

EXHIBIT B

SUPPLEMENTAL GENERAL CONDITIONS

These Supplemental General Conditions are intended for use by Economic Development Administration Grantees. They contain specific EDA and other Federal requirements not normally found in non-Federal contract documents. The requirements contained herein must be incorporated into all construction contracts and subcontracts funded wholly or in part with EDA

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SUPPLEMENTAL GENERAL CONDITIONS

S-1 DEFINITIONS

The following terms as used in these Supplemental General Conditions are respectively defined as follows:

- a. "Contractor": A person, firm, or corporation with whom this Contract is made by the Owner.

b. "Subcontractor": A person, firm, or corporation supplying labor and materials or only labor, for work at the site of the project, for and under separate contract or agreement with the Contractor.

c. "Work on (at) the project": Work to be performed at the location of the project, including the transportation of materials and supplies to or from the location of the project by employees of the Contractor and any subcontractor.

d. "Apprentice": (1) A person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau; or (2) a person in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship council (where appropriate) to be eligible for probationary employment as an apprentice.

e. "Trainee": A person receiving on-the-job training in a construction occupation under a program which is approved (but not necessarily sponsored) by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, and which is reviewed from time to time by the Manpower Administration to insure that the training meets adequate standards.

S-2 FEDERALLY REQUIRED CONTRACT PROVISIONS

a. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate (Contracts more than the simplified acquisition threshold - currently fixed at \$100,000, see 41 USC 403(11)) .

b. Termination for cause and for convenience by the grantee including the manner by which it will be effected and the basis for settlement (All contracts in excess of \$10,000).

c. Compliance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60) (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees).

d. Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3) (All contracts and subgrants for construction or repair).

e. Compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5) (Construction contracts in excess of \$2,000 awarded by grantees and subgrantees).

f. Compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers)

g. EDA requirements and regulations pertaining to reporting.

h. EDA requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

i. EDA requirements and regulations pertaining to copyrights and rights in data.

j. Access by the grantee, EDA, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

k. Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

l. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clear Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

m. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub L. 94-163, 89 Stat. 871)

S-3 REQUIRED PROVISIONS DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion of correction.

S-4 INSPECTION BY ECONOMIC DEVELOPMENT REPRESENTATIVES

The authorized representatives and agents of the Economic Development Administration shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records.

S-5 CONSTRUCTION SCHEDULE AND PERIODIC ESTIMATES

Immediately after execution and delivery of the contract, and before the first partial payment is made, the Contractor shall deliver to the Owner an estimated construction progress schedule in form satisfactory to the Owner, showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the Contract Documents and the anticipated amount of each monthly payment that will become due the Contractor in accordance with the progress schedule. The Contractor also shall furnish the Owner: (a) a detailed estimate giving a complete breakdown of the contract price and (b) periodic itemized estimates of work done for the purpose of making partial payments thereon. The costs employed in making up any of these schedules will be used only for determining the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from the contract price.

S-6 CONTRACTOR'S TITLE TO MATERIAL

No materials or supplies for the work shall be purchased by the Contractor or by any subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Contractor warrants that he/she has good title to all materials and supplies used by him/her in the work, free from all liens, claims or encumbrances.

S-7 INSPECTION AND TESTING OF MATERIALS

All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by the Owner.

Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for intended users.

S-8 "OR EQUAL" CLAUSE

Whenever a material, article or piece of equipment is identified on the plans or in the specifications by reference to manufacturers' or vendors' names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and, any material, article or equipment of other manufacturers and vendors which will perform adequately the duties, imposed by the general design will be considered equally acceptable provided the material, article or equipment so proposed is, in the opinion of the Architect/Engineer, of equal substance and function. It shall not be purchased or installed by the Contractor without the Architect/Engineer's written approval.

S-9 PATENTS

The Contractor shall hold and save the owner and its officers, agents, servants and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article or appliance

manufactured or used in the performance of the contract, including its use by the Owner, unless otherwise specifically stipulated in the contract documents.

License or Royalty Fee: License and/or royalty fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his/her authorized licensee, directly by the Owner and not by or through the Contractor. If the Contractor uses any design, device or materials covered by letters, patent or copyright, he/she shall provide for such use by suitable agreement with the Owner of such patented or copyrighted design, device or material. It is mutually agreed and understood that, without exception, the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or his/her Sureties shall indemnify and hold harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in connection with work agreed to be performed under this contract, and shall indemnify the Owner for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

S-10 CLAIMS FOR EXTRA COSTS

No claims for extra work or cost shall be allowed unless the same was done in pursuance of a written order from the Architect/Engineer approved by the Owner.

S-11 CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE

The Contractor shall not commence work under this contract until he/she has obtained all the insurance required by the Owner, nor shall the Contractor allow any subcontractor to commence work on his/her subcontract until the insurance required of the subcontractor has been so obtained and approved.

a. Types of insurance normally required are:

- (1) Workmen's Compensation
- (2) Contractor's Public Liability and Property Damage
- (3) Contractor's Vehicle Liability
- (4) Subcontractors Public Liability, Property Damage and Vehicle Liability
- (5) Builder's Risk (Fire and Extended Coverage)

b. Scope of Insurance and Special Hazards. The insurance described above shall provide adequate protection for the Contractor and his/her claims which may arise from operations under this contract, whether such operations be by the insured or by any one directly or indirectly employed by him/her and also against any of the special hazards which may be encountered in the performance of this contract.

c. Proof of Carriage of Insurance. The Contractor shall furnish the Owner with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of policies.

S-12 CONTRACT SECURITY BONDS

If this contract is for an amount in excess of \$100,000 the Contractor shall furnish a performance bond in an amount at least equal to one hundred percent (100%) of the contract price as security for the faithful performance of this contract and also a payment bond in an amount equal to one hundred percent (100%) of the contract price or in a penal sum not less than that prescribed by State, Territorial or local law, as security for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract. The performance bond and the payment bond may be in one or in separate instruments in accordance with local law. Before final acceptance each bond must be approved by the Economic Development Administration. If this contract is for an amount less than \$100,000 the Owner will specify the amount of the payment and performance bonds.

S-13 SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

In order to protect the lives and health of his/her employees under the contract, the Contractor shall comply with all pertinent provisions of the Contract Work Hours and Safety Standards Act, as amended, commonly known as the Construction Safety Act as pertains to health and safety standards; and shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment on work under the contract. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor.

The Contractor alone shall be responsible for the safety, efficiency, and adequacy of his/her plan, equipment, appliances, and methods, and for any damage which may result from their failure or their improper construction, maintenance, or operation.

S-14 MINIMUM WAGES

All mechanics and laborers employed or working on the site of the work, or under the United States Housing Act of 1937, or under the Housing Act of 1949 in the construction or development of the project 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 amounts due at time of payment computed at wage 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 subcontractor and such laborers and mechanics; and the wage determination decision shall be posted by the Contractor at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or costs reasonably

anticipated 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 for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

The Owner shall require that any class of laborers and mechanics, including apprentices and trainees, which is not listed in the wage determination and which is to be employed under the contract, shall be classified or reclassified conformable to the wage determination and a report of the action taken shall be sent by the Federal agency to the Secretary of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics, including apprentices and trainees, to be used, the questions accompanied by the recommendation of the contracting officer shall be referred to the Secretary of Labor for final determination.

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 wage rate and the Contractor is obligated to pay a cash equivalent of such a fringe benefit, the Owner shall require an hourly cash equivalent to be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the Owner, shall be referred to the Secretary of Labor for determination.

If the Contractor does not make payments to a trustee or other third person, he/she may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract; provided, however, 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.

S-15 WITHHOLDING OF PAYMENTS

The Economic Development Administration may withhold or cause to be withheld from the Contractor as much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices and trainees, employed by the Contractor or any subcontractor on the work, the full amount of wages required by the contract in accordance with the Davis-Bacon Act. In the event of failure to pay any laborer or mechanic, including any apprentice or trainee employed or working on the project site or under the United States Housing Act of 1937 or under the Housing Act of 1949, in the construction or development of the project, all or part of the wages required by the contract, the Economic Development Administration may, after written notice to the Contractor, sponsor, applicant, or Owner, take action as may be necessary to cause

the suspension of any further payment, advance, or guaranty of funds until such violations have ceased.

S-16 PAYROLLS AND BASIC RECORDS

Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the EDA project site, or under the United States Housing Act of 1937 or under the Housing Act of 1949, in the construction or development of the project. Such records shall contain the name and address of each employee, his/her correct classification, rate of pay (including contributions or costs anticipated of the types described in Section 9 (b) (2) 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, plus records which show the costs anticipated or the actual cost incurred in providing such benefits.

The Contractor shall submit weekly a copy of all payrolls to the Owner on DOL Form WH-347 or equivalent. The copy shall be signed on the reverse side by the employer or his/her agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor and that the classifications set forth for each laborer or mechanic conform with the work he/she performed. This submission is required under this contract and the Copeland regulations of the Secretary of Labor (29 CFR Part 3) and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor under 20 CFR 5.5 (a) (1) (iv) shall satisfy this requirement. The Prime Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The Contractor shall make the records required under the labor standards clause of the contract available for inspection by authorized representatives of the Economic Development Administration and the Department of Labor, and shall permit such representatives to interview employees during working hours on the job.

S-17 APPRENTICES AND TRAINEES

Apprentices will be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U. S. Department of Labor; or, if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, U. S. Department of Labor. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Contractor as to his/her entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in Section S-1 e herein and is not

registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he/she actually performed. The Contractor or subcontractor shall be required to furnish to the Owner written evidence of the registration of his/her program and apprentices as well as of the appropriate ratios and wage rates for the area of construction prior to using any apprentices on the contract work.

Trainees will be permitted to work as such when they are bona fide trainees employed pursuant to a program approved by the U. S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, and when the subparagraph below is applicable, in accordance with the provisions of Part 5, Subpart A, Title 29, Code of Federal Regulations.

On contracts in excess of \$10,000, the employment of all laborers and mechanics, including apprentices and trainees, as defined in Section 29 CFR 5.5 shall also be subject to the provisions of Part 5, Subpart A, Title 29, Code of Federal Regulations. Apprentices and trainees shall be hired in accordance with the requirements of Part 5, Subpart A. The provisions of Sections S-14, S-15, and S-17 shall be applicable to every invitation for bids, and to every negotiation, request for proposals, or request for quotations, for an assisted construction contract, and to every such contract entered into on the basis of such invitation or negotiation. Part 5, Subpart A, Title 29, Code of Federal Regulations shall constitute the conditions of each assisted contract in excess of \$10,000, and each Owner concerned shall include these conditions or provide for their inclusion, in each such contract. These "Supplemental General Conditions" shall also be included in each such contract.

S-18 SUBCONTRACTS.

The Contractor shall insert in any subcontracts these same "Supplemental General Conditions."

S-19 TERMINATION AND DEBARMENT

A breach of any one of the Sections S-15 through S-18 may be considered by the Owner and by the Economic Development Administration as grounds for termination of the contract and for debarment as provided in 29 CFR 5.6.

S-20 OVERTIME REQUIREMENTS

No Contractor nor any 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 laborer or mechanic in any workweek in which he/she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his/her basic rate of pay for all hours in excess of forty hours in such workweek.

In the event of any violation of the clause set forth in the subsection above, the Contractor and any subcontractor responsible therefor, shall be liable to any affected employee for his/her 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 territory, to such District of Columbia or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the clause set forth above in the sum of \$10.00 for each calendar day on which such employee was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth above.

The Economic Development Administration may withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subcontractor, such sums as may administratively 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 above.

The Contractor shall insert in all subcontracts the clause set forth above in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts that may, in turn, be made.

S-21 EQUAL EMPLOYMENT OPPORTUNITY

No person in the United States shall, on the grounds of race, color, national origin, age, physical handicap, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance; Reference Title VI of the Civil Rights Act of 1964 (42 USC 2000d) and Section 112 of Public Law 92-65, Age Discrimination Act of 1975 (42 USC 6102) and Section 504 of the Rehabilitation Act of 1973 (26 USC 794).

Form ED-503 The Owner and all Contractors, subcontractors, suppliers, lessees and other parties directly participating in the Recipient's project agree that during and in connection with the associated agreement relating to the Federally assisted program, (i) they will comply, to the extent applicable, as Contractors, subcontractors, lessees, suppliers, or in any other capacity, with the applicable provisions of 13 CFR 311 and the Regulations of the United States Department of Commerce (Part 8 of Subtitle A of Title 15 of the Code of Federal Regulations) issued pursuant to Title VI of the Civil Rights Act of 1964 (P. L. 88-352), and will not thereby discriminate against any person on the grounds of race, sex, color, age, or national origin in their employment practices, in any of their own contractual agreements, in all services or accommodations which they offer to the public, and in any of their other business operations, (ii) they will provide information required by or pursuant to said Regulations to ascertain compliance with the Regulations and these assurances, and (iii) their non-compliance with the nondiscrimination requirements of said Regulations and these assurances shall constitute a breach of their contractual arrangements with the Owner whereby said agreements may be canceled, terminated or suspended in whole or in part or may be subject to enforcement otherwise by appropriate legal proceedings.

Executive Order 11246, 3 CFR 339 (1965) (Equal Opportunity Clause). During the performance of this contract, the Contractor agrees as follows:

- a. The Contractor shall not discriminate against any employee or applicant for employment because of age, race, color, religion, sex, handicap, or national origin. The Contractor shall take affirmative action to ensure the applicants are employed, and that employees are treated during employment, without regard to their age, race, color, religion, sex, handicap 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.
- b. The Contractor agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the Grantee setting forth the provisions of this nondiscrimination clause.
- c. The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, or national origin.
- d. A notice to be provided by the Grantee shall be sent to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract of understanding, advertising the labor union or workers' representative of the Contractor's commitment under Section 202 of Executive Order No. 11246 of September 24, 1965, and copies of the notice shall be posted in conspicuous places available to employees and applicants for employment.
- e. The Contractor shall comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Contractor shall furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the Economic Development Administration and the Secretary of Labor for purpose of investigation to ascertain compliance with such rules, regulations, and orders. Each Contractor and subcontractor of federally assisted construction work is required to file an Equal Employment Opportunity Employer Information Report (EEO-1) on Standard Form 100, annually on March 31. Forms and instructions are available at the EDA Regional Offices.
- g. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any such 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 in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed (and remedies involved) as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

h. The Contractor shall include the provisions of paragraphs a. through g. in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 203 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Economic Development Administration 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 the Grantee/Borrower, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

i. Exemptions to Above Equal Opportunity Clause (41 CFR Chap. 60):

(1) Contracts and subcontracts not exceeding \$10,000 (other than Government bills of lading) are exempt. The amount of the contract, rather than the amount of the Federal financial assistance, shall govern in determining the applicability of this exemption.

(2) Except in the case of subcontractors for the performance of construction work at the site of construction, the clause shall not be required to be inserted in subcontracts below the second tier.

(3) Contracts and subcontracts not exceeding \$10,000 for standard commercial supplies or raw materials are exempt.

**STANDARD FEDERAL EQUAL EMPLOYMENT
OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS
(EXECUTIVE ORDER 11246 et seq)**

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U. S. Treasury Department Form 941.

d. "Minority" includes:

1. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
2. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

2. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);

a. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

3. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

4. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or subcontractor's failure to make good faith efforts to achieve the Plan goals and timetables.

5. The Contractor shall implement the specific affirmative action standards provided in Paragraphs 8.a through 8.p of these specifications. The goals set for the Contractor in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

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

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

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

- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all superintendents and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority and female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Regional Director when the union or unions, with which the Contractor has a collective bargaining agreement, have not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under Paragraph 8.b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, Supervisors, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, and providing written notification to, and discussing the Contractor's EEO policy with, other Contractors and subcontractors with whom the Contractor anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after-school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.

- k. Validate all tests and other selection requirements where there is an obligation to do so under 14 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the EEO policy and the Contractor' obligations under these specifications are being carried out.
- n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
- p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

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

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

women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

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

12. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

13. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

14. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in Paragraphs 8.a through 8.p of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Regional Director shall proceed in accordance with 41 CFR 60-4.8.

15. The Contractor shall designate a responsible official to monitor all employment-related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof, as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

16. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application or requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

17. The goals for minority and female participation in each trade will be furnished by the Economic Development Administration of the U. S. Department of Commerce.

S-22 OTHER PROHIBITED INTERESTS

No official of the Owner who is authorized in such capacity and on behalf of the Owner of negotiate, make, accept or approve, or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part hereof. No officer, employee, architect, attorney, engineer, or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

S-23 EMPLOYMENT OF LOCAL LABOR

a. The maximum feasible employment of local labor shall be made in the construction of public works and development facility projects receiving direct Federal grants. Accordingly, every Contractor and subcontractor undertaking to do work on any such project which is or reasonably may be done as on-site work, shall employ, in carrying out such contract work, qualified persons who regularly reside in the eligible area where such project is to be located, or in the case of Economic Development Centers, qualified persons who regularly reside in the center or in the adjacent or nearby redevelopment areas within the Economic Development District, except:

(1) To the extent that qualified persons regularly residing in the eligible area or Economic Development District are not available.

(2) For the reasonable needs of any such Contractor or subcontractor, to employ supervisory or specially experienced individuals necessary to assure an efficient execution of the Contract.

(3) For the obligation of any such Contractor or subcontractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that in no event shall the number of non-resident persons employed under this subparagraph exceed twenty percent of the total number of employees employed by such Contractor and his/her subcontractors on such project.

b. Every such Contractor and subcontractor shall furnish the United States Employment Service Office in the area in which a public works or development facility project is located with a list of all positions for which it may from time to time require laborers, mechanics, and other employees, the estimated numbers of employees required in each classification, and the estimated dates on which such employees will be required.

c. The Contractor shall give full consideration to all qualified job applicants referred by the local employment service, but it is not required to employ any job applicants referred

whom the Contractor does not consider qualified to perform the classification of work required.

d. The payrolls maintained by the Contractor shall contain the following information: full.name, address, and social security number and a notation indicating whether the employee does, or does not, normally reside in the eligible area in which the project is located, as well as an indication of the ethnic background of each worker.

e. The Contractor shall include the provisions of this condition in every subcontract for work which is, or reasonably may be, done as on-site work.

S-24 HISTORICAL AND ARCHAEOLOGICAL DATA PRESERVATION ACT REQUIREMENTS

The Contractor agrees to facilitate the preservation and enhancement of structures and objects of historical, architectural or archaeological significance and when such items are found and/or unearthed during the course of project construction, to consult with the State Historic Preservation Officer for recovery of the items. Reference: National Historic Preservation Act of 1966 (80 Stat 915, 16 USC 470) and Executive Order No. 11593 of May 31, 1971.

S-25 CLEAN AIR ACT OF 1970, ET SEQ. AND FEDERAL WATER POLLUTION CONTROL ACT AS AMENDED BY THE CLEAN WATER ACT OF 1977

The Contractor agrees to comply with Federal clean air and water standards during the performance of this contract and specifically agrees to the following:

a. The term "facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location or site of operations; owned, leased, or supervised; by the Contractor and the subcontractors; for the construction, supply and service contracts entered into by the Contractor:

b. Any facility to be utilized in the accomplishment of this contract is not listed on the Environmental Protection Agency's List of Violating Facilities pursuant to 40 CFR, Part 15.20;

c. In the event a facility utilized in the accomplishment of this contract becomes listed on the EPA list, this contract may be canceled, terminated, or suspended in whole or in part;

d. It will comply with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308, respectively, and all regulations and guidelines issued thereunder;

e. It will promptly notify the Government of the receipt of any notice from the Director,

Office of Federal Activities, Environmental Protection Agency, indicating that any facility utilized or to be utilized in the accomplishment of this contract is under consideration for listing on the EPA List of Violating Facilities;.f. It will include the provisions of Paragraphs a. through g. in every subcontract or purchase order entered into for the purpose of accomplishing this contract, unless otherwise exempted pursuant to the EPA regulations implementing the Air or Water Acts above (40 CFR, Part 15.5), so that such provisions will be binding on each subcontractor or vendor;

g. In the event that the Contractor or the subcontractor for the construction, supply and service contracts entered into for the purpose of accomplishing this contract were exempted from complying with the above requirements under the provisions of 40 CFR, Part 15.5 (a), the exemption shall be nullified should the facility give rise to a criminal conviction (see 40 CFR 15.20) during the accomplishment of this contract. Furthermore, with the nullification of the exemption, the above requirements shall be effective. The Contractor shall notify the Government, as soon as the Contractors' or the subcontractors' facility is listed for having given rise to a criminal conviction noted in 40 CFR, Part 15.20.

S-26 USE OF LEAD-BASED PAINTS ON RESIDENTIAL STRUCTURES

If the work under this contract involves construction or rehabilitation of residential structures, the Contractor shall comply with the Lead-based Paint Poisoning Prevention Act (see 42 U.S.C. 4831). The Contractor shall assure that paint used on the project on applicable surfaces does not contain lead in excess of the percentages set forth in Paragraphs (a) and (b) of this section. In determining compliance with these standards, the lead content of the paint shall be measured on the basis of the total nonvolatile content of the paint or on the basis of an equivalent measure of lead in the dried film of paint already applied.

- a. For paint manufactured after June 22, 1977, paint may not contain lead in excess of 6 one-hundredths of 1 percent (.00006) lead by weight.
- b. For paint manufactured on or before June 22, 1977, paint may not contain lead in excess of five-tenths of 1 percent lead by weight.

As a condition to receiving assistance under the Act, recipients shall assure that the restriction against the use of lead-based paint is included in all contracts and subcontracts involving the use of Federal funds.

Definitions

1. "Applicable surfaces" are those exterior surfaces which are readily accessible to children under 7 years of age.
2. "Residential structures" means houses, apartments, or other structures intended for human habitation, including institutional structures where persons reside,

which are accessible to children under 7 years of age, such as day care centers, intermediate and extended care facilities, and certain community facilities.

S-27 EDA SIGNS

The Contractor shall supply, erect, and maintain a project sign according to the recommended specifications set forth below:

EDA SITE SIGN SPECIFICATIONS

Size:

Sign A: 4' x 8' x 1 7/8"

Sign B: 4' x 8' x 3/4"

Materials (Face):

Sign A: 1/4" tempered Masonite

Sign B: 3/4" or greater shop sanded (exterior) Plywood (one side only)

Framing:

Sign A: 2" x 4" nominal on four sides and center cross bracing

Sign B: 2" x 4" center cross bracing only

Supports: 4" x 4" x 12' nominal post

Assembly:

Sign A: 2" x 4" frame to fit 4' x 8' board with 2" x 4" cross braces

Sign B: To be mounted directly to the 4" x 4" post, with cross bracing

Mounting:

Signs A and B are to be mounted to the 4" x 4" post with a 3/8" minimum bolt and nut, four on each side of the sign. Each bolt is to have two washers, one between the sign and the head of the bolt and the other between the post and the nut.

Erection: 4" x 4" posts are to be set three to four feet deep into concrete 12" in diameter.

Paint:

Face: Three coats outdoor enamel (sprayed)

Rear: One coat outdoor enamel (sprayed)

Colors: Crimson Red, Stark White and Royal Blue. Specifically, white background; "JOBS" in red; "for your community" in blue; "EDA" logo and "PROVIDED BY EQUAL OPPORTUNITY EMPLOYERS, in partnership with the U. S. DEPARTMENT OF COMMERCE - Economic Development Administration" in black. "By working together we can provide economic opportunities for Americans" in black.

Lettering: Silk screen enamels. Lettering sizes and positioning will be as illustrated.

Project signs will not be erected on public highway rights-of-way.

Location and height of signs will be coordinated with the agency responsible for highway or street safety in the area, if any possibility exists for obstruction to traffic line of sight.

If, at the end of the project, the sign is reusable, it shall be disposed of as directed by the EDA Regional Office.

Whenever EDA Site Sign specifications conflict with State law or local ordinances, the Recipient may modify such conflicting specifications so as to comply with that State law or local ordinance.....