (1) shelf: 8 feet wide, 18 inches deep

14. Installation of 10' hood system that includes lighting, ventilation and fire suppression system. Purchase and installation of side and back walls: 18-gauge stainless steel panels. Hood system is being purchased under a separate contract.

10' Hood System – includes lighting,
ventilation and fire suppression

Superior Hoods 10' x 16" x 24"H VSSD48-10

15. Installation of the following equipment. The following equipment, or similar, is being purchased under a separate contract.

Item	Brand	Dimensions	Mfg Part Number
3 Bay Sink with Drainboard	Fenix Sol	18" x 18" x 12"D x 90" long	18G-3C18X18-218
Wall Mount Kitchen Sink Faucet	IMLEZON	25" H x 8" C	IMLEZON2TH-002
Commercial Handwashing Sink w/Sides	L&J Import	12"L x 12"W	701183705859
Single Bay Produce Sink	Durasteel	18"x18"	SCSN18181NI+F-808
Grease Trap	Big Dipper	2.5' x 1.5'	40141747
Double Door Fridge	Yukon	54"W x 33"D x 83"H	Ser# 8152063
One Door Freezer	Empura	26.8"W	#E-KB27F
Microwave	Amana	13"x13"	728028315998
SS Prep Table	KITMA	96" x 30"	52150000
SS Prep Table	Gridman	24"x30"	
6 Burner Gas Stove	Garland	36"	1901100103042
Fryer	Rockert	15.5" x 30"x40"H	RC355 LP

16. Repair and paint all remaining trim 2 coats of finish paint. Paint will be supplied.
17. Purchase of all materials necessary to complete the project not explicitly stated above.
18. In addition, add baseboard heat to men's and women's bathrooms.

All work must be completed in a workmanlike manner in compliance with the professional standards and applicable laws, statutes, ordinances, building codes or rules and regulations, ordinances of the Town of Cumberland, the State of Rhode Island, and the Federal Government.

Removal of asbestos floor tiles must be done by a Rhode Island licensed abatement company.

All wire and cable work shall be in accordance with the specification requirements of the National Electric Code, latest edition, NEMA ratings, and Underwriters' Laboratories labeling, as applicable, for the electrical components utilized for the kitchen renovation.

All plumbing materials, fixtures, and equipment shall conform to the latest requirements of the Local and State Plumbing and Gas Codes, and shall conform to those Standards listed as commercial, including but not limited to, ASTM, ANSI, ASTM, and NSF.

The contractor shall visit the site and examine the existing conditions as they find them, prior to submitting bid and shall inform herself/himself of the character, extent and type of work required to be performed.

The Contractor shall be responsible to minimize disruption as the building will be in use during the proposed replacement.

The Contractor must be able to contract with the Federal Government. They may not be debarred or suspended.

Work is anticipated to begin in June 2020.

SITE VISITS

The Town will conduct one site visit to enable bidders to gain familiarity with the site and scope of work. **The pre-bid site visit is scheduled for April 2, 2020 at 3 PM.** Regardless if a bidder participates in a site visit, submission of a proposal will constitute an acknowledgement that the respondent is aware of existing conditions at the Property.

QUESTIONS and ADDENDA

In order to provide prompt answers to questions, the Town requests that all Bidders submit written questions in a timely manner. Accordingly, questions must be emailed to gmodica@cumberlandri.org at least ten (10) days prior to the date fixed for the opening of the bids. The Town will compile written answers which will be available by Addendum on the Cumberland Finance Department's webpage and the State Purchasing website. No interpretation on the meaning of the Plans, Specifications or other Contract Document will be made to any bidder orally.

Please avoid private communication with any Official or Building Committee Member from the release date through the selection of contractor. Bidders who initiate private communication or attempt to violate the process outlined herein may be disqualified.

The Contractor shall visit the site and examine the existing conditions as they find them, prior to submitting bid and shall inform herself/himself of the character, extent and type of work required to be performed. The Contractor shall verify all existing conditions and dimensions before commencing work and/or ordering materials. Contractor is responsible for appropriate disposal of all materials associated with the project.

The Contractor is responsible for securing and paying for all permits. The Town of Cumberland will waive any Town building permit fees. Contact the Town of Cumberland Building and Zoning Department regarding requirements. The Contractor is responsible for completion of required forms and cooperation with the Town in fulfillment of requirements.

Eligible contractors and all sub-contractors must have a current Rhode Island contractor's license; the license classification must be appropriate for the type(s) of work to be performed.

TAXES

The Town of Cumberland is exempt from payment of excise, transportation and sales tax imposed by the Federal or State Government. These taxes should not be included in the proposal price. Exemption Certificates will be furnished upon request.

REFERENCES

Bids must include three references for similar type of project. Include: Project Name, Project Total, Date of Project, Contact, Title, Phone and Email.

RECEIPT AND OPENING OF PROPOSALS:

Sealed proposals labeled "RFP# 2020-0416-09 "Commercial Kitchen Remodel at the Cumberland Senior Center" will be received in the Office of the Finance Director, Cumberland Town Hall, 45 Broad St., Cumberland, Rhode Island 02864.

Bids Due: April 16, 2020, no later than 2:00 PM EST.

Bid Opening: Bids will be publicly opened and read at the bid opening to immediately follow the submission deadline.

SUBMISSION OF BIDS

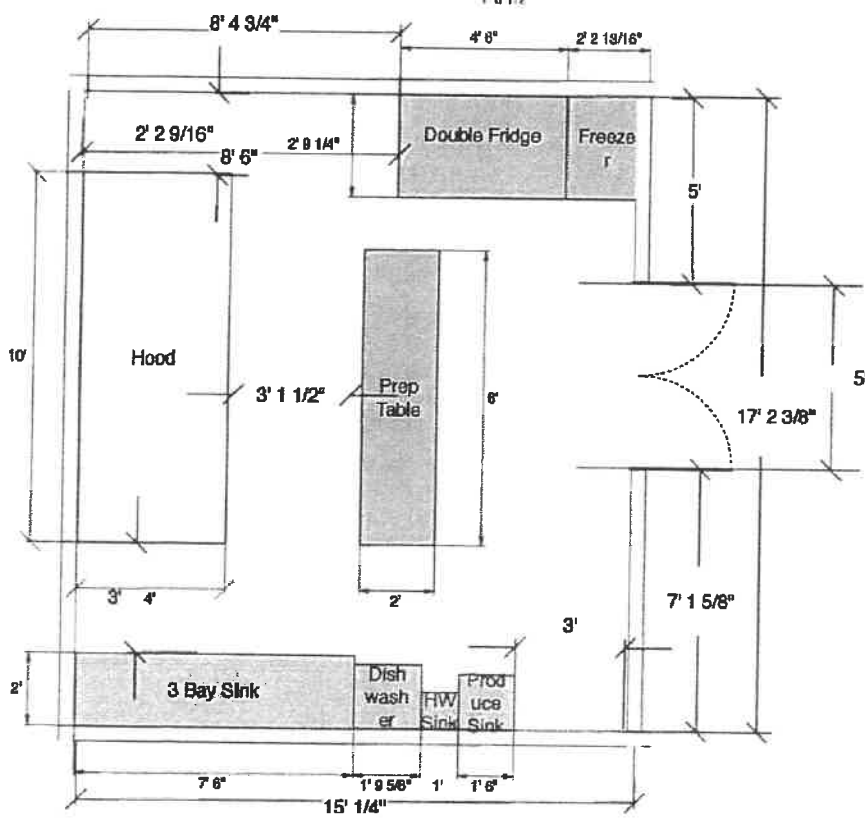
1. Envelopes containing bids must be sealed and addressed to the Office of the Finance Director, Cumberland Town Hall, 45 Broad St., Cumberland, RI, 02864, and must be marked with the name and address of the bidder and name of the RFP.
2. Ten proposal copies shall be submitted using the form provided, with supplemental information, drawings, warranties and other required documentation, literature and material to be provided, with the bid, on the Bidder's own form.
3. Please send a .pdf copy to rchauvin@cumberlandri.org the day AFTER the Bid Opening.
4. The Finance Director will decide when the specified time has arrived to open bids, and no bid received thereafter will be considered.
5. Any bidder may withdraw his bid by written request at any time prior to the advertised time for opening. Telephonic bids, amendments, or withdrawals will not be accepted.
6. Unless otherwise specified, no bid may be withdrawn for a period of sixty (60) days from time of bid opening.
7. Negligence on the part of the bidder in preparing the bid confers no rights for the withdrawal of the bid after it has been opened.
8. Proposals received prior to the time opening will be securely kept, unopened. No responsibility will be attached to an officer or person for the premature opening of a proposal not properly addressed and identified.
9. Any deviation from the specifications must be noted in writing and attached as part of the bid proposal. The bidder shall indicate the item or part with the deviation and indicate how the bid will deviate from specifications.

Ceiling is Existing Plastered with Covered LED Lighting

Hood side walls will be Stainless Steel Sheets, other walls will be White Fiberglass Sheets (FBR Board)

Floor will be Poured 2 part epoxy

2' 4 1/2" Grease Trap



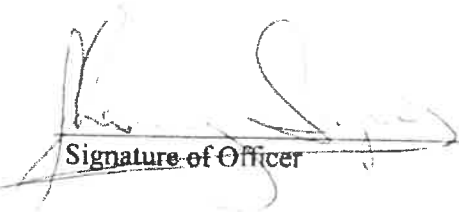
Appendix A

ANTI-KICKBACK ACKNOWLEDGMENT

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Further, the vendor acknowledges, under the pains and penalties of perjury, that he/she has not offered, paid, or solicited by way of any contribution or compensation, nor has he/she granted a gift, gratuity or other consideration either directly or indirectly to any officer, employee, or member of the governing body of the Town of Cumberland who exercises any functions or responsibilities in connection with either the award or execution of the project to which this project or contract pertains.



Signature of Officer

April 15, 2020

Date

President/Owner

Title

Heroica Construction, Inc.

Company

Commercial Kitchen Remodel at the Cumberland Senior Center

Title of RFP

ORIGINAL: OCTOBER 2018

REVISED: N/A

CERTIFICATION OF BIDDER

FEDERAL LABOR STANDARDS PROVISIONS- DAVIS BACON ACT AND "RELATED ACTS"

This certification is required to insure that the Bidder understands that the Project or Program to which the construction work covered by any construction greater than \$2,000, is being assigned by the United States of America and that the various Federal Labor Standards Provisions, summarized in the form HUD-4010, "Federal Labor Standards Provisions" are included in any such contract, pursuant to the provisions applicable to such Federal assistance.

The Bidder certifies receipt of form HUD-4010, "Federal Labor Standards Provisions", must be included and attached to each and every construction bid document and/or construction contract greater than \$2,000, that is subject to the Davis-Bacon Act and "Related Acts."

Wage Determination – The Wage Determination applicable to this project is:

Determination Number: RI 20200001

Modification Number:

Date: 3/13/2020

A hard copy of this Determination must be included within these bid specifications.

Wage Determination Posting – Contractors and sub-contractors shall post the prevailing wage rates for each craft and classification in a prominent and easily accessible place at the site of the work, or at such places as are used by them to pay workers.

The undersigned is required to ensure that all specifications and/or contracts include all applicable Federal wage rate determinations and the required labor standards provisions summarized by form HUD-4010, "Federal Labor Standards Provisions."

Weekly Certified Payrolls – It is the responsibility of each contractor and sub-contractor to submit weekly certified payrolls for project work (<http://www.dol.gov/whd/forms/wh347.pdf>). **It is the responsibility of the undersigned (prime contractor) to review payrolls submitted by subcontractors to ensure that there are no discrepancies or underpayments.**

CERTIFICATION BY BIDDER

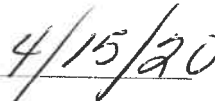
Name and Address of Bidder (Include ZIP Code): Heroica Construction, Inc.
631 Douglas Avenue
Providence RI 02908

Name and Title of Signer (Please print or type below:)

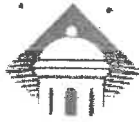
Alison Kelley



Signature



Date



PROJECT NAME: Rhode Island College East Wing Elevator, Providence RI
CONTACT: Jarret Jackson, Project Manager, 401-456-8779, jjackson@ric.edu
ARCHITECT: LLB Architects, 161 Exchange Street, Pawtucket RI
GC: Heroica Construction, Inc.
CONTRACT VALUE: \$653,736.00
START DATE: 10/21/2017
COMPLETION DATE: 1/4/2019
DESCRIPTION: Installation of New Elevator, addition to Roberts Hall.
SELF PERFORMED: Painting, Carpentry, Resilient Flooring, Acoustical Ceiling, Drywall

PROJECT NAME: State of Rhode Island Pastore Complex, Cranston RI
CONTACT: John Couture, Project Manager, 401-222-2599, John.Couture@doa.ri.gov
ARCHITECT: Torrado Architects, 35 Greenwich Street, Providence RI
GC: Heroica Construction, Inc.
CONTRACT VALUE: \$460,090.00
START DATE: 11/05/2018
COMPLETION DATE: 4/1/2020
DESCRIPTION: Renovation of Department of Administration Offices
SELF PERFORMED: Drywall and Painting

PROJECT NAME: Taylor Farms Innovation Kitchen, North Kingstown RI
CONTACT: Mathew Bellgraph, Project Manager, 410-365-5815,
Matthew.Bellgraph@whiting-turner.com
CM: Whiting Turner Contracting Company, 300 E Joppa Road, Baltimore MD
GC: Heroica Construction, Inc.
CONTRACT VALUE: \$340,560
START DATE: 12/1/2019
COMPLETION DATE: 3/1/2020
DESCRIPTION: Construction of a new commercial prep kitchen
SELF PERFORMED: Drywall, Acoustical Ceilings, Painting, Installation of FRP, Doors and Hardware



HEROICA

CAPABILITY STATEMENT

COMPANY NAME:

Heroica Construction, Inc.

MAIL ADDRESS:

631 Douglas Avenue | Providence, RI 02908

OFFICE PHONE: 401.433.9586*

OFFICE FAX: 401.454.1797

EMAIL: sales@heroicaconstruction.com

WEBSITE: HeroicaConstruction.com

* Preferred Communication

MARKETS WE SERVE:

- Multi-Family Residential
- Education/Academic
- Government
- Healthcare
- Hospitality
- Commercial
- Institutional
- Industrial

SELF PERFORM:

- Selective Demolition
- Rough and Finish Carpentry
- Doors and Hardware
- Metal Stud Framing
- Gypsum Drywall
- Acoustical Tile Ceilings (ATC)
- Painting and Wall Covering
- Waterproofing & Sealants

EMPLOYEES: 18

LARGEST JOB SIZE: Over \$2,000,000

BONDING, SINGLE JOB: Over \$2,000,000

BONDING, AGGREGATE: Over \$4,000,000

GEOGRAPHICAL TERRITORY OF OPERATION:

RI, CT, MA, NH, VT

MISSION STATEMENT:

Heroica Construction, founded in 2007, is a general contractor that self performs a multitude of different contracting services. Since inception, our mission has been to provide an unparalleled customer experience achieved by friendly, responsive communication, efficient craftsmanship, and continuous industry growth. Heroica brings an innate ability to get the job done right - on time and within budget. We are a certified Minority Business Enterprise (MBE), have an aggregate liability coverage of \$3M with an umbrella of \$10M, and are bonded by a treasury listed surety company.

INSURANCE & COVERAGES:

- 3 Million General Liability
- 1 Million Workman's Compensation
- 1 Million Automobile Liability
- 10 Million Umbrella Insurance

CERTIFICATIONS AND ASSOCIATIONS:

- OSHA 10HR and 30HR Construction Safety Course
- Aerial Lift Training
- Lead-Based Paint Abatement
- Rhode Island Builders Association (Board of Directors)
- Associated Builders and Contractors (Board of Directors)

SOCIOECONOMIC CERTIFICATIONS AND ASSOCIATIONS

- MBE and DBE Certified
- Rhode Island Hispanic Chamber of Commerce
- Black Contractor Association
- Latino Contractor Association

NAICS CODE:

236220 - Commercial
and Institutional Building
Construction

SIC CODE:

154201 - Commercial
and Office Building
Contractors

RI REGISTRATION: #29606

CAGE CODE: 7TBB1

DUNS #: 96-145-5537

CONTRACT AGREEMENT

THIS AGREEMENT, made this the _____ day of _____, 2020, by and between (1) The Town of Cumberland acting herein through its (2) Mayor herein called "Owner" and (3) Coletta Contracting Co., Inc. doing business as *(an individual) (a partnership) (a corporation) located in the City of Seekonk, County of Bristol, and State of Massachusetts, hereinafter called "Contractor."

WITNESSETH: that for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the Owner, the Contractor hereby agrees with the Owner to commence and complete the construction described as follows:

COMMERCIAL KITCHEN REMODEL AT THE CUMBERLAND SENIOR CENTER

Hereinafter called the project, the sum of One-hundred twenty-seven thousand, eight-hundred-fifty & 00/100 Dollars (\$ 127,850.00) and all extra work in connection therewith, under the terms as contained in that certain "Request for Proposal, Commercial Kitchen Remodel at the Cumberland Senior Center, BID #2020-0416-09," issued on March 19, 2020, which is incorporated herein by reference; and at his (its or their) own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the "Bid Proposal" submitted by Contractor dated April 16, 2020, all of which are made a part hereof and collectively evidence and constitute the contract.

The Contractor hereby agrees to commence work under this contract on or before May 15, 2020 and to fully complete the project within 60 consecutive calendar days thereafter.

The Owner agrees to pay the Contractor in current funds for the performance of the contract, subject to additions and deductions, as provided in the General Conditions of the contract, and to make payments on account thereof as provided in the General Conditions.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in three (3) counterparts, each of which shall be deemed as original, in the year and day first mentioned above.

(Seal)

ATTEST: _____
(Owner)

By _____
(Name)

(Witness)

(Title)

(Address)

(Seal)

ATTEST: _____
(Contractor)

By _____
(Name)

(Witness)

(Title)

(Address)

COPY

Town of Cumberland
BID PROPOSAL

TO: The Town of Cumberland
Finance Department
45 Broad St.
Cumberland, RI 02864

To Whom It May Concern:

We, the undersigned, propose to furnish to the Town of Cumberland with the "Commercial Kitchen Remodel at the Cumberland Senior Center" per attached specifications dated March 19, 2020.

Price in words: One Hundred Twenty Seven Thousand, Eight Hundred Fifty & 00/100-----

Price in figures: \$127,850.00 -----

Did you deviate from the specifications in any way: YES___ NO X ?

(If yes, you must submit a detailed description of all deviations so that your product or service can be properly evaluated.)

Did you receive an addendum: YES X NO ___?

Delivery: 60 days calendar days after receipt of order.

The below authorized representative agrees to all General Terms and Conditions of Purchase included in Appendix B.

By:

Authorized Signature

4/16/2020
Date

Coletta Contracting Co., Inc.
Company Name

Justin J. Coletta, Vice President
Print Name & Title

44 Hollister Road
Address

401-727-1757
Telephone/Email

Seekonk, MA 02771
Town/State/Zip Code

Please submit 10 sets of bid packages.

Town of Cumberland Bid Proposal

**Equal Employment
Opportunity Certification**
Excerpt From 41 CFR §60-1.4(b)

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

Department of Veterans Affairs
OMB Control No. 2502-0029
(exp. 9/30/2016)

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the 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 a 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 clause:

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 or termination; 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 nondiscrimination 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 considerations 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 it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives 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 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 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its 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 nondiscrimination clauses 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 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the 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 applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work:

Provided, That if the applicant so participating is a State or local government, the above equal opportunity 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 applicant 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 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 applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 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 clause as may be imposed

Firm Name and Address

Coletta Contracting Co., Inc.

By

Justin J. Coletta

Title

Vice President

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 applicant 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 (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Excerpt from HUD Regulations

200.410 Definition of term "applicant".

- (a) In multifamily housing transactions where controls over the mortgage are exercised by the Commissioner either through the ownership of corporate stock or under the provisions of a regulatory agreement, the term "applicant" as used in this subpart shall mean the mortgagor.
- (b) In transactions other than those specified in paragraph (a) of this section, the term "applicant" as used in this subpart shall mean the builder, dealer or contractor performing the construction, repair or rehabilitation work for the mortgagor or other borrower.

200.420 Equal Opportunity Clause to be included in contracts and subcontracts.

- (a) The following equal opportunity clause shall be included in each contract and subcontract which is not exempt:

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, creed, color, 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, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of the nondiscrimination 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 race, creed, color, 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 notices in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 10925 of March 6, 1961, as amended, and of the regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(5) The contractor will furnish all information and reports required by Executive Order 10925 of March 6, 1961, as amended, and by the regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Committee for purposes of investigation to ascertain compliance with such regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clause of this contract or with any of the said regulations, or orders, this contract may be cancelled, 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 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked provided in the said Executive Order or by regulations, or order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.

(7) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to Section 303 of Executive Order 10925 of March 6, 1961, as amended, 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 orders as HUD may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

- (h) Except in subcontracts for the performance of construction work at the site of construction, the clause is not required to be inserted in subcontracts below the second tier. Subcontracts may incorporate by referenced to the equal opportunity clause.

200.425 Modification in and exemptions from the regulations in this subpart.

- (a) The following transactions and contracts are exempt from the regulations in this subpart:

(1) Loans, mortgages, contracts and subcontracts not exceeding \$10,000.

(2) Contract and subcontracts not exceeding \$100,000 for standard commercial supplies or raw material;

(3) Contracts and subcontracts under which work is to be or has been performed outside the United States and where no recruitment of workers within the United States is involved. To the extent that work pursuant to such contracts is done within the United States, the equal opportunity clause shall be applicable;

(4) Contracts for the sale of Government property where no appreciable amount of work is involved; and

(5) Contracts and subcontracts for an indefinite quantity which are not to extend for more than one year if the purchaser determines that the amounts to be ordered under any such contract or subcontract are not reasonably expected to exceed \$100,000 in the case of contracts or subcontracts for standard commercial supplies and raw materials, or \$10,000 in the case of all other contracts and subcontracts.

Certification Regarding Debarment and Suspension

U.S. Department of Housing
and Urban Development

Certification A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief that its principals;

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment 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 had one or more public transactions (Federal, State, or local) terminated for cause or default.

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

Instructions for Certification (A)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. 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 this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

Certification B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

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

Instructions for Certification (B)

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.


8. 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 this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant

Coletta Contracting Co., Inc.

Signature of Authorized Certifying Official



Title

Justin J. Coletta, Vice President

Date

04/16/2020

Coletta Contracting References
Commercial kitchen projects highlighted in yellow

3.4 Construction projects in progress: as of 4/16/2020

PECK SENIOR CENTER RENOVATIONS

OWNER - TOWN OF BARRINGTON - ALAN CORVI, PHIL HERVEY
ARCHITECT - BREWSTER THORNTON GROUP ARCHITECTS
CONTRACT AMOUNT - \$984,925
COMPLETED - 10%
RESPONSIBILITIES - CONSTRUCTION MANAGER

COMMUNITY ROOM RENOVATIONS - CITY VIEW MANOR

OWNER - EAST PROVIDENCE HOUSING AUTHORITY, THERESA CORREIA
ARCHITECT - EDWARD ROWSE ARCHITECTS
CONTRACT AMOUNT - \$351,715
COMPLETED - 50%
RESPONSIBILITIES - CONSTRUCTION MANAGER

3.5 Major projects completed in the past five years: as of 4/16/2020

TAYLOR BOX - OFFICE RENOVATIONS II

OWNER - TAYLOR BOX - DANIEL SHEDD
ARCHITECT - ED WOJCIK ARCHITECT, LTD
CONTRACT AMOUNT - \$258,910
COMPLETED - JULY 31, 2020
RESPONSIBILITIES - CONSTRUCTION MANAGER

SEEKONK ANIMAL SHELTER

OWNER - TOWN OF SEEKONK, SHAWN CADIME
ARCHITECT - BREWSTER THORNTON GROUP ARCHITECTS
CONTRACT AMOUNT - \$1,576,205
COMPLETED - MARCH 18, 2020
RESPONSIBILITIES - CONSTRUCTION MANAGER

MULTIPLE LOCATIONS & RENOVATIONS

OWNER - NORTH PROVIDENCE HOUSING AUTHORITY,
ARCHITECT - ARCHITECTURA, LTD
CONTRACT AMOUNT - \$299,976
COMPLETED - DECEMBER 31, 2019
RESPONSIBILITIES - CONSTRUCTION MANAGER

GODDARD LODGE

OWNER - TOWN OF SUTTON, MA - JOHN COUTURE
ARCHITECT - GALLANT ARCHITECTURE
CONTRACT AMOUNT - \$451,864
PERCENT COMPLETED - APRIL 29, 2019
RESPONSIBILITIES - CONSTRUCTION MANAGER

JOHNSON HALL - STARBUCKS RENOVATION

OWNER - JOHNSON & WALES UNIVERSITY - MICHAEL KENNEY, AIA
ARCHITECT - VISION 3 ARCHITECTS
CONTRACT AMOUNT - \$293,989
COMPLETED - AUGUST 4, 2018
RESPONSIBILITIES - CONSTRUCTION MANAGER

DOBSON LAB

OWNER - BROWN UNIVERSITY - PAUL GRIFFIN
ARCHITECT - STUDIO 401 ARCHITECTURE, LLC
CONTRACT AMOUNT - \$81,415
COMPLETED - AUGUST 31, 2018
RESPONSIBILITIES - CONSTRUCTION MANAGER

Coletta Contracting References
Commercial kitchen projects highlighted in yellow

LINCOLN FIELD HOUSE ROOM 202 RENOVATION

OWNER - BROWN UNIVERSITY - SHIRLEY NG
ARCHITECT - N/A
CONTRACT AMOUNT - \$137,374
COMPLETED - JANUARY 18, 2019
RESPONSIBILITIES - DESIGN/BUILD CONSTRUCTION MANAGER

WATSON CIT: CS EXPANSION

OWNER - BROWN UNIVERSITY - DAVID LAPLANTE, RA
ARCHITECT - ED WOJCIK ARCHITECT, LTD
CONTRACT AMOUNT - \$650,305
COMPLETED - AUGUST 31, 2018
RESPONSIBILITIES - DESIGN/BUILD CONSTRUCTION MANAGER

RISPCA CAT SOLARIUM

ARCHITECT - AYOUB ENGINEERING
OWNER - RISPCA, DR. ERNEST FINNOCHI
CONTRACT AMOUNT - \$138,425
PERCENT COMPLETE - 70%
RESPONSIBILITIES - GENERAL CONTRACTOR

ACCESSSIBILITY RENOVATIONS, PHASE II - PAGNANO TOWERS

OWNER - QUINCY HOUSING AUTHORITY - RICHARD MAHONEY
ARCHITECT - NAULT ARCHITECTS, INC., MARK ZUFFANTE
CONTRACT AMOUNT - \$583,298
COMPLETED - JANUARY 9, 2018
RESPONSIBILITIES - GENERAL CONTRACTOR
* SUBJECT TO THE DAVIS BACON ACT

FIT-UP TO RELOCATE SWEARER CENTER

OWNER - BROWN UNIVERSITY - RYAN HAGGERTY, AIA
ARCHITECT - VISION 3 ARCHITECTS
CONTRACT AMOUNT - \$273,705
COMPLETED - JANUARY 21, 2018
RESPONSIBILITIES - DESIGN/BUILD CONSTRUCTION MANAGER

BIO MEDICAL RELOCATION OF ADMINISTRATION

OWNER - BROWN UNIVERSITY - RYAN HAGGERTY, AIA
ARCHITECT - VISION 3 ARCHITECTS
CONTRACT AMOUNT - \$554,895
COMPLETED - JULY 31, 2017
RESPONSIBILITIES - GENERAL CONTRACTOR

PHYSICS LABORATORY RENOVATION, DIMAN HIGH SCHOOL

OWNER - DIMAN REGION VOCATIONAL TECHNICAL HIGH SCHOOL - THOMAS AUBIN, SUPERINTENDENT
ARCHITECT - EDWARD ROWSE ARCHITECTS, STEVEN TUCKER, RA
CONTRACT AMOUNT - \$433,303
COMPLETED - AUGUST 24, 2017
RESPONSIBILITIES - GENERAL CONTRACTOR
* SUBJECT TO THE DAVIS BACON ACT

ELMWOOD COMMUNITY SCHOOL RENOVATIONS (COMMERCIAL KITCHEN REFERENCE)

OWNER - JAMMAT HOUSING & COMMUNITY DEVELOPMENT CORPORATION,
801 ELMWOOD AVENUE, PROVIDENCE, RI 02907
ARCHITECT - MICHAEL J. WARNER ARCHITECT, (401) 461-6980
CONTRACT AMOUNT - \$285,548.30
COMPLETED - SEPTEMBER 2010
RESPONSIBILITIES - GENERAL CONTRACTOR

Coletta Contracting References
Commercial kitchen projects highlighted in yellow

GLEN MANOR HOUSE KITCHEN RENOVATIONS (COMMERCIAL KITCHEN REFERENCE)
OWNER - TOWN OF PORTSMOUTH, RI, GLEN MANOR - DON WILKINSON, (401) 683-4177

ARCHITECT - NEWPORT COLLABORATIVE ARCHITECTS, INC. - 38 WASHINGTON SQ., NEWPORT, RI (401) 846-9583

CONTRACT AMOUNT - \$63,250

COMPLETED - APRIL 2009

RESPONSIBILITIES - GENERAL CONTRACTOR

* *SUBJECT TO THE DAVIS BACON ACT*

RENOVATIONS TO TAYLOR BOX COMPANY

OWNER - TAYLOR BOX COMPANY - DANIEL SHEDD, PRESIDENT

ARCHITECT - ED WOJCIK ARCHITECT

CONTRACT AMOUNT - \$212,541

COMPLETED - JANUARY 31, 2017

RESPONSIBILITIES - GENERAL CONTRACTOR

CUSTOMER SHOP AND TECH LIGHTING CLASSROOM RENOVATIONS

OWNER - RHODE ISLAND COLLEGE - KEVIN FITTA, DIRECT OF FACILITIES

ARCHITECT - SACCOCIO & ASSOCIATES

CONTRACT AMOUNT - \$482,727

COMPLETED - JULY 28, 2017

RESPONSIBILITIES - GENERAL CONTRACTOR

* *SUBJECT TO THE DAVIS BACON ACT*

ELEVATOR UPGRADES - QUINSIGAMOND COMMUNITY COLLEGE

OWNER - QUINSIGAMOND COMMUNITY COLLEGE - JAMES RACKI, PM

ARCHITECT - PRA ARCHITECTS PC

CONTRACT AMOUNT - \$691,434

COMPLETED - AUGUST 30, 2017

RESPONSIBILITIES - GENERAL CONTRACTOR

* *SUBJECT TO THE DAVIS BACON ACT*

WATSON CIT: 2ND FLOOR RENOVATION & RENEWAL

OWNER - BROWN UNIVERSITY - DAVID LAPLANTE, RA

ARCHITECT - ED WOJCIK ARCHITECT

CONTRACT AMOUNT - \$213,142

COMPLETED - AUGUST 30, 2016

RESPONSIBILITIES - GENERAL CONTRACTOR

J. WALTER WILSON TRANSACTION HUB

OWNER - BROWN UNIVERSITY - RYAN HAGGERTY, AIA

ARCHITECT - ED WOJCIK ARCHITECT

CONTRACT AMOUNT - \$191,623

COMPLETED - AUGUST 30, 2016

RESPONSIBILITIES - GENERAL CONTRACTOR

RENOVATIONS AT RANDALL & JENNINGS MANORS

OWNER - CRANSTON HOUSING AUTHORITY, PAUL CARMELLO

ARCHITECT - EDWARD ROWSE ARCHITECTS - TED ROWSE, AIA

CONTRACT AMOUNT - \$901,516

COMPLETED - JULY 28, 2016

RESPONSIBILITIES - GENERAL CONTRACTOR

* *SUBJECT TO THE DAVIS BACON ACT*

Request for Proposals

Commercial Kitchen Remodel at the Cumberland Senior Center

RFP #2020-0416-09



Town of Cumberland

45 Broad Street

Cumberland, RI 02864

Date Issued: March 19, 2020

Date Due: April 16, 2020 at 2:00 PM

Town of Cumberland, Finance Department

45 Broad Street

Cumberland, RI 02864

Phone: 401-728-2400 x134

SCOPE OF WORK

The Town of Cumberland seeks proposals for the remodeling of an existing kitchen at the Cumberland Senior Center located at 1464 Diamond Hill Road, Suite 1, Cumberland, RI 02864.

Specifications

See Appendix F for kitchen layout. Kitchen layout and equipment have been approved by the Rhode Island Department of Health. Kitchen equipment will be purchased separately as noted.

The scope of work for the remodeling of the kitchen includes:

1. Asbestos abatement of floor tiles by licensed Rhode Island abatement professional.
2. Demolition and proper disposal of existing kitchen including:
 - a. Walls
 - b. Counters, cabinets, sinks, faucets, plumbing
 - c. All appliances EXCEPT dishwasher. Dishwasher will be used in new kitchen layout.
 - d. Overhead lighting
 - e. Emergency Exit Light
 - f. Wall mounted air conditioning unit is NOT to be permanently removed. The unit must be reinstalled back to its existing location.
3. Update all plumbing and electrical wiring as needed. Installation of all required outlets and switches. Replacement of remaining electrical switches, outlets and covers with white receptacles and covers.
4. Purchase and installation of recessed, covered LED lights (6) in ceiling.
5. Repair and paint (2 coats of semi-gloss, mildew resistant paint, white) plastered ceiling.
6. Preparation and installation of poured 2-part epoxy floor using a 100% solids single coat system (Commercial grade). Color: Blue or Light Gray. Addition of 3 color blend vinyl flakes – light coating in blues/white/gray. Two coat finish of clear epoxy or polyurethane.
7. Purchase and installation of reinforced fiberglass FRP wall panels – all walls, except under hood vent area. White.
8. Purchase and installation of 18-gauge stainless-steel wall panels to fit under hood vent. Ten (10) feet wide, ceiling height.
9. Purchase and installation of Commercial Grade Vinyl Wall Base Molding, 1/8" thick, 2 1/2" high, toeless. Gray.
10. Removal of two (2) existing doors and repair of walls to match kitchen and exterior spaces. Wall repair will need to be painted to match exterior spaces. Paint will be supplied.
11. Purchase and installation of Curtron Service-Pro Series 30 Double Swinging Traffic Door with Laminate Finish in White (or similar). 60" finished opening. Must include windows.
12. Purchase and installation of new LED lighted emergency exit sign with battery backup near new double swinging doors.
13. Purchase and installation of wall-mounted, stainless-steel, 16-gauge solid shelves:
 - a. To the left of the produce sink. Six (6) shelves: 3 feet wide, 24 inches deep
 - b. Above 3-bay sink. Two (2) shelves: 4 feet wide, 18 inches deep
 - c. Centered under hood vent. One (1) shelf: 8 feet wide, 18 inches deep

14. Installation of 10' hood system that includes lighting, ventilation and fire suppression system.
Purchase and installation of side and back walls: 18-gauge stainless steel panels. Hood system is being purchased under a separate contract.

10' Hood System – includes lighting,
ventilation and fire suppression

Superior Hoods 10' x 16" x 24"H VSSD48-10

15. Installation of the following equipment. The following equipment, or similar, is being purchased under a separate contract.

Item	Brand	Dimensions	Mfg Part Number
3 Bay Sink with Drainboard	Fenix Sol	18" x 18" x 12"D x 90" long	18G-3C18X18-218
Wall Mount Kitchen Sink Faucet	IMLEZON	25" H x 8" C	IMLEZON2TH-002
Commercial Handwashing Sink w/Sides	L&J Import	12"L x 12"W	701183705859 SCSN18181NI+F-808
Single Bay Produce Sink	Durasteel	18"x18"	40141747
Grease Trap	Big Dipper	2.5' x 1.5'	Ser# 8152063
Double Door Fridge	Yukon	54"W x 33"D x 83"H	#E-KB27F
One Door Freezer	Empura	26.8"W	728028315998
Microwave	Amana	13"x13"	52150000
SS Prep Table	KITMA	96" x 30"	1901100103042
SS Prep Table	Gridman	24"x30"	RC355 LP
6 Burner Gas Stove	Garland	36"	
Fryer	Rockert	15.5" x 30"x40"H	

16. Repair and paint all remaining trim 2 coats of finish paint. Paint will be supplied.
17. Purchase of all materials necessary to complete the project not explicitly stated above.
18. In addition, add baseboard heat to men's and women's bathrooms.

All work must be completed in a workmanlike manner in compliance with the professional standards and applicable laws, statutes, ordinances, building codes or rules and regulations, ordinances of the Town of Cumberland, the State of Rhode Island, and the Federal Government.

Removal of asbestos floor tiles must be done by a Rhode Island licensed abatement company.

All wire and cable work shall be in accordance with the specification requirements of the National Electric Code, latest edition, NEMA ratings, and Underwriters' Laboratories labeling, as applicable, for the electrical components utilized for the kitchen renovation.

All plumbing materials, fixtures, and equipment shall conform to the latest requirements of the Local and State Plumbing and Gas Codes, and shall conform to those Standards listed as commercial, including but not limited to, ASTM, ANSI, ASTM, and NSF.

The contractor shall visit the site and examine the existing conditions as they find them, prior to submitting bid and shall inform herself/himself of the character, extent and type of work required to be performed.

The Contractor shall be responsible to minimize disruption as the building will be in use during the proposed replacement.

The Contractor must be able to contract with the Federal Government. They may not be debarred or suspended.

Work is anticipated to begin in June 2020.

SITE VISITS

The Town will conduct one site visit to enable bidders to gain familiarity with the site and scope of work. **The pre-bid site visit is scheduled for April 2, 2020 at 3 PM.** Regardless if a bidder participates in a site visit, submission of a proposal will constitute an acknowledgement that the respondent is aware of existing conditions at the Property.

QUESTIONS and ADDENDA

In order to provide prompt answers to questions, the Town requests that all Bidders submit written questions in a timely manner. Accordingly, questions must be emailed to gmodica@cumberlandri.org at least ten (10) days prior to the date fixed for the opening of the bids. The Town will compile written answers which will be available by Addendum on the Cumberland Finance Department's webpage and the State Purchasing website. No interpretation on the meaning of the Plans, Specifications or other Contract Document will be made to any bidder orally.

Please avoid private communication with any Official or Building Committee Member from the release date through the selection of contractor. Bidders who initiate private communication or attempt to violate the process outlined herein may be disqualified.

The Contractor shall visit the site and examine the existing conditions as they find them, prior to submitting bid and shall inform herself/himself of the character, extent and type of work required to be performed. The Contractor shall verify all existing conditions and dimensions before commencing work and/or ordering materials. Contractor is responsible for appropriate disposal of all materials associated with the project.

The Contractor is responsible for securing and paying for all permits. The Town of Cumberland will waive any Town building permit fees. Contact the Town of Cumberland Building and Zoning Department regarding requirements. The Contractor is responsible for completion of required forms and cooperation with the Town in fulfillment of requirements.

Eligible contractors and all sub-contractors must have a current Rhode Island contractor's license; the license classification must be appropriate for the type(s) of work to be performed.

TAXES

The Town of Cumberland is exempt from payment of excise, transportation and sales tax imposed by the Federal or State Government. These taxes should not be included in the proposal price. Exemption Certificates will be furnished upon request.

REFERENCES

Bids must include three references for similar type of project. Include: Project Name, Project Total, Date of Project, Contact, Title, Phone and Email.

RECEIPT AND OPENING OF PROPOSALS:

Sealed proposals labeled "RFP# 2020-0416-09 "Commercial Kitchen Remodel at the Cumberland Senior Center" will be received in the Office of the Finance Director, Cumberland Town Hall, 45 Broad St., Cumberland, Rhode Island 02864.

Bids Due: April 16, 2020, no later than 2:00 PM EST.

Bid Opening: Bids will be publicly opened and read at the bid opening to immediately follow the submission deadline.

SUBMISSION OF BIDS

1. Envelopes containing bids must be sealed and addressed to the Office of the Finance Director, Cumberland Town Hall, 45 Broad St., Cumberland, RI, 02864, and must be marked with the name and address of the bidder and name of the RFP.
2. Ten proposal copies shall be submitted using the form provided, with supplemental information, drawings, warranties and other required documentation, literature and material to be provided, with the bid, on the Bidder's own form.
3. Please send a .pdf copy to rchauvin@cumberlandri.org the day AFTER the Bid Opening.
4. The Finance Director will decide when the specified time has arrived to open bids, and no bid received thereafter will be considered.
5. Any bidder may withdraw his bid by written request at any time prior to the advertised time for opening. Telephonic bids, amendments, or withdrawals will not be accepted.
6. Unless otherwise specified, no bid may be withdrawn for a period of sixty (60) days from time of bid opening.
7. Negligence on the part of the bidder in preparing the bid confers no rights for the withdrawal of the bid after it has been opened.
8. Proposals received prior to the time opening will be securely kept, unopened. No responsibility will be attached to an officer or person for the premature opening of a proposal not properly addressed and identified.
9. Any deviation from the specifications must be noted in writing and attached as part of the bid proposal. The bidder shall indicate the item or part with the deviation and indicate how the bid will deviate from specifications.

HUD REQUIREMENTS

Federal contract provisions are found in Appendix C, and federal prevailing wage requirements are triggered for work on the project. Federal Labor Standards (Form 4010) and the applicable Davis Bacon Wage rates are attached in Appendix D.

The successful bidder will be required to sign the following forms:

- Certification Regarding Debarment and Suspension
- Equal Employment Opportunity Certification
- Federal Labor Standards Provisions – Davis Bacon Act and “Related Acts”

The contractor(s) and subcontractors will abide by the federal regulations as set forth in HUD’s Federal Labor Standards Provisions. The contractor and subcontractors will be required to submit all certified payrolls on U.S. Department of Labor weekly payroll Form WH-347 during the rehabilitation period (Appendix E).

The U.S. Department of Labor Wage Rate poster must be displayed in a location that all workers have easy access to and remain in place at all times until the project is complete. The Town of Cumberland reserves the right to visit the job site and to interview any employees on any given date or time during the conduct of the work without prior notification.

AWARD OF BIDS

The Town reserves the right to award in whole or in part.

HOLD HARMLESS

The contractor shall be responsible for his work and every part thereof, and for all materials, tools, appliances, and property of every description used in connection therewith. The contractor agrees to indemnify and save harmless the Town of Cumberland, its employees and agents, against loss or expense by reason of the liability imposed by law upon the contractor, all sub-contractors, or owner for damage because of bodily injuries, including person or persons or on account of damage to property arising out of or in consequence of the performance of this work whether such injuries to persons or damage to property are due or claimed to be due to any negligence, including gross negligence, of a sub-contractor, the owner, the general contractor, his or their employees or agents, or any other person.

Town of Cumberland
BID PROPOSAL

TO: The Town of Cumberland
Finance Department
45 Broad St.
Cumberland, RI 02864

To Whom It May Concern:

We, the undersigned, propose to furnish to the Town of Cumberland with the "Commercial Kitchen Remodel at the Cumberland Senior Center" per attached specifications dated March 19, 2020.

Price in words: _____

Price in figures: _____

Did you deviate from the specifications in any way: YES____ NO____?

(If yes, you must submit a detailed description of all deviations so that your product or service can be properly evaluated.)

Did you receive an addendum: YES_____ NO_____?

Delivery: _____ calendar days after receipt of order.

The below authorized representative agrees to all General Terms and Conditions of Purchase included in Appendix B.

By: _____	_____	_____
Authorized Signature	Date	Company Name
_____	_____	_____
Print Name & Title	Address	
_____	_____	
Telephone/Email	Town/State/Zip Code	

Please submit 10 sets of bid packages.

Appendix A

ANTI-KICKBACK ACKNOWLEDGMENT

ALL BIDDERS/OFFERORS MUST ATTEST TO THE FOLLOWING:

The vendor acknowledges, under the pains and penalties of perjury, that he/she has not been offered, paid, or solicited for any contribution or compensation, nor has he/she been granted a gift, gratuity, or other consideration, either directly or indirectly by any officer, employee or member of the governing body of the Town of Cumberland who exercises any functions or responsibilities in connection with either the award or execution of the project to which this contract pertains.

Further, the vendor acknowledges, under the pains and penalties of perjury, that he/she has not offered, paid, or solicited by way of any contribution or compensation, nor has he/she granted a gift, gratuity or other consideration either directly or indirectly to any officer, employee, or member of the governing body of the Town of Cumberland who exercises any functions or responsibilities in connection with either the award or execution of the project to which this project or contract pertains.

Signature of Officer

Date

Title

Company

Title of RFP

ORIGINAL: OCTOBER 2018

REVISED: N/A

Appendix B

TOWN OF CUMBERLAND

GENERAL TERMS AND CONDITIONS OF PURCHASE

The Town of Cumberland's Finance Office may, from time to time, make amendments to the General Terms and Conditions when the Town of Cumberland's Finance Director determines that such amendments are in the best interest of the Town of Cumberland. Amendments shall be made available for public inspection at the Finance Office located in Cumberland Town Hall and online at <https://www.cumberlandri.org/finance/> but shall not require formal public notice and hearing. Copies of the Terms and Conditions shall be provided to any individual or firm requesting them.

TOWN OF CUMBERLAND'S PURCHASING OFFICE GENERAL CONDITIONS OF PURCHASE

All Town of Cumberland purchase orders, contracts, solicitations, delivery orders and service requests shall incorporate and be subject to the provisions of Rhode Island General Laws 8-15-4 and the Town of Cumberland purchasing rules and regulations adopted pursuant thereto, all other applicable provisions of the Rhode Island General Laws, the Cumberland Town Charter, specific requirements described in the Request or Contract, and the following General Conditions of Purchase:

1. GENERAL

All purchase orders, contracts, solicitations, delivery orders, and service requests are for specified goods and services, in accordance with express terms and conditions of purchase, as defined herein. For the purposes of this document, the terms "bidder" and "contractor" refer to any individual, firm, corporation, or other entity presenting a proposal indicating a desire to enter into contracts with the Town of Cumberland, or with whom a contract is executed by the Town of Cumberland's Finance Director, and the term "contractor" shall have the same meaning as "vendor".

2. ENTIRE AGREEMENT

The Town of Cumberland's Purchase Order, or other Town of Cumberland contract endorsed by the Town of Cumberland Finance Office, shall constitute the entire and exclusive agreement between the Town of Cumberland and any contractor receiving an award. In the event any conflict between the bidder's standard terms of sale, these conditions or more specific provisions contained in the solicitation shall govern.

All communication between the Town of Cumberland and any contractor pertaining to any award or contract shall be accomplished in writing.

- A) Each proposal will be received with the understanding that the acceptance, in writing, by contract or Purchase Order by the Town of Cumberland Finance Director of the offer to do work or to furnish any or all the materials, equipment, supplies or services described therein shall constitute a contract between the bidder and the Town of Cumberland. This shall bind the bidder on his part

to furnish and deliver at the prices and in accordance with the conditions of said accepted proposal and detailed specifications and the Town of Cumberland on its part to order from such contractor (except in case of emergency) and to pay for at the agreed prices, all materials, equipment, supplies or services specified and delivered. A contract shall be deemed executory only to the extent of funds available for payment of the amounts shown on Purchase Orders issued by the Town of Cumberland to the contractors.

- B) No alterations or variations of the terms of the contract shall be valid or binding upon the Town of Cumberland unless submitted in writing and accepted by the Town of Cumberland Finance Director. All orders and changes thereof must emanate from the Town of Cumberland Purchasing Office: no oral agreement or arrangement made by a contractor with a department or employee will be considered to be binding on the Town of Cumberland Finance Director, and may be disregarded.
- C) Contracts will remain in force for the contract period specified or until all articles or services ordered before date of termination shall have been satisfactorily delivered or rendered and accepted and thereafter until all terms and conditions have been met, unless:
 - i) terminated prior to expiration date by satisfactory delivery against orders of entire quantities, or
 - ii) extended upon written authorization of the Town of Cumberland Finance Director and accepted by the contractor, to permit ordering of the unordered balances or additional quantities at the contract price and in accordance with the contract terms, or
 - iii) canceled by the Town of Cumberland in accordance with other provisions stated herein.
- D) It is mutually understood and agreed that the contractor shall not assign, transfer, convey, sublet or otherwise dispose of this contract or his right, title or interest therein, or his power to execute such contract, to any other person, company or corporation, without the previous consent, in writing, of the Town of Cumberland Finance Director.
- E) If, subsequent to the submission of an offer or issuance of a purchase order or execution of a contract, the bidder or contractor shall merge with or be acquired by another entity, the contract may be terminated, except as a corporate resolution prepared by the contractor and the new entity ratifying acceptance of the original bid or contract terms, condition, and pricing is submitted to the Town of Cumberland Purchasing Office, and expressly accepted.
- F) The contractor or bidder further warrants by submission of an offer or acceptance of a purchase order or other contract that he has no knowledge at the time of such action of any outstanding and delinquent or otherwise unsettled debt owed by him to the Town of Cumberland, and agrees that later discovery by the Town of Cumberland Finance Director that this warranty was given in spite of such knowledge, except where the matter is pending in hearing or from any appeal therefrom, shall form reasonable grounds for termination of the contract.

3. SUBCONTRACTS

No subcontracts or collateral agreements shall be permitted, except with the Town of Cumberland's express written consent. Upon request, contractors must submit to the Town of Cumberland Purchasing Office a list of all subcontractors to be employed in the performance of any Purchase Order or other contract arising from this Request.

4. RELATIONSHIP OF PARTIES

The contractor or bidder warrants, by submission of an offer or acceptance of a purchase order or other contract, that he is not an employee, agent, or servant of the Town of Cumberland, and that he is fully qualified and capable in all material regards to provide the specified goods and services. Nothing herein shall be construed as creating any contractual relationship or obligation between the Town of Cumberland and any sub-bidder, subcontractor, supplier, or employee of the contractor or offeror.

5. COSTS OF PREPARATION

All costs associated with the preparation, development, or submission of bids or other offers will be borne by the offeror. The Town of Cumberland will not reimburse any offeror for such costs.

6. SPECIFIED QUANTITY REQUIREMENT

Except where expressly specified to the contrary, all solicitations and contracts are predicated on a specified quantity of goods or services, or for a specified level of funding.

- A) The Town of Cumberland reserves the right to modify the quantity, scope of service, date of delivery or completion, or funding of any contract, with no penalty or charge, by written notice to the contractor, except where alternate terms have been expressly made a part of the contract.
- B) The Town of Cumberland shall not accept quantities in excess of the specified quantity except where the item is normally sold by weight (where sold by weight, the Town of Cumberland will not accept quantities greater than ten per cent [10%] of the specified quantity), or where the Request or Contract provides for awards for other than exact quantities.
- C) Purchase Orders or other contracts may be increased in quantity or extended in term without subsequent solicit with the mutual consent of the contractor and the Town of Cumberland, where determined by the Town of Cumberland Finance Director to be in the Town of Cumberland's best interest.

7. TERM AND RENEWAL

Where offers have been requested or contracts awarded for terms exceeding periods of twelve (12) months, it is mutually understood and agreed that the Town of Cumberland's commitment is limited to a base term not to exceed twelve (12) months, subject to renewal annually at the Town of Cumberland's sole option for successive terms as otherwise described, except where expressly specified to the contrary. Purchase orders appearing to commit to obligations of funding or terms of performance may be executed for administrative convenience, but are otherwise subject to this provision, and in such cases the Town of Cumberland's renewal shall be deemed to be automatic,

conditional on the continued availability of appropriated funds for the purpose, except as written notice of the Town of Cumberland's intent not to renew is served.

8. DELIVERY/COMPLETION

Delivery must be made as ordered and/or projects completed in accordance with the proposal. If delivery qualifications do not appear on the bidder's proposal, it will be interpreted to mean that goods are in stock and that shipment will be made within seven (7) calendar days. If the project completion date is not specified in the proposal, the date shall be determined by the Town of Cumberland Finance Director. The decision of the Town of Cumberland Finance Director, as to reasonable compliance with the delivery terms, and date of completion shall be final. Burden of proof of delay in receipt of order shall rest with the contractor. No delivery charges shall be added to invoices except when authorized on the Purchase Order.

9. FOREIGN CORPORATIONS

In accordance with Title 7 Chapter 1.1 ("Business Corporations") of the General Laws of Rhode Island, no foreign corporation shall have the right to transact business in this state until it shall have procured a certificate of authority so to do from the Secretary of State.

10. PRICING

All pricing offered or extended to the Town of Cumberland is considered to be firm and fixed unless expressly provided for to the contrary. All prices shall be quoted F.O.B. Destination with freight costs included in the unit cost to be paid by the Town of Cumberland, except, where the Request or Contract permits, offers reflecting F.O.B. Shipping Point will be considered, and freight costs may then be prepaid and added to the invoice.

11. COLLUSION

Bidder or contractor warrants that he has not, directly or indirectly, entered into any agree participated in any collusion or otherwise taken any action in restraint of full competitive bidding. In special circumstances, an executed affidavit will be required as a part of the bid.

12. PROHIBITION AGAINST CONTINGENT FEES AND GRATUITIES

Bidder or contractor warrants that he has not paid, and agrees not to pay, any bonus, commission, fee, or gratuity to any employee or official of the Town of Cumberland for the purpose of obtaining any contract or award issued by the Town of Cumberland. Bidder or contractor further warrants that no commission or other payment has been or will be received from or paid to any third party contingent on the award of any contract by the Town of Cumberland, except as shall have been expressly communicated to the Town of Cumberland Finance Director in writing prior to acceptance of the contract or award in question. Subsequent discovery by the Town of Cumberland of non-compliance with these provisions shall constitute sufficient cause for immediate termination of all outstanding contracts and suspension or debarment of the bidder(s) or contractor(s) involved.

13. AWARDS

Awards will be made with reasonable promptness and by written notice to the successful bidder (only); bids are considered to be irrevocable for a period of ninety (90) days following the bid

opening unless expressly provided for to the contrary in the Request, and may not be withdrawn during this period without the express permission of the Town of Cumberland Finance Director.

- A) Awards shall be made to the bidder(s) whose offer(s) constitutes the lowest responsive price offer (or lowest responsive price offer on an evaluated basis) for the item(s) in question or for the Request as a whole, at the option of the Town of Cumberland. The Town of Cumberland reserves the right to determine those offers which are responsive to the Request, or which otherwise serve its best interests.
- B) The Town of Cumberland reserves the right, before making award, to initiate investigations as to whether or not the materials, equipment, supplies, qualifications or facilities offered by the bidder meet the requirements set forth in the proposal and specification, and are ample and sufficient to insure the proper performance of the contract in the event of award. If upon such examination it is found that the conditions of the proposal are not complied with or that articles or equipment proposed to be furnished do not meet the requirements called for, or that the qualifications or facilities are not satisfactory, the Town of Cumberland may reject such a bid. It is distinctly understood, however, that nothing in the foregoing shall mean or imply that it is obligatory upon the Town of Cumberland to make any examinations before awarding a contract; and it is further understood that if such examination is made, it in no way relieves the contractor from fulfilling all requirements and conditions of the contract.
- C) Qualified or conditional offers which impose limitations of the bidder's liability or modify the requirements of the bid, offers for alternate specifications, or which are made subject to different terms and conditions than those specified by the Town of Cumberland may, at the option of the Town of Cumberland, be
 - i) rejected as being non-responsive, or
 - ii) set aside in favor of the Town of Cumberland's terms and conditions (with the consent of the bidder), or
 - iii) accepted, where the Town of Cumberland Finance Director determines that such acceptance best serves the interests of the Town of Cumberland.

Acceptance or rejection of alternate or counter-offers by the Town of Cumberland shall not constitute a precedent which shall be considered to be binding on successive solicitations or procurements.

- D) Bids submitted in pencil, or which do not bear an original signature, in ink, by an owner or authorized agent thereof, will not be accepted.
- E) Bids must be extended in the unit of measure specified in the Request. In the event of any discrepancy between unit prices and their extensions, the unit price will govern.
- F) The Town of Cumberland Finance Director reserves the right to determine the responsibility of any bidder for a particular procurement.

- G) The Town of Cumberland Finance Director reserves the right to reject any and all bids in whole or in part, to waive technical defects, irregularities, and omissions, and to give consideration to past performance of the offerors where, in his judgment the best interests of the Town of Cumberland will be served by so doing.
- H) The Town of Cumberland Finance Director reserves the right to make awards by items, group of items or on the total low bid for all the items specified as indicated in the detailed specification, unless the bidder specifically indicates otherwise in his bid.
- I) Preference may be given to bids on products raised or manufactured in the Town of Cumberland or State of Rhode Island, other things being equal.
- J) The impact of discounted payment terms shall not be considered in evaluating responses to any Request.
- K) The Town of Cumberland Finance Director reserves the right to act in the Town of Cumberland's best interests regarding awards caused by clerical errors by the Town of Cumberland Purchasing Office.

14. SUSPENSION AND DEBARMENT

The Town of Cumberland Finance Director may suspend or debar any vendor or potential bidder, for good cause shown:

- A) A debarment or suspension against a part of a corporate entity constitutes debarment or suspension of all of its divisions and all other organizational elements, except where the action has been specifically limited in scope and application, and may include all known corporate affiliates of a contractor, when such offense or act occurred in connection with the affiliate's performance of duties for or on behalf of the contractor, or with the knowledge, approval, or acquiescence of the contractor or one or more of its principals or directors (or where the contractor otherwise participated in, knew of, or had reason to know of the acts).
- B) The fraudulent, criminal or other serious improper conduct of any officer, director, shareholder, partner, employee, or any other individual associated with a contractor may be imputed to the contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval or acquiescence. The contractor's acceptance of benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.
- C) A vendor or contractor who knowingly engages as a subcontractor for a contract awarded by the Town of Cumberland to a vendor or contractor then under a ruling of suspension or debarment by the Town of Cumberland shall be subject to disallowance of cost, annulment or termination of award, issuance of a stop work order, or debarment or suspension, as may be judged to be appropriate by the Town of Cumberland's Finance Director.

15. PUBLIC RECORDS

Contractors and bidders are advised that certain documents, correspondence, and other submissions to the Town of Cumberland's Purchasing Office may be voluntarily made public by the Town of Cumberland absent specific notice that portions of such submittals may contain confidential or proprietary information, such that public access to those items should be withheld.

16. PRODUCT EVALUATION

In all specifications, the words "or equal" are understood after each article when manufacturer's name or catalog are referenced. If bidding on items other than those specified, the bidder must, in every instance, give the trade designation of the article, manufacturer's name and detailed specifications of the item the bidder proposes to furnish; otherwise, the bid will be construed as submitted on the identical commodity described in the detailed specifications. The Town of Cumberland's Finance Director reserves the right to determine whether or not the item submitted is the approved equal the detailed specifications.

- A) Any objections to specifications must be filed by a bidder, in writing, with the Town of Cumberland's Finance Director at least 96 hours before the time of bid opening to enable the Town of Cumberland's Purchasing Office to properly investigate the objections.
- B) All standards are minimum standards except as otherwise provided for in the Request or Contract.
- C) Samples must be submitted to the Town of Cumberland's Purchasing Office in accordance with the terms of the proposals and detailed specifications. Samples must be furnished free of charge and must be accompanied by descriptive memorandum invoices indicating whether or not the bidder desires their return and specifying the address to which they are to be returned (at the bidder's risk and expense), provided they have not been used or made useless by tests; and absent instructions, the samples shall be considered to be abandoned. Award samples may be held for comparison with deliveries.
- D) All samples submitted are subject to test by any laboratory the Town of Cumberland's Finance Director may designate.

17. PRODUCT ACCEPTANCE

All merchandise offered or otherwise provided shall be new, of prime manufacture, and of first quality unless otherwise specified by the Town of Cumberland. The Town of Cumberland reserves the right to reject all nonconforming goods, and to cause their return for credit or replacement, at the Town of Cumberland's option. Contract deliverables specified for procurements of services shall be construed to be work products, and subject to the provisions of this section.

- A) Failure by the Town of Cumberland to discover latent defect(s) or concealed damage or non-conformance shall not foreclose the Town of Cumberland's right to subsequently reject the goods in question.

- C) Individual: The Bond must be signed by the individual owning the business and indicate "Owner."
- D) The Surety Company executing the Bond must be licensed to do business in the State of Rhode Island or Bond must be countersigned by a company so licensed.
- E) The Bond must be signed by an official of the Surety Company and the corporate seal must be affixed over his signature.
- F) Signatures of two witnesses for both the principal and the Surety must appear on the Bond.
- G) A Power of Attorney for the official signing of the Bond for the Surety Company must be submitted with the Bond.

31. SUSPENSION, DEFAULT AND TERMINATION

A) Suspension of a Contract by the Town of Cumberland

The Town of Cumberland reserves the right at any time and for any reason to suspend all or part of this contract, for a reasonable period, not to exceed sixty days, unless the parties agree to a longer period. The Town of Cumberland shall provide the contractor with written notice of the suspension order signed by the Finance Director or his or her designee, which shall set forth the date upon which the suspension shall take effect, the date of its expiration, and all applicable instructions. Upon receipt of said order, the contractor shall immediately comply with the order and suspend all work under this contract as specified in the order. The contractor shall take all reasonable steps to mitigate costs and adverse impact to the work specified in the contract during the suspension period. Before the order expires, the Town of Cumberland shall either:

- i. cancel the suspension order;
- ii. extend the suspension order for a specified time period not to exceed thirty (30) days; or
- iii. terminate the contract as provided herein.

The contractor shall resume performance once a suspension order issued under this section is canceled or expires. If as a result of the suspension of performance, there is a financial or schedule impact upon the contract, an appropriate adjustment may be made by, or with the approval of, the Town of Cumberland's Finance Director. Any adjustment shall be set forth in writing. After a suspension order has been canceled or expires, the contractor shall provide any request for adjustment to the Town of Cumberland's Finance Director within thirty (30) days after resuming work performance.

B) Termination of a Contract by the Town of Cumberland

- i. Termination for Default or Nonperformance

If, for any reason, the contractor breaches the contract by failing to satisfactorily fulfill or perform any obligations, promises, terms, or conditions, and having been given reasonable notice of and opportunity to cure such default, fails to take satisfactory corrective action within the time specified by the Town of Cumberland, the Town of Cumberland may terminate the contract, in whole or in part, the termination of all outstanding contracts or sub-contracts held by the contractor, and the suspension or debarment of the contractor from future procurements by giving written notice to the contractor specifying the date for termination. The Town of Cumberland shall endeavor to provide such notice at least seven (7) calendar days before the effective date of the termination.

A contractor who fails to commence within the time specified or complete an award made for repairs, alterations, construction, or any other service will be considered in default of contract. If contractor consistently fails to deliver quantities or otherwise perform as specified, the Town of Cumberland's Finance Director reserves the right to terminate the contract and contract for completion of the work with another contractor and seek recourse from the defaulting contractor or his surety. In the event of a termination for default or nonperformance, in whole or in part, the Town of Cumberland may procure similar goods or services in a manner and upon terms it deems appropriate, and the contractor shall be liable for the excess costs incurred by the Town of Cumberland as a result of the contractor's default. The contractor, or its surety, agrees to promptly reimburse the Town of Cumberland for the excess costs, but shall have no claim to the difference should the replacement cost be less.

ii. Termination Without Cause

The Town of Cumberland may terminate the contract in whole or in part without cause at any time by giving written notice to the contractor of such termination at least thirty (30) days before the effective date of such termination. The notice shall specify the part(s) of the contract being terminated and the effective termination date.

Within thirty (30) days of the effective date of the termination of the contract the contractor shall compile and submit to the Town of Cumberland an accounting of the work performed up to the date of termination. The Town of Cumberland may consider the following claims in determining reasonable compensation owed to the contractor for work performed up to the date of termination:

- a. contract prices for goods or services accepted under the contract;
- b. costs incurred in preparing to perform and performing the terminated portion of the contract; or
- c. any other reasonable costs incurred by the contractor as a result of the termination.

The total sum to be paid to the contractor shall not exceed the total contract price, less any payments previously made to the contractor, the proceeds from any sales of goods or manufacturing materials, and the contract price for work not terminated.

iii. Contractor's Obligations in the Event of Termination

If the contract is terminated for any reason, or expires pursuant to its terms, the contractor shall transfer and deliver to the Town of Cumberland in the manner and to the extent directed by the Town of Cumberland:

- a. all finished or unfinished material prepared by the contractor; and
- b. all material, if any, provided to the contractor by the Town of Cumberland.

For the purposes of the contract, "material" shall include, but is not limited to, goods, supplies, parts, tools, machinery, equipment, furniture, fixtures, information, data, reports, summaries, tables, maps, charts, photographs, studies, recommendations, files, audiotapes, videotapes, records, keys, security badges, and documents.

If the contract is terminated for cause, the contractor shall not be relieved of liability to the Town of Cumberland for damages sustained because of any breach by the contractor. In such event, the Town of Cumberland may retain any amounts which may be due and owing to the contractor until such time as the exact amount of damages due the Town of Cumberland from the contractor has been determined by the Town of Cumberland Finance Director. The Town of Cumberland may also set off any damages so determined against the amounts retained.

Upon termination of the contract, the contractor shall stop performance on the date specified, terminate any outstanding orders and subcontracts applicable to the terminated portion of the contract, and shall incur no further commitments or obligations in connection with the terminated performance. The contractor shall settle all liabilities and claims arising out of the termination of subcontracts and order generating from the terminated performance. The Town of Cumberland may direct the contractor to assign the contractor's right, title and interest under terminated orders or subcontracts to the Town of Cumberland or a third party.

Terminations of Purchase Order Contracts or Master Pricing Agreements shall require the signature of the Town of Cumberland Finance Director or his designee. Notice of termination by either party shall be submitted in writing to the other party in accordance with the termination clause of the contract, or where no specific termination clause is included, written notice shall be provided no later than thirty (30) days before the expiration of the contract.

32. INDEMNITY

The contractor guarantees:

- A) To save the Town of Cumberland, its agents and employees, harmless from any liability imposed upon the Town of Cumberland arising from the negligence, either active or passive, of the contractor, as well as for the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of the contract of which the contractor is not the patentee, assignee or licensee.

- B) To pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the Town of Cumberland and of the State of Rhode Island.
- C) That the equipment offered is standard new equipment, latest model of regular stock product with all parts regularly used with the type of equipment offered; also, that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice.

33. CONTRACTOR'S OBLIGATIONS

In addition to the specific requirements of the contract, construction and building repair contractors bear the following standard responsibilities:

- A) To furnish adequate protection from damage for all work and to repair damages of any kind, for which he or his workmen are responsible, to the building or equipment, to his own work, or to the work of other contractors;
- B) The contractor, its subcontractor(s) and their employees and/or agents, shall protect and preserve property in the contractor or subcontractor's possessions in which the Town of Cumberland has an interest, and any and all materials provided to the contractor or subcontractor by the Town of Cumberland;
- C) To clear and remove all debris and rubbish resulting from his work from time to time, as directed or required, a completion of the work leave the premises in a neat unobstructed condition, broom clean, and in satisfactory order and repair;
- D) To store equipment, supplies, and material at the site only upon approval by the Town of Cumberland, and at his own risk;
- E) To perform all work so as to cause the least inconvenience to the Town of Cumberland, and with proper consideration for the rights of other contractors and workmen;
- F) To acquaint themselves with conditions to be found at the site, and to assume responsibility for the appropriate dispatching of equipment and supervision of his employees during the conduct of the work;
- G) To ensure that his employees are instructed with respect to special regulations, policies, and procedures in effect for any Town of Cumberland facility or site, and that they comply with such rules, including but not limited to security policies or practices and/or criminal background checks for any employees and/or subcontractors;
- H) The contractor shall ensure that its employees or agents are experienced and fully qualified to engage in the activities and services required under the contract;
- I) The contractor shall ensure that at all times while services are being performed under this contract at least one of its employees or agents on the premises has a good command of the English language and can effectively communicate with the Town of Cumberland and its staff;

- J) The contractor and contractor's employees or agents shall comply with all applicable licensing and operating requirements required by federal or state law and shall meet accreditation and other generally accepted standards of quality in the applicable field of activity;
- K) The contractor shall secure and retain all employee-related insurance coverage for its employees and agents as required by law; and
- L) The contractor, subcontractor, and his or her employees and agents shall not disclose any confidential information of the Town of Cumberland to a third party. Confidential information means:
 - i) any information of a sensitive or proprietary nature, whether or not specially identified as confidential or proprietary; or
 - ii) any information about the Town of Cumberland gained during the performance of a contract that is not already lawfully in the public domain.

34. FORCE MAJEURE

All orders shall be filled by the contractor with reasonable promptness, but the contractor shall not be held responsible for any losses resulting if the fulfillment of the terms of the contract shall be delayed or prevented by wars, acts of public enemies, strikes, fires, floods, acts of God, or for any other acts not within the control of the contractor and which by the exercise of reasonable diligence, the contractor is unable to prevent.

- B) Formal or informal acceptance by the Town of Cumberland of non-conforming goods shall not constitute a precedent for successive receipts or procurements.
- C) Where the contractor fails to promptly cure the defect or replace the goods, the Town of Cumberland reserves the right to cancel the Purchase Order, contract with a different contractor, and to invoice the original contractor for any differential in price over the original contract price.
- D) When materials, equipment or supplies are rejected, the same must be removed by the contractor from the premises of the Town of Cumberland within forty-eight (48) hours of notification. Rejected items left longer than two days will be regarded as abandoned and the Town of Cumberland shall have the right to dispose of them as its own property.

18. PRODUCT WARRANTIES

All product or service warranties normally offered by the contractor or bidder shall accrue to the Town of Cumberland's benefit, in addition to any special requirements which may be imposed by the Town of Cumberland. Every unit delivered must be guaranteed against faulty material and workmanship for a period of one year unless otherwise specified, and the Town of Cumberland may, in the event of failure, order its replacement, repair, or return for full credit, at its sole option.

19. PAYMENT

Unless otherwise provided for by the Request or Contract, payment shall not be made until delivery has been made, or services performed, in full, and accepted. Payment shall not be due prior to thirty (30) working days following the latest of completion, acceptance, or the rendering of a properly submitted invoice. Payments will be released **ONLY** upon the completion of all certified payrolls incurred during the project and all required close out reports.

- A) Payment terms other than the foregoing may be rejected as being nonresponsive.
- B) No partial shipments, or partial completion will be accepted, unless provided for by the Request or Contract.
- C) Where a question of quality is involved, or failure to complete a project by the specified due date, payment in whole or part against which to charge back any adjustment required, shall be withheld at the direction of the Town of Cumberland Finance Director. In the event a cash discount is stipulated, the withholding of payments, as herein described, will not deprive the Town of Cumberland from taking such discount.
- D) Payments for used portion of inferior delivery or late delivery will be made by the Town of Cumberland on an adjusted price basis.
- E) Payments on contracts under architectural or engineering supervision must be accompanied by a Certificate of Payment and Statement of Account signed by the architect or engineer and submitted to the Town of Cumberland Purchasing Office for approval.

20. THIRD-PARTY PAYMENTS

The Town of Cumberland recognizes no assigned or collateral rights to any purchase agreement except as may be expressly provided for in the bid or contract documents, and will not accede to any request for third party or joint payment(s), except as provided for in specific orders by a court of competent jurisdiction, or by express written permission of the Town of Cumberland's Finance Director. Where an offer is contingent upon such payment(s), the offeror is obligated to serve affirmative notice in his bid submission.

21. SET-OFF AGAINST PAYMENTS

Payments due the contractor may be subject to reduction equal to the amount of unpaid and delinquent state taxes (or other just debt owed to the State), except where notice of delinquency has not been served or while the matter is pending in hearing or from any appeal therefrom.

22. CLAIMS

Any claim against a contractor may be deducted by the Town of Cumberland from any money due him in the same or other transactions. If no deduction is made in such fashion, the contractor shall pay the Town of Cumberland the amount of such claim on demand. Submission of a voucher and payment, thereof, by the Town of Cumberland shall not preclude the Town of Cumberland's Finance Director from demanding a price adjustment in any case when the commodity delivered is later found to deviate from the specifications and proposal.

- A) The Town of Cumberland's Finance Director may assess dollar damages against a vendor or contractor determined to be non-performing or otherwise in default of their contractual obligations equal to the cost of remedy incurred by the Town of Cumberland, and make payment of such damages a condition for consideration for any subsequent award. Failure by the vendor or contractor to pay such damages shall constitute just cause for disqualification and rejection, suspension, or debarment.

23. MINORITY BUSINESS ENTERPRISES

Pursuant to the provisions of Title 37 Chapter 14.1 of the General Laws, the Town of Cumberland reserves the right to apply additional consideration to offers, and to direct awards to bidders other than the responsive bid representing the lowest price where:

- A) the offer is fully responsive to the terms and conditions of the Request, and
- B) the price offer is determined to be within a competitive range (not to exceed 5% higher than the lowest responsive price offer) for the product or service, and
- C) the firm making the offer has been certified by the R.I. Department of Economic Development to be a small business concern meeting the criteria established to be considered a Minority Business Enterprise.

24. PREVAILING WAGE REQUIREMENTS

In accordance with Title 37 Chapter 13 of the General Laws of Rhode Island, payment of the general prevailing rate of per diem wages and the general prevailing rate for regular, overtime and other working conditions existing in the locality for each craft, mechanic, teamster, or type of workman needed to execute this work is a requirement for both contractors and subcontractors for all public works.

The Contractor must also comply with all Federal Labor Standards. Federal prevailing wage requirements are triggered for work on the project. Federal Labor Standards (Form 4010) and the applicable Davis Bacon Wage rates are attached in Appendix D.

25. EQUAL OPPORTUNITY COMPLIANCE, HANDICAPPED ACCESS AND AFFIRMATIVE ACTION

Contractors of the Town of Cumberland are required to demonstrate the same commitment to equal opportunity as prevails under federal contracts controlled by Federal Executive Orders 11246, 11625, 11375 and 11830, and Title 28 Chapter 5.1 of the General Laws of Rhode Island.

Affirmative action plans shall be submitted by the contractor for review by the State Equal Opportunity Office. A contractor's failure to abide by the rules, regulations, contract terms and compliance reporting provisions as established shall be grounds for forfeiture and penalties as shall be established, including but not limited to suspension.

26. DRUG-FREE WORKPLACE REQUIREMENT

Contractors who do business with the Town of Cumberland and their employees shall abide by the State's drug-free workplace policy and the contractor shall so attest by signing a certificate of compliance.

27. TAXES

The Town of Cumberland is exempt from payment of excise, transportation and sales tax imposed by the Federal or State Government. These taxes should not be included in the proposal price. Exemption Certificates will be furnished upon request.

28. INSURANCE

All construction contractors, independent tradesmen, or firms providing any type of maintenance, repair, or other type of service to be performed on Town of Cumberland premises, buildings, or grounds are required to purchase and maintain coverage with a company or companies licensed to do business in the state as follows:

A) Comprehensive General Liability Insurance

Combined Single Limit not less than \$1,000,000 each occurrence for bodily Injury and property damage.

- i) Independent Contractors;
- ii) Contractual - including construction hold harmless and other types of contracts or agreements in effect for insured operations;
- iii) Products and Completed Operations;

iv) Personal Injury (with employee exclusion deleted)

B) Automobile Liability Insurance

Combined Single Limit not less than \$1,000,000 each occurrence for bodily Injury and property damage including non-owned and/or hired vehicle coverage.

OR

Bodily Injury, per person, \$500,000/ Bodily Injury, \$1,000,000 per accident/ Property Damage, \$500,000 per accident including non-owned and/or hired vehicle coverage.

C) Workers' Compensation Insurance

As required by the General Laws of Rhode Island.

D) Employers liability \$500,000

The Town of Cumberland shall be named as an additional insured on the vendor's Comprehensive General Liability Policy and Automobile Liability Policy.

The Town of Cumberland's Finance Director reserves the right to consider and accept alternate forms and plans of insurance or to require additional or more extensive coverage for any individual requirement. Successful bidders shall provide certificates of coverage, reflecting the Town of Cumberland as an additional insured, to the Town of Cumberland Purchasing Office, forty-eight (48) hours prior to the commencement of work, as a condition of award. Failure to comply with this provision shall result in rejection of the offeror's bid.

29. BID SURETY

When requested, a bidder must furnish a Bid Bond or Certified Check for 5% of his bid, or for the stated amount shown in the solicitation. Bid Bonds must be executed by a reliable Surety Company authorized to do business in the State of Rhode Island. Failure to provide Bid Surety with bid may be cause for rejection of bid. The Bid Surety of any three bidders in contention will be held until an award has been made according to the specifications of each proposal. All others will be returned by mail within 48 hours following the bid opening. Upon award of a contract, the remaining sureties will be returned by mail unless instructed to do otherwise.

30. PERFORMANCE AND LABOR AND PAYMENT BONDS

A performance bond and labor and payment bond of up to 100% of an award may be required by the Town of Cumberland's Finance Director. Bonds must meet the following requirements:

- A) Corporation: The Bond must be signed by an official of the corporation above his/her official title and the corporate seal must be affixed over his/her signature.
- B) Firm or Partnership: The Bond must be signed by all of the partners and must indicate that they are "Doing Business As (name of firm)."

ADDENDUM No. 1

April 7, 2020

REQUEST FOR PROPOSALS Commercial Kitchen Remodel at the Cumberland Senior Center Bid # 2020-0416-09

The following item is added to the Scope of Work:

- Install grease trap. Brand: Big Dipper. Model: 40141747. Dimensions: 2.5' x 1.5' Or, equivalent.

1.Question: It has come to our attention that the plans item #9 Calls for us to purchase and install commercial grade vinyl wall base molding 1/8" thick x 2-1/2" high toeless. Grey. Why is calling for vinyl and not epoxy base as it should be?

Answer: You can substitute the vinyl wall base molding with equivalent epoxy base.

2.Question: Is it possible to visit site again with subcontractors?

Answer: Yes, please contact Glenn Modica at gmodica@cumberlandri.org to arrange for a time.

3.Question: Is there a basement?

Answer: No

4.Question: Is a bid bond required? If so for how much?

Answer: No bid bond is required. A Performance Bond and Payment Bond equal to the contract amount will be required from the vendor awarded the contract.


5.Question: Could you let me know if there is a written abatement plan filed with the State of Rhode Island for this project.

Answer: There is not written abatement plan filed with Rhode Island.


6.Question: At the walkthrough, you mentioned that the existing ceiling in the kitchen should be removed and could be replaced with Acoustical Ceiling Tiles and grid. Do you want to consider this as an alternate option? Please advise.

Answer: Yes, it can be considered an alternative to the plastered ceiling.

From: [Linda Teel](#)
To: [Glenn Modica](#)
Subject: Sign in
Date: Thursday, April 2, 2020 3:41:36 PM


Pre-Bid Meeting
April 2, 2020 at 3 P.M.
Commercial Kitchen Remodel at the Cumberland Senior Center
BID # 2020-0416-09

Print Name	Affiliation	Phone	Email
Alison Kelley	Heroica Construction	508 517-4662	alison@heroicaconstruction.com
Bob Coletta	Coletta Contracting Co. Inc	(401) 727-1757	Robert@ColettaContracting.com
WILLIAM HUNTER	MARON CONSTRUCTION	401 272 4930	WCHUNTER88@gmail.com



Robert J. Coletta
President
Cell: 401.413.2267
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FEDERAL CONSTRUCTION CONTRACT PROVISIONS

(Contracts over \$100,000)

**STATE OF RHODE ISLAND
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

RI Office of Housing & Community Development

One Capitol Hill, 3rd Floor

Providence, RI 02908

Note: This document is to be used as a guide for contractors and subcontractors working on Community Development Block Grant projects in the State of Rhode Island. It is not verified to be all inclusive and the contractor is fully responsible for complying with all federal regulations applicable to the CDBG program.

REQUIRED CONTRACT PROVISIONS TO BE PROVIDED BY RECIPIENT

(To the best of our knowledge, federal templates are not currently available for items A and B, below. Grant recipients must develop/use their own contract language to meet the requirements specified below.)

- (A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

Certification Regarding Debarment and Suspension

U.S. Department of Housing
and Urban Development

Certification A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief that its principals;

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment 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 had one or more public transactions (Federal, State, or local) terminated for cause or default.

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

Instructions for Certification (A)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. 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 this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

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

Instructions for Certification (B)

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. 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 this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant		Date
Signature of Authorized Certifying Official		Title

**Equal Employment
Opportunity Certification**
Excerpt From 41 CFR §60-1.4(b)

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

Department of Veterans Affairs
OMB Control No. 2502-0029
(exp. 9/30/2016)

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the 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 a 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 clause:

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 or termination; 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 nondiscrimination 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 considerations 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 it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives 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 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 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its 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 nondiscrimination clauses 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 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the 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 applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work:

Provided, That if the applicant so participating is a State or local government, the above equal opportunity 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 applicant 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 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 applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 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 clause as may be imposed

Firm Name and Address

By

Title

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 applicant 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 (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Excerpt from HUD Regulations

200.410Definition of term “applicant”.

- (a) In multifamily housing transactions where controls over the mortgagor are exercised by the Commissioner either through the ownership of corporate stock or under the provisions of a regulatory agreement, the term “applicant” as used in this subpart shall mean the mortgagor.
- (b) In transactions other than those specified in paragraph(a) of this section, the term “applicant” as used in this subpart shall mean the builder, dealer or contractor performing the construction, repair or rehabilitation work for the mortgagor or other borrower.

200.420Equal Opportunity Clause to be included in contracts and subcontracts.

- (a) The following equal opportunity clause shall be included in each contract and subcontract which is not exempt:
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, creed, color, 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, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of the nondiscrimination 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 race, creed, color, 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 notices in conspicuous places available to employees and applicants for employment.
 - (4) The contractor will comply with all provisions of Executive Order 10925 of March 6 1961, as amended, and of the regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(5) The contractor will furnish all information and reports required by Executive Order 10925 of March 6, 1961, as amended, and by the regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Committee for purposes of investigation to ascertain compliance with such regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clause of this contract or with any of the said regulations, or orders, this contract may be cancelled, 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 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked provided in the said Executive Order or by regulations, or order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.

(7) The contractor will include the provisions of Paragraphs(1) through (7) in every subcontract or purchase order unless exempted by regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to Section 303 of Executive Order 10925 of March 6, 1961, as amended, 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 orders as HUD may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

- (b) Except in subcontracts for the performance of construction work at the site of construction, the clause is not required to be inserted in subcontracts below the second tier. Subcontracts may incorporate by reference to the equal opportunity clause.

200.425Modification in and exemptions from the regulations in this subpart.

- (a) The following transactions and contracts are exempt from the regulations in this subpart:
 - (1) Loans, mortgages, contracts and subcontracts not exceeding \$10,000.
 - (2) Contract and subcontracts not exceeding \$100,000 for standard commercial supplies or raw material;
 - (3) Contracts and subcontracts under which work is to be or has been performed outside the United States and where no recruitment of workers within the United States is involved. To the extent that work pursuant to such contracts is done within the United States, the equal opportunity clause shall be applicable;
 - (4) Contracts for the sale of Government property where no appreciable amount of work is involved; and
 - (5) Contracts and subcontracts for an indefinite quantity which are not to extend for more than one year if the purchaser determines that the amounts to be ordered under any such contract or subcontract are not reasonably expected to exceed \$100,000 in the case of contracts or subcontracts for standard commercial supplies and raw materials, or \$10,000 in the case of all other contracts and subcontracts.

§401.14 Standard patent rights clauses.

(a) The following is the standard patent rights clause to be used as specified in §401.3(a).

Patent Rights (Small Business Firms and Nonprofit Organizations)

(a) Definitions

(1) *Invention* means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321 *et seq.*).

(2) *Subject invention* means any invention of the *contractor* conceived or first actually reduced to practice in the performance of work under this *contract*, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of *contract* performance.

(3) *Practical Application* means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.

(4) *Made* when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) *Small Business Firm* means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) *Nonprofit Organization* means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) Allocation of Principal Rights

The *Contractor* may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the *Contractor* retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) Invention Disclosure, Election of Title and Filing of Patent Application by *Contractor*

(1) The *contractor* will disclose each subject invention to the *Federal Agency* within two months after the inventor discloses it in writing to *contractor* personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the *contract* under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the

invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the *agency*, the *Contractor* will promptly notify the *agency* of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the *contractor*.

(2) The *Contractor* will elect in writing whether or not to retain title to any such invention by notifying the *Federal agency* within two years of disclosure to the *Federal agency*. However, in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the *agency* to a date that is no more than 60 days prior to the end of the statutory period.

(3) The *contractor* will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The *contractor* will file patent applications in additional countries or international patent offices within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure, election, and filing under subparagraphs (1), (2), and (3) may, at the discretion of the *agency*, be granted.

(d) Conditions When the Government May Obtain Title

The *contractor* will convey to the *Federal agency*, upon written request, title to any subject invention—

(1) If the *contractor* fails to disclose or elect title to the subject invention within the times specified in (c), above, or elects not to retain title; provided that the *agency* may only request title within 60 days after learning of the failure of the *contractor* to disclose or elect within the specified times.

(2) In those countries in which the *contractor* fails to file patent applications within the times specified in (c) above; provided, however, that if the *contractor* has filed a patent application in a country after the times specified in (c) above, but prior to its receipt of the written request of the *Federal agency*, the *contractor* shall continue to retain title in that country.

(3) In any country in which the *contractor* decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) Minimum Rights to *Contractor* and Protection of the *Contractor* Right to File

(1) The *contractor* will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the *contractor* fails to disclose the invention within the times specified in (c), above. The *contractor's* license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the *contractor* is a party and includes the right to grant sublicenses of the same scope to the extent the *contractor* was legally obligated to do so at the time the *contract* was awarded. The license is transferable only with the approval of the *Federal agency* except when transferred to the successor of that party of the *contractor's* business to which the invention pertains.

(2) The *contractor's* domestic license may be revoked or modified by the *funding Federal agency* to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and *agency* licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the *contractor* has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the *funding Federal agency* to the extent the *contractor*, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the *funding Federal agency* will furnish the *contractor* a written notice of its intention to revoke or modify the license, and the *contractor* will be allowed thirty days (or such

other time as may be authorized by the *funding Federal agency* for good cause shown by the *contractor*) after the notice to show cause why the license should not be revoked or modified. The *contractor* has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and *agency* regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

(f) *Contractor* Action to Protect the Government's Interest

(1) The *contractor* agrees to execute or to have executed and promptly deliver to the *Federal agency* all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the *contractor* elects to retain title, and (ii) convey title to the *Federal agency* when requested under paragraph (d) above and to enable the government to obtain patent protection throughout the world in that subject invention.

(2) The *contractor* agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the *contractor* each subject invention made under *contract* in order that the *contractor* can comply with the disclosure provisions of paragraph (c), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1), above. The *contractor* shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The *contractor* will notify the *Federal agency* of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The *contractor* agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with government support under (identify the *contract*) awarded by (identify the *Federal agency*). The government has certain rights in the invention."

(g) Subcontracts

(1) The *contractor* will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor will retain all rights provided for the *contractor* in this clause, and the *contractor* will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The *contractor* will include in all other subcontracts, regardless of tier, for experimental developmental or research work the patent rights clause required by (*cite section of agency implementing regulations or FAR*).

(3) In the case of subcontracts, at any tier, when the prime award with the *Federal agency* was a contract (but not a grant or cooperative agreement), the *agency*, subcontractor, and the contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the *Federal agency* with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (j) of this clause.

(h) Reporting on Utilization of Subject Inventions

The *Contractor* agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the *contractor* or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the contractor, and such other data and information as the *agency* may reasonably specify. The *contractor* also agrees to provide additional reports as may be requested by the *agency* in connection with any march-in proceeding undertaken by the *agency* in accordance with paragraph (j) of this clause.

As required by 35 U.S.C. 202(c)(5), the *agency* agrees it will not disclose such information to persons outside the government without permission of the *contractor*.

(i) Preference for United States Industry

Notwithstanding any other provision of this clause, the *contractor* agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the *Federal agency* upon a showing by the *contractor* or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) March-in Rights

The *contractor* agrees that with respect to any subject invention in which it has acquired title, the *Federal agency* has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the *agency* to require the *contractor*, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the *contractor*, assignee, or exclusive licensee refuses such a request the *Federal agency* has the right to grant such a license itself if the *Federal agency* determines that:

(1) Such action is necessary because the *contractor* or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the *contractor*, assignee or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the *contractor*, assignee or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special Provisions for *Contracts* with Nonprofit Organizations

If the *contractor* is a nonprofit organization, it agrees that:

(1) Rights to a subject invention in the United States may not be assigned without the approval of the *Federal agency*, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the *contractor*;

(2) The *contractor* will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) The balance of any royalties or income earned by the *contractor* with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject invention that are small business firms and that it will give a preference to a small business firm when licensing a subject invention if the *contractor* determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the *contractor* is also satisfied that the small business firm has the

capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the *contractor*. However, the *contractor* agrees that the Secretary may review the *contractor's* licensing program and decisions regarding small business applicants, and the *contractor* will negotiate changes to its licensing policies, procedures, or practices with the Secretary when the Secretary's review discloses that the *contractor* could take reasonable steps to implement more effectively the requirements of this paragraph (k)(4).

(l) Communication

(Complete According to Instructions at 401.5(b))

(b) When the Department of Energy (DOE) determines to use alternative provisions under §401.3(a)(4), the standard clause at §401.14(a), of this section, shall be used with the following modifications unless a substitute clause is drafted by DOE:

(1) The title of the clause shall be changed to read as follows: *Patent Rights to Nonprofit DOE Facility Operators*

(2) Add an "(A)" after "(1)" in paragraph (c)(1) and add subparagraphs (B) and (C) to paragraph (c)(1) as follows:

(B) If the subject invention occurred under activities funded by the naval nuclear propulsion or weapons related programs of DOE, then the provisions of this subparagraph (c)(1)(B) will apply in lieu of paragraphs (c)(2) and (3). In such cases the contractor agrees to assign the government the entire right, title, and interest thereto throughout the world in and to the subject invention except to the extent that rights are retained by the contractor through a greater rights determination or under paragraph (e), below. The contractor, or an employee-inventor, with authorization of the contractor, may submit a request for greater rights at the time the invention is disclosed or within a reasonable time thereafter. DOE will process such a request in accordance with procedures at 37 CFR 401.15. Each determination of greater rights will be subject to paragraphs (h)-(k) of this clause and such additional conditions, if any, deemed to be appropriate by the *Department of Energy*.

(C) At the time an invention is disclosed in accordance with (c)(1)(A) above, or within 90 days thereafter, the contractor will submit a written statement as to whether or not the invention occurred under a naval nuclear propulsion or weapons-related program of the *Department of Energy*. If this statement is not filed within this time, subparagraph (c)(1)(B) will apply in lieu of paragraphs (c)(2) and (3). The contractor statement will be deemed conclusive unless, within 60 days thereafter, the Contracting Officer disagrees in writing, in which case the determination of the Contracting Officer will be deemed conclusive unless the contractor files a claim under the Contract Disputes Act within 60 days after the Contracting Officer's determination. Pending resolution of the matter, the invention will be subject to subparagraph (c)(1)(B).

(3) Paragraph (k)(3) of the clause will be modified as prescribed at §401.5(g).

(c) As prescribed in §401.3, replace (b) of the basic clause with the following paragraphs (1) and (2):

(b) Allocation of principal rights. (1) The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause, including (2) below, and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(2) If the Contractor performs services at a Government owned and operated laboratory or at a Government owned and contractor operated laboratory directed by the Government to fulfill the Government's obligations under a Cooperative Research and Development Agreement (CRADA) authorized by 15 U.S.C. 3710a, the Government may require the Contractor to negotiate an agreement with the CRADA collaborating party or parties regarding the allocation of rights to any subject invention the Contractor makes, solely or jointly, under the CRADA. The agreement shall be negotiated prior to the Contractor undertaking the CRADA work or, with the permission of the Government, upon the identification of a subject invention. In the absence of such an agreement, the Contractor agrees to grant

the collaborating party or parties an option for a license in its inventions of the same scope and terms set forth in the CRADA for inventions made by the Government.

[52 FR 8554, Mar. 18, 1987, as amended at 69 FR 17301, Apr. 2, 2004]

Clean Water Requirements

33 U.S.C. 1251

Clean Water - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq*. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to OHCD/HUD and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by the State.

CLEAN AIR

42 U.S.C. 7401 *et seq*

40 CFR 15.61

49 CFR Part 18

Clean Air - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq*. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to OHCD/HUD and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by OHCD/HUD.

Lobbying

31 U.S.C. 1352
49 CFR Part 19
49 CFR Part 20

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to 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 [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*.)]
3. The undersigned 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 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

Title 37: Patents, Trademarks, and Copyrights

PART 401—RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

§401.14 Standard patent rights clauses.

(a) The following is the standard patent rights clause to be used as specified in §401.3(a).

Patent Rights (Small Business Firms and Nonprofit Organizations)

(a) Definitions

(1) *Invention* means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321 *et seq.*).

(2) *Subject invention* means any invention of the *contractor* conceived or first actually reduced to practice in the performance of work under this *contract*, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of *contract* performance.

(3) *Practical Application* means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.

(4) *Made* when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) *Small Business Firm* means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) *Nonprofit Organization* means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) Allocation of Principal Rights

The *Contractor* may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the *Contractor* retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) Invention Disclosure, Election of Title and Filing of Patent Application by *Contractor*

(1) The *contractor* will disclose each subject invention to the *Federal Agency* within two months after the inventor discloses it in writing to *contractor* personnel responsible for patent matters. The disclosure

to the agency shall be in the form of a written report and shall identify the *contract* under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the *Contractor* will promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the *contractor*.

(2) The *Contractor* will elect in writing whether or not to retain title to any such invention by notifying the *Federal agency* within two years of disclosure to the *Federal agency*. However, in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The *contractor* will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The *contractor* will file patent applications in additional countries or international patent offices within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure, election, and filing under subparagraphs (1), (2), and (3) may, at the discretion of the agency, be granted.

(d) Conditions When the Government May Obtain Title

The *contractor* will convey to the *Federal agency*, upon written request, title to any subject invention—

(1) If the *contractor* fails to disclose or elect title to the subject invention within the times specified in (c), above, or elects not to retain title; provided that the agency may only request title within 60 days after learning of the failure of the *contractor* to disclose or elect within the specified times.

(2) In those countries in which the *contractor* fails to file patent applications within the times specified in (c) above; provided, however, that if the *contractor* has filed a patent application in a country after the times specified in (c) above, but prior to its receipt of the written request of the *Federal agency*, the *contractor* shall continue to retain title in that country.

(3) In any country in which the *contractor* decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) Minimum Rights to *Contractor* and Protection of the *Contractor* Right to File

(1) The *contractor* will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the *contractor* fails to disclose the invention within the times specified in (c), above. The *contractor's* license extends to its domestic subsidiary and

affiliates, if any, within the corporate structure of which the *contractor* is a party and includes the right to grant sublicenses of the same scope to the extent the *contractor* was legally obligated to do so at the time the *contract* was awarded. The license is transferable only with the approval of the *Federal agency* except when transferred to the successor of that party of the *contractor's* business to which the invention pertains.

(2) The *contractor's* domestic license may be revoked or modified by the *funding Federal agency* to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and *agency* licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the *contractor* has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the *funding Federal agency* to the extent the *contractor*, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the *funding Federal agency* will furnish the *contractor* a written notice of its intention to revoke or modify the license, and the *contractor* will be allowed thirty days (or such other time as may be authorized by the *funding Federal agency* for good cause shown by the *contractor*) after the notice to show cause why the license should not be revoked or modified. The *contractor* has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and *agency* regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

(f) *Contractor* Action to Protect the Government's Interest

(1) The *contractor* agrees to execute or to have executed and promptly deliver to the *Federal agency* all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the *contractor* elects to retain title, and (ii) convey title to the *Federal agency* when requested under paragraph (d) above and to enable the government to obtain patent protection throughout the world in that subject invention.

(2) The *contractor* agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the *contractor* each subject invention made under *contract* in order that the *contractor* can comply with the disclosure provisions of paragraph (c), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1), above. The *contractor* shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The *contractor* will notify the *Federal agency* of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The *contractor* agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with government support under (identify the *contract*) awarded by (identify the Federal agency). The government has certain rights in the invention."

(g) Subcontracts

(1) The *contractor* will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor will retain all rights provided for the *contractor* in this clause, and the *contractor* will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The *contractor* will include in all other subcontracts, regardless of tier, for experimental developmental or research work the patent rights clause required by (*cite section of agency implementing regulations or FAR*).

(3) In the case of subcontracts, at any tier, when the prime award with the Federal agency was a contract (but not a grant or cooperative agreement), the *agency*, subcontractor, and the contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal agency with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (j) of this clause.

(h) Reporting on Utilization of Subject Inventions

The *Contractor* agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the *contractor* or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the contractor, and such other data and information as the *agency* may reasonably specify. The *contractor* also agrees to provide additional reports as may be requested by the *agency* in connection with any march-in proceeding undertaken by the *agency* in accordance with paragraph (j) of this clause. As required by 35 U.S.C. 202(c)(5), the *agency* agrees it will not disclose such information to persons outside the government without permission of the *contractor*.

(i) Preference for United States Industry

Notwithstanding any other provision of this clause, the *contractor* agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the *Federal agency* upon a showing by the *contractor* or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) March-in Rights

The *contractor* agrees that with respect to any subject invention in which it has acquired title, the *Federal agency* has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the *agency* to require the *contractor*, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the *contractor*, assignee, or exclusive licensee refuses such a request the *Federal agency* has the right to grant such a license itself if the *Federal agency* determines that:

- (1) Such action is necessary because the *contractor* or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.
- (2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the *contractor*, assignee or their licensees;
- (3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the *contractor*, assignee or licensees; or
- (4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special Provisions for *Contracts* with Nonprofit Organizations

If the *contractor* is a nonprofit organization, it agrees that:

- (1) Rights to a subject invention in the United States may not be assigned without the approval of the *Federal agency*, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the *contractor*;
- (2) The *contractor* will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;
- (3) The balance of any royalties or income earned by the *contractor* with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and
- (4) It will make efforts that are reasonable under the circumstances to attract licensees of subject invention that are small business firms and that it will give a preference to a small business firm when licensing a subject invention if the *contractor* determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the *contractor* is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the *contractor*. However, the *contractor* agrees that the Secretary may review

the *contractor's* licensing program and decisions regarding small business applicants, and the *contractor* will negotiate changes to its licensing policies, procedures, or practices with the Secretary when the Secretary's review discloses that the *contractor* could take reasonable steps to implement more effectively the requirements of this paragraph (k)(4).

(l) Communication

(Complete According to Instructions at 401.5(b))

(b) When the Department of Energy (DOE) determines to use alternative provisions under §401.3(a)(4), the standard clause at §401.14(a), of this section, shall be used with the following modifications unless a substitute clause is drafted by DOE:

(1) The title of the clause shall be changed to read as follows: *Patent Rights to Nonprofit DOE Facility Operators*

(2) Add an "(A)" after "(1)" in paragraph (c)(1) and add subparagraphs (B) and (C) to paragraph (c)(1) as follows:

(B) If the subject invention occurred under activities funded by the naval nuclear propulsion or weapons related programs of DOE, then the provisions of this subparagraph (c)(1)(B) will apply in lieu of paragraphs (c)(2) and (3). In such cases the contractor agrees to assign the government the entire right, title, and interest thereto throughout the world in and to the subject invention except to the extent that rights are retained by the contractor through a greater rights determination or under paragraph (e), below. The contractor, or an employee-inventor, with authorization of the contractor, may submit a request for greater rights at the time the invention is disclosed or within a reasonable time thereafter. DOE will process such a request in accordance with procedures at 37 CFR 401.15. Each determination of greater rights will be subject to paragraphs (h)-(k) of this clause and such additional conditions, if any, deemed to be appropriate by the *Department of Energy*.

(C) At the time an invention is disclosed in accordance with (c)(1)(A) above, or within 90 days thereafter, the contractor will submit a written statement as to whether or not the invention occurred under a naval nuclear propulsion or weapons-related program of the *Department of Energy*. If this statement is not filed within this time, subparagraph (c)(1)(B) will apply in lieu of paragraphs (c)(2) and (3). The contractor statement will be deemed conclusive unless, within 60 days thereafter, the Contracting Officer disagrees in writing, in which case the determination of the Contracting Officer will be deemed conclusive unless the contractor files a claim under the Contract Disputes Act within 60 days after the Contracting Officer's determination. Pending resolution of the matter, the invention will be subject to subparagraph (c)(1)(B).

(3) Paragraph (k)(3) of the clause will be modified as prescribed at §401.5(g).

(c) As prescribed in §401.3, replace (b) of the basic clause with the following paragraphs (1) and (2):

(b) Allocation of principal rights. (1) The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause, including (2) below, and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(2) If the Contractor performs services at a Government owned and operated laboratory or at a Government owned and contractor operated laboratory directed by the Government to fulfill the Government's obligations under a Cooperative Research and Development Agreement (CRADA) authorized by 15 U.S.C. 3710a, the Government may require the Contractor to negotiate an agreement with the CRADA collaborating party or parties regarding the allocation of rights to any subject invention the Contractor makes, solely or jointly, under the CRADA. The agreement shall be negotiated prior to the Contractor undertaking the CRADA work or, with the permission of the Government, upon the identification of a subject invention. In the absence of such an agreement, the Contractor agrees to grant the collaborating party or parties an option for a license in its inventions of the same scope and terms set forth in the CRADA for inventions made by the Government.

[52 FR 8554, Mar. 18, 1987, as amended at 69 FR 17301, Apr. 2, 2004]

Procurement of Recovered Materials

a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

Source: form HUD-5370-C

§ 135.38 Section 3 Clause.

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

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

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

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

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

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

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

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



ANNUAL SECTION 3 SUMMARY REPORTING REQUIREMENTS

FOR RECIPIENTS OF HUD COMMUNITY PLANNING & DEVELOPMENT FUNDING

*TECHNICAL ASSISTANCE ON FORM HUD-60002

Why HUD Enforces Section 3?

Each year the U.S. Department of Housing and Urban Development invests billions of federal dollars into distressed communities for projects designed to build and rehabilitate housing, improve roads, develop community centers, and otherwise assist families achieve the American Dream.

The Section 3 regulation recognizes that HUD funding typically results in projects/activities that generate new employment, training and contracting opportunities. These economic opportunities not only provide “bricks and mortar”, but can also positively impact the lives of local residents who live in the neighborhoods being redeveloped.

Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 135] is HUD’s legislative directive for providing preference to low- and very low-income residents of the local community (regardless of race or gender), and the businesses that substantially employ these persons, for new employment, training, and contracting opportunities resulting from HUD-funded projects.

Further, as a condition of receiving HUD Community Planning and Development assistance, recipients certify that they will comply with the requirements of Section 3 annually pursuant to 24 CFR 570.607(b). Accordingly, the Department has the legal responsibility to monitor recipients for compliance and can impose penalties upon those that fail to meet these obligations.

Applicability of Section 3 to Community Planning & Development Assistance

The requirements of Section 3 apply to recipients of HUD Community Planning and Development funding exceeding **\$200,000**.

Section 3 covered projects are those in which a *combined* (or aggregate) amount of covered funding exceeding \$200,000, is invested into activities involving **housing construction, demolition, rehabilitation, or other public construction—i.e., roads, sewers, community centers, etc.**

[Example: Section 3 applies to the combined investment of more than \$200,000 into multiple single-family housing rehabilitation projects during a program year].

Contractors or subcontractors that receive contracts in excess of **\$100,000** for Section 3 covered projects/activities are required to comply with the Section 3 regulations in the same manner as direct recipients.

If the recipient agency receives Section 3 covered funding and invests these funds into covered projects/activities, but no individual contract exceeds \$100,000, responsibility for complying with Section 3 only applies to the recipient.

Accordingly, the recipient must attempt to reach the Section 3 minimum numerical goals found at 24 CFR Part 135.30 by: 1) Awarding 10 percent of the total dollar amount of all covered construction contracts to Section 3 businesses; and 2) Offering 30 percent of new employment opportunities to Section 3 businesses.

Section 3 Covered Community Planning and Development funding

- Community Development Block Grants (CDBG)
- Home Investment Partnership Assistance
- Housing Opportunities for Persons with Aids (HOPWA)
- Economic Development Initiative (EDI)
- Brownfield Economic Development Initiative (BEDI)
- Emergency Shelter Grants
- Homeless Assistance
- University Partnership Grants
- Neighborhood Stimulus Program (NSP)
- Certain Grants Awarded Under HUD Notices of Funding Availability (NOFAs)

*NOTE: The requirements of Section 3 only apply to the portion(s) of covered funding that were used for project/activities involving housing construction, rehabilitation, demolition, or other public construction.

Section 3 applies to the **entire** covered project or activity regardless of whether the activity was fully or partially funded with covered assistance.

Section 3 Covered Recipient Agencies

“Recipient” refers to any entity that receives Section 3 covered financial assistance directly from HUD or from another recipient and includes, but is not limited to any of the following:

- States; Units of Local Government; Native American Tribes; or other Public Bodies
- Public or Private Nonprofit Organizations
- Private Agencies or Institutions
- Mortgagees; Developers; Limited Dividend Sponsors; Builders; Property Managers; Community Housing Development Organizations
- Successors, assignees or transferees of any such entity listed above
- Recipients do **NOT** include any ultimate beneficiary under the HUD program that Section 3 applies and does **NOT** refer to contractors.

Triggering the Requirements of Section 3

Section 3 is triggered when the normal completion of construction and rehabilitation projects creates the need for **new** employment, contracting, or training opportunities.

The Section 3 regulations should not be construed to mean that recipients are required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete covered projects/activities.

If the expenditure of covered funding does not result in new employment, contracting, or training opportunities, the requirements of Section 3 have not been triggered. However, each agency must still submit Section 3 annual reports indicating this information.

Recipient Responsibilities Pursuant to Section 3

Each recipient (and their covered contractors, subcontractors, or subrecipients) are required to comply with the requirements of Section 3 for **new** employment, training, or contracting opportunities resulting from the expenditure of covered funding. This responsibility includes:

1. Implementing procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;
2. Notifying potential contractors working on Section 3 covered projects of their responsibilities;
3. Incorporating the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38];
4. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;
5. Assisting and actively cooperating with the Department in making contractors and subcontractors comply;
6. Refraining from entering into contracts with contractors that are in violation of Section 3 regulations;
7. Documenting actions taken to comply with Section 3; and
8. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

In addition to the responsibilities described above, **State and County agencies or consortia** that distribute covered funds to units of local government, nonprofit organizations, or other subrecipients, must attempt to reach the minimum numerical goals set forth at 24 CFR Part 135.30, regardless of the number of subrecipients that receive covered funding. State or County agencies must also do the following:

1. Inform subrecipients about the requirements of Section 3;
2. Assist subrecipients and their contractors with achieving compliance;
3. Monitor subrecipients' performance with respect to meeting the requirements of Section 3; and
4. Report to HUD on the cumulative Section 3 activities taking place within their jurisdiction on an annual basis.

Section 3 Residents and Business Concerns

Section 3 Residents Are:

1. Residents of Public and Indian Housing; or
2. Individuals that reside in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended and whose income do not exceed the local HUD income limits set forth for low- or very low-income households.

Section 3 Business Concerns Are One of the Following:

1. Businesses that are 51 percent or more owned by Section 3 residents;
2. Businesses whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the firm were Section 3 residents; or
3. Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.

In accordance with the regulation, residents and businesses concerns seeking Section 3 preference shall certify, or submit evidence to the recipient, contractor, subcontractor or subrecipient (if requested) verifying that they meet the definitions provided above.

Recipients can use their discretion for determining the type of verification that is required by prospective Section 3 residents and business concerns. Some examples include: proof of residency in a public housing authority; proof of federal subsidies for housing, food stamps, or unemployment benefits; and payroll data or other relevant business information.

Section 3 Summary Reports (Form HUD-60002)

Annually, each direct recipient of Community Planning and Development funding is required to submit form HUD-60002 to HUD's Economic Opportunity Division in Washington, DC. , preferably online from the following website: www.hud.gov/section3.

Due Date: Form HUD-60002 is due at the same time as annual performance (e.g., CAPERS) reports

The Section 3 Summary Report shall follow the same program, fiscal, or calendar year as the annual performance report and should correspond to the covered projects and activities that were administered during the reporting period.

NOTE: Section 3 reports must be submitted by all agencies that receive Community Planning and Development funding in excess of \$200,000 whether the requirements were triggered or not.

Determining What Should Be Reported on Form HUD-60002

Section 3 Annual Summary Reports are intended to measure each recipient's efforts to comply with the statutory and regulatory requirements of Section 3 in its own operations **AND** those of its covered contractors, subcontractors, and subrecipients. Each submission of form HUD-60002 should indicate the following:

- The total dollar amount of HUD funding that was received by the recipient for covered projects/activities during the specified reporting period.
- The total number of new employees that were hired by the recipient and/or its covered contractors, subcontractors, and subrecipients, as a result of performing or completing covered project/activities.
- The number of new employees that were hired by the recipient (or its covered contractors, subcontractors, and subrecipients), as a result of covered projects/activities, that met the definition of a Section 3 resident.
- The total number of man hours worked on covered projects (optional).
- The aggregate number of hours worked by Section 3 residents on covered projects (optional).
- The total number of Section 3 residents that participated in training opportunities that were made available by the recipient agency, its contractors, subrecipients, or other local community resource agencies.
- The total dollar amount of construction and/or non-construction contracts (or subcontracts) that were awarded with covered funding.
- The dollar amount of the recipient's construction or non-construction contracts (or subcontracts) that were awarded to Section 3 business concerns.
- Detailed narrative descriptions of the specific actions that were taken by the recipient (or its covered contractors, subcontractors, subrecipients, or others) to comply with the requirements of Section 3 and/or meet the minimum numerical goals for employment and contracting opportunities.

Section 3 Reporting and Compliance Determinations

Absent evidence to the contrary, the Department considers recipients of covered funding to be in compliance with Section 3 if they meet the minimum numerical goals set forth at 24 CFR Part 135.30. Specifically:

- a. 30 percent of the aggregate number of new hires shall be Section 3 residents;
- b. 10 percent of the total dollar amount of all covered construction contracts shall be awarded to Section 3 business concerns; and
- c. 3 percent of the total dollar amount of all covered non-construction contracts shall be awarded to Section 3 business concerns.

Recipients that fail to meet the minimum numerical goals above bear the burden of demonstrating why it was not possible to do so. Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will enable the Department to make a compliance determination.

Recipients that submit Section 3 reports containing **all zeros**, without a sufficient explanation to justify their submission, are in **noncompliance** with the requirements of Section 3.

Failure to comply with the requirements of Section 3 may result in sanctions, including: debarment, suspension, or limited denial of participation in HUD programs pursuant to 24 CFR Part 24.

Recipients that are subject to annual A-133 Audits may also receive an audit finding for failure to submit form HUD-60002 to HUD.

Important Notes for Submitting Form HUD-60002

- Recipients must submit a separate form HUD-60002 for each type of covered funding (*e.g.*, separate reports must be submitted for CDBG and HOME funding).
- Use the online Section 3 Summary Reporting System at: www.hud.gov/section3 to ensure that form HUD- 60002 is received by the Economic Opportunity Division in HUD Headquarters in a timely manner.
- The “reporting period” option in the online Section 3 Summary Reporting System (box #7) lists quarters but the Section 3 reporting is an annual requirement. Accordingly, recipients should select **Quarter 4** to document the total amount of covered activities/projects that were completed during the entire reporting period.
- If the recipient (or its covered contractors, subcontractors and subrecipients) did not hire any new employees during the reporting period, and/or if no covered construction or non-construction contracts were awarded, the recipient must indicate this in Part III of form HUD-60002 and certify that this information is true and accurate by penalty of law.

Where Are Reports Submitted

Form HUD-60002 must be submitted to HUD's Economic Opportunity Division, in Washington, DC. Recipients are strongly encouraged to submit form HUD-60002 online at: www.hud.gov/section3.

Recipients can also download a hard copy of form HUD 60002 from the website listed above. Hard copies shall be submitted via fax or mail to:

U.S. Department of Housing and Urban Development
Attn: Economic Opportunity Division
451 Seventh Street, SW
Room 5235
Washington, DC 20410
202-708-1286 (fax)

Additional Section 3 Guidance and Technical Assistance

The Economic Opportunity Division is committed to providing recipient's guidance and technical assistance for compliance with the requirements of Section 3.

For additional information, please visit the Section 3 website at: www.hud.gov/section3. This webpage provides the following tools and information:

- Section 3 Statute—12 U.S.C. 1701u
- Section 3 Regulation—24 CFR Part 135
- Frequently Asked Questions
- Section 3 Model Programs
- Guidance on Section 3 and Economic Stimulus Funding
- Guidance on Section 3 and the Neighborhood Stimulus Program (NSP)
- Sample Section 3 Certification Forms (residents and business concerns)
- Link to HUD's Local Income Eligibility Calculator
- Link to Section 3 Annual Reporting System(form HUD-60002)
- Downloadable Forms
- Contact Information for Economic Opportunity Division staff
- Email inquiries on Section 3 can be sent to section3@hud.gov

**CERTIFICATION OF BIDDER REGARDING SECTION 3 AND SEGREGATED
FACILITIES**

Name of Prime Contractor

Project Name & Number

The undersigned hereby certifies that:

1. Section 3 provisions are included in the Contract.
2. A written Section 3 plan was prepared and submitted as part of the bid proceedings (if bid equals or exceeds \$100,000).
3. No segregated facilities will be maintained.

Name & Title of Signer (Print or Type):

Signature Date

SECTION 3 PLAN CERTIFICATION

_____ agrees to implement the following specific affirmative action
Name of Contractor
directed at increasing the utilization of lowest income residents and businesses within the City/Town of _____

- A. To ascertain from the locality's CDBG program official the exact boundaries of the Section 3 covered project area and were advantageous, seek the assistance of local officials in preparing and implementing the affirmative action plan.
- B. To attempt to recruit from within the city /town the necessary number of lower income residents through: Local advertising media, sign placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, Hometown Plan, or the U.S. Employment Service.
- C. To maintain a list of all lower income residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.
- D.* To insert this Section 3 plan in all bid documents, and to require all bidders and subcontractors to submit a Section 3 affirmative action plan including utilization goals and the specific steps planned to accomplish these goals.
- E.* To insure that subcontracts which are typically let on a negotiated rather than bid basis in areas other than Section 3 covered project areas, are also let on a negotiated basis, whenever feasible, when let in a Section 3 covered project area.
- F. To formally contact unions, subcontractors and trade associations to secure their cooperation for this program.
- G. To insure that all appropriated project area business concerns are notified of pending subcontractual opportunities.
- H. To maintain records, including copies of correspondence, memoranda, etc., which document that all the above affirmative action steps have been taken.
- I. To appoint or recruit an executive official of the company or agency as Equal Opportunity Officer to coordinate the implementation of the Section 3 Plan.

As officers and representatives of _____ we, the undersigned, have read
and

(Name of Contractor)

fully agree to this Affirmative Action Plan, and become a party to the full implementation of this program.

Signature

Title

Date

Signature

Title

Date

Section 3 Summary Report

Economic Opportunities for Low – and Very Low-Income Persons

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

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

HUD Field Office:

Section back of page for Public Reporting Burden statement

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

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

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

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

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

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

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

Part II: Contracts Awarded

1. Construction Contracts:

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

2. Non-Construction Contracts:

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

Part III: Summary

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

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

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

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

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

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

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

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

HUD Field Office: Enter the Field Office name.

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

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

Part I: Employment and Training Opportunities

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

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

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

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

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

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

Part II: Contract Opportunities

Block 1: Construction Contracts

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

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

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

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

Block 2: Non-Construction Contracts

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

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

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

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

Part III: Summary of Efforts – Self -explanatory

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

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

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

Applicability

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

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

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

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

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

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

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

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

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

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

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

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

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

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

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

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

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

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

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

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

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

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

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

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

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

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

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

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

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

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

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

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

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

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which 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 one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

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

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

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

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

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

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

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

CERTIFICATION OF BIDDER

FEDERAL LABOR STANDARDS PROVISIONS- DAVIS BACON ACT AND “RELATED ACTS”

This certification is required to insure that the Bidder understands that the Project or Program to which the construction work covered by any construction greater than \$2,000, is being assigned by the United States of America and that the various Federal Labor Standards Provisions, summarized in the form HUD-4010, “Federal Labor Standards Provisions” are included in any such contract, pursuant to the provisions applicable to such Federal assistance.

The Bidder certifies receipt of form HUD-4010, “Federal Labor Standards Provisions”, must be included and attached to each and every construction bid document and/or construction contract greater than \$2,000, that is subject to the Davis-Bacon Act and “Related Acts.”

Wage Determination – The Wage Determination applicable to this project is:

Determination Number:

Modification Number:

Date:

A hard copy of this Determination must be included within these bid specifications.

Wage Determination Posting – Contractors and sub-contractors shall post the prevailing wage rates for each craft and classification in a prominent and easily accessible place at the site of the work, or at such places as are used by them to pay workers.

The undersigned is required to ensure that all specifications and/or contracts include all applicable Federal wage rate determinations and the required labor standards provisions summarized by form **HUD-4010, “Federal Labor Standards Provisions.”**

Weekly Certified Payrolls – It is the responsibility of each contractor and sub-contractor to submit weekly certified payrolls for project work (<http://www.dol.gov/whd/forms/wh347.pdf>). **It is the responsibility of the undersigned (prime contractor) to review payrolls submitted by subcontractors to ensure that there are no discrepancies or underpayments.**

CERTIFICATION BY BIDDER

Name and Address of Bidder (Include ZIP Code):

Name and Title of Signer (Please print or type below:)

Signature

Date

EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

PREVAILING WAGES	You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.
OVERTIME	You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.
ENFORCEMENT	Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.
APPRENTICES	Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.
PROPER PAY	If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.



For additional information:
1-866-4-USWAGE
(1-866-487-9243) TTY: 1-877-889-5627



WWW.WAGEHOUR.DOL.GOV

PAYROLL
(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)



Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rev. Dec. 2008

OMB No.: 1235-0008
Expires: 02/28/2018

NAME OF CONTRACTOR				OR SUBCONTRACTOR				ADDRESS													
PAYROLL NO.				FOR WEEK ENDING				PROJECT AND LOCATION										PROJECT OR CONTRACT NO.			
(1)		(2)	(3)	OT OR ST	(4) DAY AND DATE							(5)	(6)	(7)	(8) DEDUCTIONS					(9)	
NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER		NO. OF WITHHOLDING EXEMPTIONS	WORK CLASSIFICATION		HOURS WORKED EACH DAY							TOTAL HOURS	RATE OF PAY	GROSS AMOUNT EARNED	FICA	WITH- HOLDING TAX			OTHER	TOTAL DEDUCTIONS	NET WAGES PAID FOR WEEK
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

Date _____

I, _____
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by _____ on the _____
(Contractor or Subcontractor)
_____ ; that during the payroll period commencing on the _____
(Building or Work)
_____ day of _____, _____, and ending the _____ day of _____, _____,
all persons employed on said project have been paid the full weekly wages earned, that no rebates have
been or will be made either directly or indirectly to or on behalf of said
_____ from the full
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly
from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part
3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948,
63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are
correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the
applicable wage rates contained in any wage determination incorporated into the contract; that the classifications
set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship
program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and
Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered
with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:
(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

- in addition to the basic hourly wage rates paid to each laborer or mechanic listed in
the above referenced payroll, payments of fringe benefits as listed in the contract
have been or will be made to appropriate programs for the benefit of such employees,
except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid,
as indicated on the payroll, an amount not less than the sum of the applicable
basic hourly wage rate plus the amount of the required fringe benefits as listed
in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR
SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE
31 OF THE UNITED STATES CODE.

Labor Standards Section

Form 6

Wage/Fringe Benefit Certification

(To be completed by contractor/subcontractors prior to contract award.)

GRANTEE:

GRANT:

PROJECT:

This is to certify that plans to use the following classifications of workers on the above referenced project:

Classification	From Applicable Wage Decision			Base Wage to be paid by Contractor	Fringe Benefits to be provided by Contractor		Total Package to be paid by Contractor
	Base Wage Due	Fringe Benefits Due	Total Package Due		Benefit	Hourly Amount	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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Certified by:

Title:

Date:

(Must be certified by Owner or Chief Financial Officer)

Attach
Applicable Davis Bacon
Wage Determination

HERE

"General Decision Number: RI20200001 03/13/2020

Superseded General Decision Number: RI20190001

State: Rhode Island

Construction Types: Building, Heavy (Heavy and Marine) and Highway

Counties: Rhode Island Statewide.

BUILDING CONSTRUCTION PROJECTS (does not include residential construction consisting of single family homes and apartments up to and including 4 stories) HEAVY, HIGHWAY AND MARINE CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.80 for calendar year 2020 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.80 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2020. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/03/2020
1	01/24/2020
2	02/21/2020
3	03/06/2020
4	03/13/2020

ASBE0006-006 12/01/2019

	Rates	Fringes
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HAZARDOUS MATERIAL HANDLER (Includes preparation, wetting, stripping, removal scrapping, vacuuming, bagging & disposing of all insulation materials, whether they contain asbestos or not, from mechanical systems).....	\$ 36.60	22.40
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ASBE0006-008 09/01/2019

	Rates	Fringes
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Asbestos Worker/Insulator Includes application of all insulating materials, protective coverings, coatings & finishes to all		
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types of mechanical systems.\$ 43.60 29.90

BOIL0029-001 01/01/2017

Rates Fringes

BOILERMAKER.....\$ 42.42 24.92

BRI0003-001 12/01/2019

Rates Fringes

Bricklayer, Stonemason,
Pointer, Caulker & Cleaner.....\$ 41.00 27.83

BRI0003-002 03/01/2020

Rates Fringes

Marble Setter, Terrazzo
Worker & Tile Setter.....\$ 40.78 28.92

BRI0003-003 03/01/2020

Rates Fringes

Marble, Tile & Terrazzo
Finisher.....\$ 34.10 27.88

CARP0330-001 09/01/2019

Rates Fringes

CARPENTER (Includes Soft
Floor Layer).....\$ 38.48 28.60
Diver Tender.....\$ 36.28 27.15
DIVER.....\$ 49.28 28.50
Piledriver.....\$ 37.13 28.45
WELDER.....\$ 39.48 28.60

FOOTNOTES:

When not diving or tending the diver, the diver and diver tender shall receive the piledriver rate. Diver tenders shall receive \$1.00 per hour above the pile driver rate when tending the diver.

Work on free-standing stacks, concrete silos & public utility electrical power houses, which are over 35 ft. in height when constructed: \$.50 per hour additional.

Work on exterior concrete shear wall gang forms, 45 ft. or more above ground elevation or on setback: \$.50 per hour additional.

The designated piledriver, known as the "monkey": \$1.00 per hour additional.

CARP1121-002 01/06/2020

Rates Fringes

MILLWRIGHT.....\$ 39.07 29.15

ELEC0099-002 06/01/2019

Rates Fringes

ELECTRICIAN.....\$ 40.40 57.24%
Teledata System Installer.....\$ 30.30 13.10%+14.53

FOOTNOTES:

Work of a hazardous nature, or where the work height is 30 ft. or more from the floor, except when working OSHA-approved lifts: 20% per hour additional.

Work in tunnels below ground level in combined sewer outfall: 20% per hour additional.

ELEV0039-001 01/01/2020

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 53.25	34.765+a+b

FOOTNOTES:

A. PAID HOLIDAYS: New Years Day; Memorial Day; Independence Day; Labor Day; Veterans' Day; Thanksgiving Day; the Friday after Thanksgiving Day; and Christmas Day.

B. Employer contributes 8% basic hourly rate for 5 years or more of service of 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

ENGI0057-001 12/01/2019

	Rates	Fringes
Operating Engineer: (power plants, sewer treatment plants, pumping stations, tunnels, caissons, piers, docks, bridges, wind turbines, subterranean & other marine and heavy construction work)		
GROUP 1.....	\$ 42.55	25.95+a
GROUP 2.....	\$ 40.55	25.95+a
GROUP 3.....	\$ 36.17	25.95+a
GROUP 4.....	\$ 33.32	25.95+a
GROUP 5.....	\$ 39.60	25.95+a
GROUP 6.....	\$ 30.40	25.95+a
GROUP 7.....	\$ 24.40	25.95+a
GROUP 8.....	\$ 36.25	25.95+a
GROUP 9.....	\$ 40.17	25.95+a

a. BOOM LENGTHS, INCLUDING JIBS:

150 feet and over + \$ 2.00
180 feet and over + \$ 3.00
210 feet and over + \$ 4.00
240 feet and over + \$ 5.00
270 feet and over + \$ 7.00
300 feet and over + \$ 8.00
350 feet and over + \$ 9.00
400 feet and over + \$10.00

a. PAID HOLIDAYS:

New Year's Day, President's Day, Memorial Day, July Fourth, Victory Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day. a: Any employee who works 3 days in the week in which a holiday falls shall be paid for the holiday.

a. FOOTNOTES:

Hazmat work: \$2.00 per hour additional.
Tunnel/Shaft work: \$5.00 per hour additional.

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Cranes, lighters, boom trucks and derricks

GROUP 2: Digging machine, Ross Carrier, locomotive, hoist, elevator, bidwell-type machine, shot & water blasting machine, paver, spreader, graders, front end loader (3 yds. and over), vibratory hammer & vacuum truck, roadheaders, forklifts, econobile type equipment, tunnel boring machines, concrete pump and on site concrete plants.

GROUP 3: Oilers on cranes.

GROUP 4: Oiler on crawler backhoe.

GROUP 5: Bulldozer, bobcats, skid steer loader, tractor, scraper, combination loader backhoe, roller, front end loader (less than 3 yds.), street and mobile-powered sweeper (3-yd. capacity), 8-ft. sweeper minimum 65 HP).

GROUP 6: Well-point installation crew.

GROUP 7: Utility Engineers and Signal Persons

GROUP 8: Heater, concrete mixer, stone crusher, welding machine, generator and light plant, gas and electric driven pump and air compressor.

GROUP 9: Boat & tug operator.

ENGI0057-002 11/01/2019

	Rates	Fringes
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Power Equipment Operator
(highway construction
projects; water and sewerline
projects which are incidental
to highway construction
projects; and bridge projects
that do not span water)

GROUP 1.....	\$ 35.70	25.95+a
GROUP 2.....	\$ 30.40	25.95+a
GROUP 3.....	\$ 24.40	25.95+a
GROUP 4.....	\$ 30.98	25.95+a
GROUP 5.....	\$ 34.68	25.95+a
GROUP 6.....	\$ 34.30	25.95+a
GROUP 7.....	\$ 29.95	25.95+a
GROUP 8.....	\$ 31.33	25.95+a
GROUP 9.....	\$ 33.28	25.95+a

a. FOOTNOTE: a. Any employee who works three days in the week in which a holiday falls shall be paid for the holiday.

a. PAID HOLIDAYS: New Year's Day, President's Day, Memorial Day, July Fourth, Victory Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day & Christmas Day.

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Digging machine, crane, piledriver, lighter, locomotive, derrick, hoist, boom truck, John Henry's, directional drilling machine, cold planer, reclaimer, paver, spreader, grader, front end loader (3 yds. and over), vacuum truck, test boring machine operator, veemere saw, water blaster, hydro-demolition robot, forklift, econobile, Ross Carrier, concrete pump operator and boats

GROUP 2: Well point installation crew

GROUP 3: Utility engineers and signal persons

GROUP 4: Oiler on cranes

GROUP 5: Combination loader backhoe, front end loader (less than 3 yds.), forklift, bulldozers & scrapers and boats

GROUP 6: Roller, skid steer loaders, street sweeper

GROUP 7: Gas and electric drive heater, concrete mixer, light plant, welding machine, pump & compressor

GROUP 8: Stone crusher

GROUP 9: Mechanic & welder

ENGI0057-003 12/01/2019

BUILDING CONSTRUCTION

	Rates	Fringes
Power Equipment Operator		
GROUP 1.....	\$ 41.82	25.95+a
GROUP 2.....	\$ 39.82	25.95+a
GROUP 3.....	\$ 39.60	25.95+a
GROUP 4.....	\$ 35.60	25.95+a
GROUP 5.....	\$ 32.75	25.95+a
GROUP 6.....	\$ 38.90	25.95+a
GROUP 7.....	\$ 38.47	25.95+a
GROUP 8.....	\$ 35.79	25.95+a

a. BOOM LENGTHS, INCLUDING JIBS:

150 ft. and over: + \$ 2.00
180 ft. and over: + \$ 3.00
210 ft. and over: + \$ 4.00
240 ft. and over: + \$ 5.00
270 ft. and over: + \$ 7.00
300 ft. and over: + \$ 8.00
350 ft. and over: + \$ 9.00
400 ft. and over: + \$10.00

a. PAID HOLIDAYS: New Year's Day, President's Day, Memorial Day, July Fourth, Victory Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day & Christmas Day. a: Any employee who works 3 days in the week in which a holiday falls shall be paid for the holiday.

a. FOOTNOTE: Hazmat work: \$2.00 per hour additional.
Tunnel/Shaft work: \$5.00 per hour additional.

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Cranes, lighters, boom trucks and derricks.

GROUP 2: Digging machine, Ross carrier, locomotive, hoist, elevator, bidwell-type machine, shot & water blasting machine, paver, spreader, front end loader (3 yds. and over), vibratory hammer and vacuum truck

GROUP 3: Telehandler equipment, forklift, concrete pump & on-site concrete plant

GROUP 4: Fireman & oiler on cranes

GROUP 5: Oiler on crawler backhoe

GROUP 6: Bulldozer, skid steer loaders, bobcats, tractor, grader, scraper, combination loader backhoe, roller, front end loader (less than 3 yds.), street and mobile powered sweeper (3 yds. capacity), 8-ft. sweeper (minimum 65 hp)

GROUP 7: Well point installation crew

GROUP 8: Heater, concrete mixer, stone crusher, welding machine, generator for light plant, gas and electric driven pump & air compressor

IRON0037-001 09/16/2019

	Rates	Fringes
IRONWORKER.....	\$ 36.27	28.98

LAB00271-001 06/02/2019

BUILDING CONSTRUCTION

	Rates	Fringes
LABORER		
GROUP 1.....	\$ 31.80	25.05
GROUP 2.....	\$ 32.05	25.05
GROUP 3.....	\$ 32.55	25.05
GROUP 4.....	\$ 32.80	25.05
GROUP 5.....	\$ 33.80	25.05

LABORERS CLASSIFICATIONS

GROUP 1: Laborer, Carpenter Tender, Mason Tender, Cement Finisher Tender, Scaffold Erector, Wrecking Laborer, Asbestos Removal [Non-Mechanical Systems]

GROUP 2: Asphalt Raker, Adzemen, Pipe Trench Bracer, Demolition Burner, Chain Saw Operator, Fence & Guard Rail Erector, Setter of Metal Forms for Roadways, Mortar Mixer, Pipelayer, Riprap & Dry Stonewall Builder, Highway Stone Spreader, Pneumatic Tool Operator, Wagon Drill Operator, Tree Trimmer, Barco-Type Jumping Tamper, Mechanical Grinder Operator

GROUP 3: Pre-Cast Floor & Roof Plank Erectors

GROUP 4: Air Track Operator, Hydraulic & Similar Self-Powered Drill, Block Paver, Rammer, Curb Setter, Powderman & Blaster

GROUP 5: Toxic Waste Remover

LAB00271-002 06/02/2019

HEAVY AND HIGHWAY CONSTRUCTION

	Rates	Fringes
LABORER		
COMPRESSED AIR		
Group 1.....	\$ 49.23	23.50
Group 2.....	\$ 38.75	23.50
Group 3.....	\$ 51.23	23.50
FREE AIR		
Group 1.....	\$ 41.30	23.50
Group 2.....	\$ 38.75	23.50
Group 3.....	\$ 43.30	23.50
LABORER		
Group 1.....	\$ 31.80	23.05
Group 2.....	\$ 32.05	23.05
Group 3.....	\$ 32.80	23.05
Group 4.....	\$ 25.30	23.05
Group 5.....	\$ 33.80	23.05
OPEN AIR CAISSON, UNDERPINNING WORK AND BORING CREW		
Bottom Man.....	\$ 37.80	23.05
Top Man & Laborer.....	\$ 36.85	23.05
TEST BORING		

Driller.....	\$ 38.25	23.05
Laborer.....	\$ 36.85	23.05

LABORER CLASSIFICATIONS

GROUP 1: Laborer; Carpenter tender; Cement finisher tender; Wrecking laborer; Asbestos removers [non-mechanical systems]; Plant laborer; Driller in quarries

GROUP 2: Adzeperson; Asphalt raker; Barcotype jumping tamper; Chain saw operators; Concrete and power buggy operator; Concrete saw operator; Demolition burner; Fence and guard rail erector; Highway stone spreader; Laser beam operator; Mechanical grinder operator; Mason tender; Mortar mixer; Pneumatic tool operator; Riprap and dry stonewall builder; Scaffold erector; Setter of metal forms for roadways; Wagon drill operator; Wood chipper operator; Pipelayer; Pipe trench bracer

GROUP 3: Air track drill operator; Hydraulic and similar powered drills; Brick paver; Block paver; Rammer and curb setter; Powderperson and blaster

GROUP 4: Flagger & signaler

GROUP 5: Toxic waste remover

LABORER - COMPRESSED AIR CLASSIFICATIONS

GROUP 1: Mucking machine operator, tunnel laborer, brake person, track person, miner, grout person, lock tender, gauge tender, miner: motor person & all others in compressed air

GROUP 2: Change house attendant, powder watchperson, top person on iron

GROUP 3: Hazardous waste work within the ""HOT"" zone

LABORER - FREE AIR CLASSIFICATIONS

GROUP 1: Grout person - pumps, brake person, track person, form mover & stripper (wood & steel), shaft laborer, laborer topside, outside motorperson, miner, conveyor operator, miner welder, heading motorperson, erecting operator, mucking machine operator, nozzle person, rodperson, safety miner, shaft & tunnel, steel & rodperson, mole nipper, concrete worker, form erector (wood, steel and all accessories), cement finisher (this type of work only), top signal person, bottom person (when heading is 50' from shaft), burner, shield operator and TBM operator

GROUP 2: Change house attendant, powder watchperson

GROUP 3: Hazardous waste work within the ""HOT"" zone

PAIN0011-005 06/01/2019

	Rates	Fringes
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PAINTER

Brush and Roller.....	\$ 34.62	21.80
Epoxy, Tanks, Towers, Swing Stage & Structural Steel.....	\$ 36.62	21.80
Spray, Sand & Water Blasting.....	\$ 37.62	21.80
Taper.....	\$ 35.37	21.80
Wall Coverer.....	\$ 35.12	21.80

PAIN0011-006 06/01/2019

	Rates	Fringes
GLAZIER.....	\$ 38.18	21.80

FOOTNOTES:

SWING STAGE: \$1.00 per hour additional.

PAID HOLIDAYS: Labor Day & Christmas Day.

PAIN0011-011 06/01/2019

	Rates	Fringes
Painter (Bridge Work).....	\$ 51.00	21.80

PAIN0035-008 06/01/2011

	Rates	Fringes
Sign Painter.....	\$ 24.79	13.72

PLAS0040-001 06/03/2019

BUILDING CONSTRUCTION

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 36.00	27.15

FOOTNOTE: Cement Mason: Work on free swinging scaffolds under
3 planks width and which is 20 or more feet above ground
and any offset structure: \$.30 per hour additional.

PLAS0040-002 07/01/2019

HEAVY AND HIGHWAY CONSTRUCTION

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 32.85	22.20

PLAS0040-003 07/01/2019

	Rates	Fringes
PLASTERER.....	\$ 37.55	27.50

PLUM0051-002 03/02/2020

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 43.69	30.05

ROOF0033-004 12/01/2019

	Rates	Fringes
ROOFER.....	\$ 37.90	27.25

* SFRI0669-001 01/02/2020

	Rates	Fringes
SPRINKLER FITTER.....	\$ 45.67	24.74

SHEE0017-002 12/01/2018

	Rates	Fringes
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Sheet Metal Worker.....\$ 36.13 35.13

TEAM0251-001 05/01/2019

HEAVY AND HIGHWAY CONSTRUCTION

Rates Fringes

TRUCK DRIVER

GROUP 1.....	\$ 27.96	26.8525+A+B+C
GROUP 2.....	\$ 27.61	26.8525+A+B+C
GROUP 3.....	\$ 27.66	26.8525+A+B+C
GROUP 4.....	\$ 27.71	26.8525+A+B+C
GROUP 5.....	\$ 27.81	26.8525+A+B+C
GROUP 6.....	\$ 28.21	26.8525+A+B+C
GROUP 7.....	\$ 28.41	26.8525+A+B+C
GROUP 8.....	\$ 27.91	26.8525+A+B+C
GROUP 9.....	\$ 28.16	26.8525+A+B+C
GROUP 10.....	\$ 27.96	26.8525+A+B+C

FOOTNOTES:

A. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, plus Presidents' Day, Columbus Day, Veteran's Day & V-J Day, providing the employee has worked at least one day in the calendar week in which the holiday falls.

B. Employee who has been on the payroll for 1 year or more but less than 5 years and has worked 150 Days during the last year of employment shall receive 1 week's paid vacation; 5 to 10 years - 2 weeks' paid vacation; 10 or more years - 3 week's paid vacation.

C. Employees on the seniority list shall be paid a one hundred dollar (\$100.00) bonus for every four hundred (400) hours worked, up to a maximum of five hundred dollars (\$500.00)

All drivers working on a defined hazard material job site shall be paid a premium of \$2.00 per hour over applicable rate.

TRUCK DRIVER CLASSIFICATIONS

GROUP 1: Pick-up trucks, station wagons, & panel trucks

GROUP 2: Two-axle on low beds

GROUP 3: Two-axle dump truck

GROUP 4: Three-axle dump truck

GROUP 5: Four- and five-axle equipment

GROUP 6: Low-bed or boom trailer.

GROUP 7: Trailers when used on a double hook up (pulling 2 trailers)

GROUP 8: Special earth-moving equipment, under 35 tons

GROUP 9: Special earth-moving equipment, 35 tons or over

GROUP 10: Tractor trailer

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

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 (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

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

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

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

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

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

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

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

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

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

Administrative Review Board

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

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

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END OF GENERAL DECISION"

