

**AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT**

1. CONTRACT ID CODE  
N/A

PAGE OF PAGES  
1 | 2

2. AMENDMENT/MODIFICATION NO.  
0002

3. EFFECTIVE DATE  
21 JAN 2000

4. REQUISITION/PURCHASE REQ. NO.

5. PROJECT NO. (If applicable)  
W00B0002

6. ISSUED BY CODE

7. ADMINISTERED BY (If other than Item 6) CODE

U.S. ARMY ENGINEER DISTRICT, LOS ANGELES  
P.O. BOX 532711  
LOS ANGELES, CALIFORNIA 90053-2325

8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)

9A. AMENDMENT OF SOLICITATION NO.  
DACW09-00-B-0002

9B. DATED (SEE ITEM 11)  
01 FEB 00 (BID OPENING)

10A. MODIFICATION OF CONTRACTS/ORDER NO.

10B. DATED (SEE ITEM 13)

CODE FACILITY CODE

**11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS**

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers tended.

is extended,  is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning \_\_\_\_\_ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

**13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.**

A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.

B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).

C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:

D. OTHER (Specify type of modification and authority)

**E. IMPORTANT:** Contractor  is not,  is required to sign this document and return \_\_\_\_\_ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

LOS ANGELES RIVER IMPROVEMENTS AND RIO HONDO CHANNEL IMPROVEMENTS  
LOS ANGELES COUNTY, CALIFORNIA

- \* Replace Specification Sections with following Sections:
- Section 00010 (Bidding Schedule)
- Section 00700 (Contract Clauses)
- Section 00800 (Special Contract Requirements)
- Section 01200 (General Requirements)
- Section 01250 (Measurements and Payments)
- Section 01330 (Submittal Procedures)

-- CONTINUED ON OTHER SIDE --

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)

16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)

15B. CONTRACTOR/OFFEROR

15C. DATE SIGNED

16B. UNITED STATES OF AMERICA

16C. DATE SIGNED

(Signature of person authorized to sign)

BY (Signature of Contracting Officer)

LOS ANGELES RIVER IMPROVEMENTS AND RIO HONDO CHANNEL IMPROVEMENTS  
LOS ANGELES COUNTY, CALIFORNIA (CONTINUED)

\* Add following Section to Specifications:  
Section 13100 (Gaging Station)

\* Replace Drawings with following revised Drawings with District File No.:

470/58 (REV.A)	470/78 (REV.A)	470/155 (REV.A)
470/59 (REV.A)	470/79 (REV.A)	470/156 (REV.A)
470/60 (REV.A)	470/80 (REV.A)	470/157 (REV.A)
470/63 (REV.A)	470/84 (REV.A)	470/171 (REV.A)
470/65 (REV.A)	470/101 (REV.A)	470/173 (REV.A)
470/68 (REV.A)	470/121 (REV.A)	470/230 (REV.A)
470/69 (REV.A)	470/128 (REV.A)	470/231 (REV.A)
470/70 (REV.A)	470/129 (REV.A)	
470/71 (REV.A)	470/130 (REV.A)	
470/77 (REV.A)	470/138 (REV.A)	

\* Make following change to Amendment #1:  
Block 9A Change DACE09-00-B-0002 to DACW09-00-B-00002

## TABLE OF CONTENTS

COVER

BIDDING REQUIREMENTS, CONTRACTS FORMS AND CONTRACT CONDITIONS

<b>Section 00010</b>	<b>Bidding Schedule</b>	<b>00010-1 thru 00010-3</b>
<b>Section 00700</b>	<b>Contract Clauses</b>	<b>00700-1 thru 00700-74</b>
<b>Section 00800</b>	<b>Special Contract Requirements</b>	<b>00800-1 thru 00800-14</b>

DIVISION 1 - GENERAL REQUIREMENTS

Section 01090	Sources for Reference Publications	01090-1 thru 01090-4
<b>Section 01200</b>	<b>General Requirements</b>	<b>01200-1 thru 01200-21</b>
<b>Section 01250</b>	<b>Measurement and Payment</b>	<b>01250-1 thru 01250-6</b>
<b>Section 01330</b>	<b>Submittal Procedures</b>	<b>01330-1 thru 01330-16</b>
Section 01430	Environmental Protection	01430-1 thru 01430-38
Section 01451	Contractor Quality Control	01451-1 thru 01451-13
Section 01500	Quality Assurance Vehicles	01500-1

DIVISION 2 - SITE WORK

Section 02100	Diversion and Control of Water	02100-1 thru 02100-1
Section 02150	Clear Site and Remove Obstructions	02150-1 thru 02150-3
Section 02200	Excavation	02200-1 thru 02200-2
Section 02215	Geotextiles Used as Filters	02215-1 thru 02215-4
Section 02250	Fills and Subgrade Preparation	02250-1 thru 02250-11
Section 02316	Excavation, Trenching, and Backfilling for Utilities Systems	02316-1 thru 02316-6
Section 02551	Bituminous Paving for Roads, Streets and Open Storage Areas	02551-1 thru 02551-16
Section 02558	Bituminous Tack Coat	02558-1 thru 02558-3
Section 02580	Pavement Markings	02580-1 thru 02580-4
Section 02600	Stone Protection	02600-1 thru 02600-7
Section 02605	Landscape Stone	02605-1 thru 02605-6
Section 02650	Grouting Stone Protection	02650-1 thru 02650-5
Section 02720	Storm Drainage System	02720-1 thru 02720-14
Section 02722	Aggregate Base Course	02722-1 thru 02722-9
Section 02811	Irrigation Systems	02811-1 thru 02811-23
Section 02831	Fence, Chain Link	02831-1 thru 02831-5
Section 02935	Hydroseeding	02935-1 thru 02935-9
Section 02950	Trees, Shrubs, Ground Covers, and Vines	02950-1 thru 02950-12

DIVISION 3 - CONCRETE

Section 03101	Formwork for Concrete	03101-1 thru 03101-4
Section 03150	Expansion, Contraction, Construction Joints, and Waterstops in Concrete	03150-1 thru 03150-5
Section 03210	Steel Bars and Welded Wire Fabric for Concrete Reinforcement	03210-1 thru 03210-4
Section 03301	Cast-In-Place Structural Concrete	03301-1 thru 03301-29
Section 03340	Concrete Sidewalks, Curbs, Gutters and Driveway Entrances	03340-1 thru 03340-8

DIVISION 5 - METALS

Section 05500	Miscellaneous Metals	05500-1 thru 05500-7
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## AMENDMENT NO. 0002

DACW09-00-B-0002

### SECTION 00010 SUPPLIES OR SERVICES AND PRICES/COSTS

1. The contract clause 52.232-27, "Prompt Payment for Construction Contracts", requires the name and address of the contractor official to whom payment is to be sent, be the same as that in the contract or in a proper notice of assignment.
2. Bidder shall submit prices on all items of the Price Schedule.
3. All extensions of the unit prices on all items shown will be subject to verification by the Government. In a case of variation between the unit price and the extension, the unit price will be considered to be the offer.
4. The Lump Sum "LS", line items listed are not "estimated quantity" line items and are not subject to the "Variation in Estimated Quantity contract clause."
5. Amount and prices shall be indicated in EITHER WORDS OR FIGURES, not both.
6. Some quantities listed are estimated, the bidder's unit prices must be firm.
7. Bidder is cautioned to check his Price Schedule carefully prior to submission. If the Price Schedule contains unit prices, they should be extended to the ACTUAL AMOUNT AND NOT ROUNDED OFF.
8. The Contractor shall furnish all plant, labor, material, equipment, etc., necessary to perform the work in strict accordance with the terms and conditions set forth in the contract to include all attachments thereto.
9. For the purpose of bid evaluation, the Government will proceed on the assumption that the bidder intends the bid to be evaluated on the basis of unit prices, the total arrived at by resolution of arithmetic discrepancies as provided above and the bid be so reflected on the abstract of bids.
10. Prices must be submitted on all individual items of the Price Schedule, otherwise the bid will be considered non-responsive and will be rejected.
11. If a modification to a bid based on unit prices is submitted which provides for a lump sum adjustment to the total estimated amount, the application of the lump sum adjustment to each unit price in the Price Schedule must be stated. If it is not stated, the bidder agrees that the lump sum adjustment shall be applied on a pro rata basis to every unit price in the Price Schedule.
12. For the purpose of initial evaluation of bids, the following will be utilized in resolving arithmetic discrepancies found on the face of the Price Schedule as submitted by the bidder:
  - a. Obviously misplaced decimal points will be corrected;
  - b. In case of discrepancy between the unit price and the extended price, the unit price will govern;
  - c. Apparent error in extensions of unit prices will be corrected;
  - d. Apparent errors in addition of lump sum and extended prices will be corrected.
13. All prices shall include overhead where applicable and profit.
14. The bidder shall distribute his indirect costs (overhead, profit, bond, etc.) over all the items in the Price Schedule. The Government will review all submittal Price Schedules for any unbalancing of the items. Any submitted Price Schedule determined to be unbalanced may be considered non-

DACW09-00-B-0002

**\*BOLD ITEMS DENOTES CHANGES UNDER AMENDMENT NO. 0002**

## AMENDMENT NO. 0002

responsive and cause the bidder to be ineligible for contract award.

NOTE: AT THE FORMAL BID OPENING FOR THIS SOLICITATION, ALL HAND CARRIED BIDS SUBMITTED PRIOR TO 12:45 P.M. ON THE BID OPENING DATE WILL BE ACCEPTED IN ROOMS 1035 AND 1040 BY AVAILABLE PERSONNEL. FOR THE TIME PERIOD OF 12:45 P.M. TO 1:00 P.M., BIDS MUST BE SUBMITTED TO ROOM 1035 (BID OPENING ROOM), TO THE BID OPENING OFFICER ONLY. BIDS WILL NOT BE ACCEPTED BY ANY OTHER PERSONNEL OR AT ANY OTHER LOCATION. NO BID WILL BE ACCEPTED AFTER 1:00P.M. THE OFFICIAL BID OPENING TIME WILL BE THE CLOCK POSTED ON THE WALL IN THE BID OPENING ROOM (1035).

CONTRACTOR PLEASE NOTE: The Los Angeles District's Prime Contractor subcontracting goal percentages of the amount subcontracted are: 62% for Small Business; 10% for Small Disadvantaged Business; and 5% for Women Owned Small Business.

PLEASE NOTE: PAYMENT BY ELECTRONIC TRANSFER (EFT) IS THE MANDATORY METHOD OF CONTRACT PAYMENT AS OF 1 JUNE 1999. THE CONTRACTORS ATTENTION IS DIRECTED TO CONTRACT CLAUSES 52.232-4002 (SECTION 00100) AND 52.232-33 (SECTION 00800) BOTH ENTITLED, "MANDATORY INFORMATION FOR ELECTRONIC FUNDS TRANSFER PAYMENT".

PRINCIPAL CONTRACTING OFFICER: The Contracting Officer who signs this contract will be the Principal Contracting Officer for this contract. However, any Contracting Officer assigned to the Los Angeles District, contracting within his or her authority, may take formal action on this contract when a contract action needs to be taken and the Principal Contracting Officer is unavailable.

PLEASE NOTE: CONTRACTOR IS REQUIRED TO FILL IN CAGE CODE (REFERENCE SECTION 00600, PARAGRAPH NO. 15, ENTITLED "REQUIRED CENTRAL CONTRACTOR REGISTRATON MAR 1998)) AND DUNS NUMBER (REFERENCE SECTION 00600, PARAGRAPH NO. 5 ENTITLED, "DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (JUN 1999)) IN BLOCK NO. 14 ON STANDARD FORM 1442, NAME AND ADDRESS BLOCK.

### ABBREVIATIONS:

LS = LUMP SUM  
JB = JOB  
CY = CUBIC YARD  
**SF = SQUARE FEET**  
SY = SQUARE YARD  
LF = LINEAR FEET  
EA = EACH  
TN = TON

DACW09-00-B-0002

**\*BOLD ITEMS DENOTES CHANGES UNDER AMENDMENT NO. 0002**

AMENDMENT NO. 0002

<u>Item No.</u>	<u>Description</u>	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Estimated Amount</u>
0001	CLEAR SITE AND REMOVE OBSTRUCTIONS	1.00	JB	\$ _____	\$ _____
<b>0002</b>	<b>EXCAVATION</b>	<b>31539.00</b>	<b>CY</b>	<b>\$ _____</b>	<b>\$ _____</b>
0003	EXCAVATION - BURIED STONE				
0003A	FIRST 1,000 CUBIC YARD	1000.00	CY	\$ _____	\$ _____
0003B	OVER 1,000 CUBIC YARD	2000.00	CY	\$ _____	\$ _____
<b>0004</b>	<b>COMPACTED FILL</b>	<b>267095.00</b>	<b>CY</b>	<b>\$ _____</b>	<b>\$ _____</b>
<b>0005</b>	<b>STONE PROTECTION</b>	<b>47278.00</b>	<b>TN</b>	<b>\$ _____</b>	<b>\$ _____</b>
<b>0006</b>	<b>GROUTING STONE PROTECTION</b>	<b>9551.00</b>	<b>CY</b>	<b>\$ _____</b>	<b>\$ _____</b>
<b>0007</b>	<b>GROUTING LANDSCAPE STONE</b>	<b>44.00</b>	<b>CY</b>	<b>\$ _____</b>	<b>\$ _____</b>
0008	LANDSCAPE STONE	9636.00	TN	\$ _____	\$ _____
0009	GROUTED LANDSCAPE STONE	214.00	TN	\$ _____	\$ _____
0010	GEOTEXTILE	8652.00	SY	\$ _____	\$ _____
0011	CONCRETE PARAPET WALL	1.00	JB	\$ _____	\$ _____
0012	RETAINING WALL NO. 8	1.00	JB	\$ _____	\$ _____
0013	RETAINING WALL NO. 28	1.00	JB	\$ _____	\$ _____
0014	RETAINING WALL NO. 41	1.00	JB	\$ _____	\$ _____
0015	RETAINING WALL NO. 542	1.00	JB	\$ _____	\$ _____
0016	RETAINING WALL NO. 656	1.00	JB	\$ _____	\$ _____
0017	CONCRETE TRAINING WALL	1.00	JB	\$ _____	\$ _____
<b>0018</b>	<b>CONCRETE SLOPE PAVING (DELETE ITEM NO. 0018)</b>			<b>\$ _____</b>	<b>\$ _____</b>
0019	CONCRETE CHANNEL LINING	1.00	JB	\$ _____	\$ _____
0020	CONCRETE CHANNEL INVERT	1.00	JB	\$ _____	\$ _____
0021	CONCRETE CUTOFF WALL	1.00	JB	\$ _____	\$ _____
0022	CONCRETE DRIVEWAY	9.00	EA	\$ _____	\$ _____
0023	CONCRETE CURB	146.00	LF	\$ _____	\$ _____
<b>0024</b>	<b>CONCRETE SIDEWALK</b>	<b>732.00</b>	<b>SF</b>	<b>\$ _____</b>	<b>\$ _____</b>
<b>0025</b>	<b>SIDEDRAIN, RIO HONDO CHANNEL (LEFT LEVEE STATION 79+77.87, 18" DIA. CSP</b>	<b>1.00</b>	<b>JB</b>	<b>\$ _____</b>	<b>\$ _____</b>
<b>0026</b>	<b>SIDEDRAIN, RIO HONDO CHANNEL (LEFT LEVEE STATION 63+75.60, 36" DIA. CSP</b>	<b>1.00</b>	<b>JB</b>	<b>\$ _____</b>	<b>\$ _____</b>

DACW09-00-B-0002

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AMENDMENT NO. 0002

<u>Item No.</u>	<u>Description</u>	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Estimated Amount</u>
0027	SIDEDRAIN, L.A. RIVER (LEFT LEVEE) STATION 572+49.01, 18" DIA. CSP	1.00	JB	\$ _____	\$ _____
0028	SIDEDRAIN, L.A. RIVER (RIGHT LEVEE) STATION 653+02.70, 18" DIA. RCP	1.00	JB	\$ _____	\$ _____
0029	SIDEDRAIN, RIO HONDO CHANNEL (RIGHT LEVEE) STATION 82+53.64, 30" DIA. CSP	1.00	JB	\$ _____	\$ _____
0030	SIDEDRAIN, RIO HONDO CHANNEL (LEFT LEVEE) STATION 47+45.18, 18"DIA.	1.00	JB	\$ _____	\$ _____
0031	ASPHALT CONCRETE, PAVEMENT	7832.00	TN	\$ _____	\$ _____
0032	ASPHALT CONCRETE, DIKE	854.00	LF	\$ _____	\$ _____
0033	ASPHALT CONCRETE, DOWNDRAIN	1.00	EA	\$ _____	\$ _____
0034	AGGREGATE BASE COURSE	23495.00	TN	\$ _____	\$ _____
0035	SAFETY RAILING	11864 .00	LF	\$ _____	\$ _____
0036	FENCING, FIVE FOOT CHAIN LINK	27652.00	LF	\$ _____	\$ _____
0037	FENCING, EIGHT FOOT CHAIN LINK	2000.00	LF	\$ _____	\$ _____
0038	FENCING, ORNAMENTAL	3959.00	LF	\$ _____	\$ _____
0039	FENCING, ORNAMENTAL (RALPH C. DILLS PARK)	105.00	LF	\$ _____	\$ _____
0040	GATES, FIVE FOOT CHAIN LINK MAINTENANCE	12.00	EA	\$ _____	\$ _____
0041	GATES, EIGHT FOOT CHAIN LINK MAINTENANCE	1.00	EA	\$ _____	\$ _____
0042	GATES, FIVE FOOT CHAIN LINK PEDESTRIAN	1.00	EA	\$ _____	\$ _____
0043	GATES, ORNAMENTAL MAINTENANCE	12.00	EA	\$ _____	\$ _____
0044	GATES, ORNAMENTAL PEDESTRIAN	9.00	EA	\$ _____	\$ _____
0045	GATES, ORNAMENTAL ACCESS	3.00	EA	\$ _____	\$ _____
0046	CONCRETE PILASTERS	10.00	EA	\$ _____	\$ _____
0047	<b>INSTALL CONCRETE PILASTERS (RALPH C. DILLS PARK) (GOVERNMENT FURNISHED)</b>	<b>4.00</b>	<b>EA</b>	<b>\$ _____</b>	<b>\$ _____</b>
0048	BOLLARDS	5.00	EA	\$ _____	\$ _____
0049	ACCESS LADDER	3.00	EA	\$ _____	\$ _____
0050	HYDROSEEDING	1.00	JB	\$ _____	\$ _____
0051	HYDROSEEDING, MAINTENANCE (12 MONTHS)	1.00	JB	\$ _____	\$ _____
0052	TREE, SHRUB, GROUND COVER, AND VINE PLANTINGS	1.00	JB	\$ _____	\$ _____
0053	TREE, SHRUB, GROUND COVER AND VINE PLANTINGS, MAINTENANCE (12 MONTHS)	1.00	JB	\$ _____	\$ _____

DACW09-00-B-0002

\*BOLD ITEMS DENOTES CHANGES UNDER AMENDMENT NO. 0002

AMENDMENT NO. 0002

<u>Item No.</u>	<u>Description</u>	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Estimated Amount</u>
0054	JUTE MESH	867582.00	SF	\$ _____	\$ _____
0055	IRRIGATION SYSTEM	1.00	JB	\$ _____	\$ _____
0056	BICYCLE TRAIL STRIPING AND SIGNING	1.00	JB	\$ _____	\$ _____
0057	BICYCLE TRAIL CLOSURE AND DETOUR	1.00	JB	\$ _____	\$ _____
0058	BENCHES, BICYCLE RACKS, PADS AND SIGN PEDESTAL	1.00	JB	\$ _____	\$ _____
0059	GAGING STATION	1.00	JB	\$ _____	\$ _____
0060	SWIFT-WATER RESCUE ANCHOR DEVICE	19.00	EA	\$ _____	\$ _____
0061	TEMPORARY BARRIER	1.00	JB	\$ _____	\$ _____
0062	AS-BUILT DRAWINGS	1.00	JB	\$ _____	\$ _____
0063	QUALITY ASSURANCE VEHICLES	8.00	EA	\$ _____	\$ _____
<b>TOTAL ESTIMATED AMOUNT</b>					<b>\$ _____</b>

END OF SECTION 00010

DACW09-00-B-0002

\*BOLD ITEMS DENOTES CHANGES UNDER AMENDMENT NO. 0002

**AMENDMENT NO. 0002**

TABLE OF CONTENTS  
SECTION 00700  
CONTRACT CLAUSES

1	52.252-2	CLAUSES INCORPORATED BY REFERENCE (FEB 1998)
2	52.225-7016	RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (AUG 1998)
3	52.202-1 I	DEFINITIONS (OCT 1995)--ALTERNATE I (APR 1984)
4	52.203-3	GRATUITIES (APR 1984)
5	52.203-5	COVENANT AGAINST CONTINGENT FEES (APR 1984)
6	52.203-7	ANTI-KICKBACK PROCEDURES (JUL 1995)
7	52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)
8	52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)
9	52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 1997)
10	52.204-4	PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER (JUN 1996)
11	52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTOR DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUL 1995)
12	52.214-26	AUDIT AND RECORDS--SEALED BIDDING (OCT 1997)
13	52.214-27	PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA--MODIFICATIONS--SEALED BIDDING (OCT 1997)
14	52.214-28	SUBCONTRACTOR COST OR PRICING DATA--MODIFICATIONS--SEALED BIDDING (OCT 1997)
15	52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 1999)
16	52.219-9 I	SMALL BUSINESS SUBCONTRACTING PLAN (JAN 1999)--ALTERNATE I (JAN 1999)
17	52.219-16	LIQUIDATED DAMAGES--SUBCONTRACTING PLAN (JAN 1999)
18	52.222-3	CONVICT LABOR (AUG 1996)
19	52.222-4	CONTRACT WORK HOURS AND SAFETY STANDARDS ACT--OVERTIME COMPENSATION (JUL 1995)
20	52.222-6	DAVIS-BACON ACT (FEB 1995)
21	52.222-7	WITHHOLDING OF FUNDS (FEB 1988)
22	52.222-8	PAYROLLS AND BASIC RECORDS (FEB 1988)
23	52.222-9	APPRENTICES AND TRAINEES (FEB 1988)
24	52.222-10	COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)
25	52.222-11	SUBCONTRACTS (LABOR STANDARDS) (FEB 1988)
26	52.222-12	CONTRACT TERMINATION--DEBARMENT (FEB 1988)
27	52.222-13	COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS (FEB 1988)
28	52.222-14	DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)
29	52.222-15	CERTIFICATION OF ELIGIBILITY (FEB 1988)
30	52.222-26	EQUAL OPPORTUNITY (FEB 1999)
31	52.222-27	AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION (FEB 1999)
32	52.222-35	AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (APR 1998)
33	52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)
34	52.222-37	EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1999)
35	52.223-2	CLEAN AIR AND WATER (APR 1984)
36	52.223-5	POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (APR 1998)
37	52.223-6	DRUG-FREE WORKPLACE (JAN 1997)
38	52.223-14	TOXIC CHEMICAL RELEASE REPORTING (OCT 1996)
39	52.225-11	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (AUG 1998)
40	52.225-15	BUY AMERICAN ACT--CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS ACT AND NORTH AMERICAN FREE TRADE AGREEMENT (JUN 1997)
41	52.226-1	UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISE (MAY 1999)
42	52.227-1	AUTHORIZATION AND CONSENT (JUL 1995)
43	52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 1996)
44	52.227-4	PATENT INDEMNITY--CONSTRUCTION CONTRACTS (APR 1984)
45	52.228-2	ADDITIONAL BOND SECURITY (OCT 1997)
46	52.228-11	PLEDGES OF ASSETS (FEB 1992)
47	52.229-3	FEDERAL, STATE, AND LOCAL TAXES (JAN 1991)
48	52.229-5	TAXES--CONTRACTS PERFORMED IN U.S. POSSESSIONS OR PUERTO RICO (APR 1984)
49	52.232-5	PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (MAY 1997)
50	52.232-17	INTEREST (JUN 1996)
51	52.232-23	ASSIGNMENT OF CLAIMS (JAN 1986)
52	52.232-27	PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (JUN 1997)
53	52.233-1	DISPUTES (DEC 1998)
54	52.233-3	PROTEST AFTER AWARD (AUG 1996)

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

**AMENDMENT NO. 0002**

55	52.236-2	DIFFERING SITE CONDITIONS (APR 1984)
56	52.236-3	SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (APR 1984)
57	52.236-5	MATERIAL AND WORKMANSHIP (APR 1984)
58	52.236-6	SUPERINTENDENCE BY THE CONTRACTOR (APR 1984)
59	52.236-7	PERMITS AND RESPONSIBILITIES (NOV 1991)
60	52.236-8	OTHER CONTRACTS (APR 1984)
61	52.236-9	PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (APR 1984)
62	52.236-10	OPERATIONS AND STORAGE AREAS (APR 1984)
63	52.236-11	USE AND POSSESSION PRIOR TO COMPLETION (APR 1984)
64	52.236-12	CLEANING UP (APR 1984)
65	52.236-13 I	ACCIDENT PREVENTION (NOV 1991)--ALTERNATE I (NOV 1991)
66	52.236-15	SCHEDULES FOR CONSTRUCTION CONTRACTS (APR 1984)
67	52.236-17	LAYOUT OF WORK (APR 1984)
68	52.236-21 I	SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997)--ALTERNATE I (APR 1984)
69	52.236-26	PRECONSTRUCTION CONFERENCE (FEB 1995)
70	52.242-13	BANKRUPTCY (JUL 1995)
71	52.242-14	SUSPENSION OF WORK (APR 1984)
72	52.243-4	CHANGES (AUG 1987)
73	52.246-12	INSPECTION OF CONSTRUCTION (AUG 1996)
74	52.246-21	WARRANTY OF CONSTRUCTION (MAR 1994)
75	52.248-3 I	VALUE ENGINEERING--CONSTRUCTION (MAR 1989)--ALTERNATE I (APR 1984)
76	52.249-2 I	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SEP 1996)- ALTERNATE I (SEP 1996)
77	52.249-10	DEFAULT (FIXED-PRICE CONSTRUCTION) (APR 1984)
78	52.252-4	ALTERATIONS IN CONTRACT (APR 1984)
79	52.252-6	AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)
80	52.253-1	COMPUTER GENERATED FORMS (JAN 1991)
81	52.201-7000	CONTRACTING OFFICER'S REPRESENTATIVE (DEC 1991)
82	52.203-7001	PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES (MAR 1999)
83	52.203-7002	DISPLAY OF DOD HOTLINE POSTER (DEC 1991)
84	52.204-7000	DISCLOSURE OF INFORMATION (DEC 1991)
85	52.204-7003	CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT (APR 1992)
86	52.205-7000	PROVISION OF INFORMATION TO COOPERATIVE AGREEMENT HOLDERS (DEC 1991)
87	52.209-7000	ACQUISITION FROM SUBCONTRACTORS SUBJECT TO ON-SITE INSPECTION UNDER THE INTERMEDIATE-RANGE NUCLEAR FORCES (INF) TREATY (NOV 1995)
88	52.219-7003	SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (DoD CONTRACTS) (APR 1996)
89	52.223-7004	DRUG-FREE WORK FORCE (SEP 1988)
90	52.223-7006	PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS (APR 1993)
91	52.225-7012	PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES (MAY 1999)
92	52.225-7031	SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 1992)
93	52.227-7000	NON-ESTOPPEL (OCT 1966)
94	52.227-7022	GOVERNMENT RIGHTS (UNLIMITED) (MAR 1979)
95	52.227-7023	DRAWINGS AND OTHER DATA TO BECOME PROPERTY OF GOVERNMENT (MAR 1979)
96	52.227-7033	RIGHTS IN SHOP DRAWINGS (APR 1966)
97	52.231-7000	SUPPLEMENTAL COST PRINCIPLES (DEC 1991)
98	52.236-7000	MODIFICATION PROPOSALS--PRICE BREAKDOWN (DEC 1991)
99	52.236-7008	CONTRACT PRICES--BIDDING SCHEDULES (DEC 1991)
100	52.242-7000	POSTAWARD CONFERENCE (DEC 1991)
101	52.243-7001	PRICING OF CONTRACT MODIFICATIONS (DEC 1991)
102	52.243-7002	REQUESTS FOR EQUITABLE ADJUSTMENT (MAR 1998)
103	52.247-7024	NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA (NOV 1995)
104	<b>52.245-0002</b>	<b>GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS)</b>

**AMENDMENT NO. 0002**

SECTION 00700

CONTRACT CLAUSES

1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at these addresses:

<http://www.arnet.gov/far>  
<http://farsite.hill.af.mil>  
<http://www.dtic.mil/dfars>  
(End of clause)

2 52.225-7016 RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (AUG 1998)  
(Reference 25.7019-4)

3 52.202-1 I DEFINITIONS (OCT 1995)--ALTERNATE I (APR 1984)

(a) "Head of the agency" (also called "agency head") or "Secretary" means the Secretary (or Attorney General, Administrator, Governor, Chairperson, or other chief official, as appropriate) of the agency, including any deputy or assistant chief official of the agency; and the term "authorized representative" means any person, persons, or board (other than the Contracting Officer) authorized to act for the head of the agency or Secretary.

(b) Commercial component means any component that is a commercial item.

(c) Component means any item supplied to the Federal Government as part of an end item or of another component.

(d) Nondevelopmental item means--

(1) Any previously developed item of supply used exclusively for governmental purposes by a Federal agency, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

(2) Any item described in paragraph (e)(1) of this definition that requires only minor modification or modifications of a type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

(3) Any item of supply being produced that does not meet the requirements of paragraph (e)(1) or (e)(2) solely because the item is not yet in use.

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

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

(End of clause)

4 52.203-3 GRATUITIES (APR 1984)

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

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

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

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

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

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

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-3

**AMENDMENT NO. 0002**

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

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

(End of clause)  
(R 7-104.16 1952 MAR)

5 52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)

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

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

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

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

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

(End of clause)  
(R 7-103.20 1958 JAN)  
(R 1-1.503)  
(R 1-7.102-18)

6 52.203-7 ANTI-KICKBACK PROCEDURES (JUL 1995)

(a) Definitions.

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

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

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

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

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

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

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-4

**AMENDMENT NO. 0002**

"Subcontractor," as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

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

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

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

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

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

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

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

(3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$100,000.

(End of clause)

7 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) If the Government receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may--

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which--

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27 (a) or (b) of the Act for the purpose of either--

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsection 27(e)(1) of the Act.

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-5

## AMENDMENT NO. 0002

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

(End of clause)

8 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that there was a violation of subsection 27 (a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in section 3.104 of the Federal Acquisition Regulation.

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

9 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 1997)

(a) Definitions.

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

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

(1) The awarding of any Federal contract.

(2) The making of any Federal grant.

(3) The making of any Federal loan.

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-6

## AMENDMENT NO. 0002

(4) The entering into of any cooperative agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibitions.

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

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-7

## AMENDMENT NO. 0002

any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.

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

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

(i) Agency and legislative liaison by own employees.

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

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

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

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

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

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

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

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

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

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

(ii) Professional and technical services.

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

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

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

(B) For purposes of subdivision (b)(3)(ii)(A) of this clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.

For example, drafting of a legal document accompanying a bid or

## AMENDMENT NO. 0002

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

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

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

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

(c) Disclosure.

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

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

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

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

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

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

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

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

(e) Penalties.

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

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

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-9

## AMENDMENT NO. 0002

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

(End of clause)

10 52.204-4 PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER (JUN 1996)

(a) In accordance with Executive Order 12873, dated October 20, 1993, as amended by Executive Order 12995, dated March 25, 1996, the Offeror/Contractor is encouraged to submit paper documents, such as offers, letters, or reports, that are printed/copied double-sided on recycled paper that has at least 20 percent postconsumer material.

(b) The 20 percent standard applies to high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white woven envelopes, and other uncoated printed and writing paper, such as writing and office paper, book paper, cotton fiber paper, and cover stock. An alternative to meeting the 20 percent postconsumer material standard is 50 percent recovered material content of certain industrial by-products.

(End of clause)

11 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUL 1995)

(a) The Government suspends or debar Contractors to protect the Government's interest. The Contractor shall not enter into any subcontract in excess of \$25,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

(b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$25,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs). The notice must include the following:

(1) The name of the subcontractor.

(2) The Contractor's knowledge of the reasons for the subcontractor being on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

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

(End of clause)

12 52.214-26 AUDIT AND RECORDS--SEALED BIDDING (OCT 1997)

(a) As used in this clause, records includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) Cost or pricing data. If the Contractor has been required to submit cost or pricing data in connection with the pricing of any modification to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to--

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-10

## AMENDMENT NO. 0002

- (1) The proposal for the modification;
- (2) The discussions conducted on the proposal(s), including those related to negotiating;
- (3) Pricing of the modification; or
- (4) Performance of the modification.

(c) Comptroller General. In the case of pricing any modification, the Comptroller General of the United States, or an authorized representative, shall have the same rights as specified in paragraph (b) of this clause.

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

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

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

(e) The Contractor shall insert a clause containing all the provisions of this clause, including this paragraph (e), in all subcontracts expected to exceed the threshold in FAR 15.403-4(a)(1) for submission of cost or pricing data.

(End of clause)

13 52.214-27 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA--MODIFICATIONS--  
SEALED BIDDING (OCT 1997)

(a) This clause shall become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for the submission of cost or pricing data at FAR 15.403-4(a)(1), except that this clause does not apply to a modification if an exception under FAR 15.403-1(b) applies.

(b) If any price, including profit, negotiated in connection with any modification under this clause, was increased by any significant amount because (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data, (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data, or (3) any of these parties furnished data of any description that were not accurate, the price shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) above.

(c) Any reduction in the contract price under paragraph (b) above due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

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

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

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

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

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-11

**AMENDMENT NO. 0002**

procured under the contract.

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

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

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

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

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

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

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

(e) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid--

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

(2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data which were incomplete, inaccurate, or noncurrent.

(End of clause)

14 52.214-28 SUBCONTRACTOR COST OR PRICING DATA--MODIFICATIONS--SEALED BIDDING  
(OCT 1997)

(a) The requirements of paragraphs (b) and (c) of this clause shall (1) become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1), and (2) be limited to such modifications.

(b) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1), on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modifications involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1), the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1(b) applies.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in subsection FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that, when entered into, exceeds the threshold for submission of cost or pricing data at FAR 15.403-4(a)(1).

(End of clause)

15 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 1999)

(a) It is the policy of the United States that small business concerns, HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-12

## AMENDMENT NO. 0002

individuals, and small business concerns owned and controlled by women shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women.

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

(c) Definitions. As used in this contract

(1) Small business concern means a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(2) HUBZone small business concern means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

(3) Small business concern owned and controlled by socially and economically disadvantaged individuals and small disadvantaged business concern mean a small business concern that represents, as part of its offer that--

(i) It has received certification as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B;

(ii) No material change in disadvantaged ownership and control has occurred since its certification;

(iii) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(iv) It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net).

(4) Small business concern owned and controlled by women means a small business concern--

(i) Which is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(ii) Whose management and daily business operations are controlled by one or more women.

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

(End of clause)

16 52.219-9 I SMALL BUSINESS SUBCONTRACTING PLAN (JAN 1999)--ALTERNATE I (JAN 1999)

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

(b) Definitions. As used in this clause--

Commercial item means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

Commercial plan means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

Individual contract plan means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-13

## AMENDMENT NO. 0002

that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

Master plans means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

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

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

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

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

(2) A statement of--

(i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

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

(iii) Total dollars planned to be subcontracted to HUBZone small business concerns;

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

(v) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to--

(i) Small business concerns;

(ii) HUBZone small business concerns;

(iii) Small disadvantaged business concerns; and

(iv) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Marketing and Access Network (PRO-Net) of the Small Business Administration (SBA), the list of certified small disadvantaged business concerns of the SBA, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone small, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in PRO-Net as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small and women-owned small business source list. A firm shall rely on the information contained in SBA's list of small disadvantaged business concerns as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small disadvantaged business source list. Use of PRO-Net and/or the SBA list of small disadvantaged business concerns

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-14

## AMENDMENT NO. 0002

as its source lists does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, publicizing subcontracting opportunities) in this clause.

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

- (i) Small business concerns;
- (ii) HUBZone small business concerns;
- (iii) Small disadvantaged business concerns; and
- (iv) Women-owned small business concerns.

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

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

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

(10) Assurances that the offeror will--

- (i) Cooperate in any studies or surveys as may be required;
- (ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
- (iii) Submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Subcontract Report, in accordance with the instructions on the forms or as provided in agency regulations and in paragraph (j) of this clause; and
- (iv) Ensure that its subcontractors agree to submit SF 294 and SF 295.

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

(i) Source lists (e.g., PRO-Net), guides, and other data that identify small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating--

(A) Whether small business concerns were solicited and, if not, why not;

(B) Whether HUBZone small business concerns were solicited and, if not, why not;

(C) Whether small disadvantaged business concerns were solicited and, if not, why not;

(D) Whether women-owned small business concerns were solicited and, if not, why not; and

(E) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact--

(A) Trade associations;

(B) Business development organizations; and

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources.

(v) Records of internal guidance and encouragement provided to buyers through--

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-15

## AMENDMENT NO. 0002

- (A) Workshops, seminars, training, etc.; and  
(B) Monitoring performance to evaluate compliance with the program's requirements.
- (vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.
- (e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:
- (1) Assist small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.
  - (2) Provide adequate and timely consideration of the potentialities of small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.
  - (3) Counsel and discuss subcontracting opportunities with representatives of small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.
  - (4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.
- (f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided--(1) the master plan has been approved, (2) the offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer, and (3) goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.
- (g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Commercial plans are also preferred for subcontractors that provide commercial items under a prime contract, whether or not the prime contractor is supplying a commercial item.
- (h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.
- (i) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization Of Small Business Concerns," or (2) an approved plan required by this clause, shall be a material breach of the contract.
- (j) The Contractor shall submit the following reports:
- (1) Standard Form 294, Subcontracting Report for Individual Contracts. This report shall be submitted to the Contracting Officer semiannually and at contract completion. The report covers subcontract award data related to this contract. This report is not required for commercial plans.
  - (2) Standard Form 295, Summary Subcontract Report. This report encompasses all the contracts with the awarding agency. It must be submitted semi-annually for contracts with the Department of Defense and annually for contracts with civilian agencies. If the reporting activity is covered by a commercial plan, the reporting activity must report annually all subcontract awards under that plan. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a breakout, in the Contractor's format, of subcontract awards, in whole dollars, to small

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-16

**AMENDMENT NO. 0002**

disadvantaged business concerns by Standard Industrial Classification (SIC) Major Group. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant SIC Major Group and report all awards to that subcontractor under its predominant SIC Major Group.

(End of clause)

17 52.219-16 LIQUIDATED DAMAGES--SUBCONTRACTING PLAN (JAN 1999)

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

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

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

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

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

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

(End of clause)

18 52.222-3 CONVICT LABOR (AUG 1996)

The Contractor agrees not to employ in the performance of this contract any person undergoing a sentence of imprisonment which has been imposed by any court of a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands. This limitation, however, shall not prohibit the employment by the Contractor in the performance of this contract of persons on parole or probation to work at paid employment during the term of their sentence or persons who have been pardoned or who have served their terms. Nor shall it prohibit the employment by the Contractor in the performance of this contract of persons confined for violation of the laws of any of the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-17

## AMENDMENT NO. 0002

Mariana Islands, or the Trust Territory of the Pacific Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if--

- (a)(1) The worker is paid or is in an approved work training program on a voluntary basis;
  - (2) Representatives of local union central bodies or similar labor union organizations have been consulted;
  - (3) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and
  - (4) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and
- (b) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

(End of clause)

19 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT--OVERTIME COMPENSATION  
(JUL 1995)

(a) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics (see Federal Acquisition Regulation (FAR) 22.300) shall require or permit any such laborers or mechanics in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in paragraph (a) of this clause, the Contractor and any subcontractor responsible 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 employed in violation of the provisions set forth in paragraph (a) of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

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

(d) Payrolls and basic records. (1) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of contract work and shall preserve them for a period of 3 years from the completion of the contract for all laborers and mechanics working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Nothing in this paragraph shall require the duplication of records required to be maintained for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Davis-Bacon Act.

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

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-18

## AMENDMENT NO. 0002

during working hours on the job.

(e) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts exceeding \$100,000, the provisions set forth in paragraphs (a) through (e) of this clause and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (e) of this clause.

(End of clause)

20 52.222-6 DAVIS-BACON ACT (FEB 1995)

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

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

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

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

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

(iv) With respect to helpers, such a classification prevails in the area in which the work is performed.

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-19

## AMENDMENT NO. 0002

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

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

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

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

(End of clause)

21 52.222-7 WITHHOLDING OF FUNDS (FEB 1988)

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

(End of clause)

22 52.222-8 PAYROLLS AND BASIC RECORDS (FEB 1988)

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly 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 paragraph (d) of the clause entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-20

## AMENDMENT NO. 0002

such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

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

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

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

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

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

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

(End of clause)

23 52.222-9 APPRENTICES AND TRAINEES (FEB 1988)

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

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-21

## AMENDMENT NO. 0002

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

(b) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

(End of clause)

24 52.222-10 COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)

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

(End of clause)

**AMENDMENT NO. 0002**

25 52.222-11 SUBCONTRACTS (LABOR STANDARDS) (FEB 1988)

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

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

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

(End of clause)

26 52.222-12 CONTRACT TERMINATION--DEBARMENT (FEB 1988)

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

(End of clause)

27 52.222-13 COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS (FEB 1988)

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

(End of clause)

28 52.222-14 DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)

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

(End of clause)

29 52.222-15 CERTIFICATION OF ELIGIBILITY (FEB 1988)

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

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

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

(End of clause)

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-23

## AMENDMENT NO. 0002

30 52.222-26 EQUAL OPPORTUNITY (FEB 1999)

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

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

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

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

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

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

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

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

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

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

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-24

## AMENDMENT NO. 0002

Labor; or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of subparagraphs (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

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

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

(End of clause)

31 52.222-27 AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION (FEB 1999)

(a) Definitions.

"Covered area," as used in this clause, means the geographical area described in the solicitation for this contract.

"Deputy Assistant Secretary," as used in this clause, means the Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, or a designee.

"Employer's identification number," as used in this clause, means the Federal Social Security number used on the employer's quarterly federal tax return, U.S. Treasury Department Form 941.

"Minority," as used in this clause, means--

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

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

(3) Black (all persons having origins in any of the black African racial groups not of Hispanic origin); and

(4) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race).

(b) If the Contractor, or a subcontractor at any tier, subcontracts a portion of the work involving any construction trade, each such subcontract in excess of \$10,000 shall include this clause and the Notice containing the goals for minority and female participation stated in the solicitation for this contract.

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

(d) The Contractor shall implement the affirmative action procedures in subparagraphs (g)(1) through (16) of this clause. The goals stated in the solicitation for this contract are expressed as percentages of the total hours of employment and training of minority and female utilization that the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for the geographical area where that work is actually performed. The Contractor is expected to make substantially uniform progress toward its goals in each craft.

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-25

## AMENDMENT NO. 0002

(e) Neither the terms and conditions of any collective bargaining agreement, nor the failure by a union with which the Contractor has a collective bargaining agreement, to refer minorities or women shall excuse the Contractor's obligations under this clause, Executive Order 11246, as amended, or the regulations thereunder.

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

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

(1) Ensure a working environment free of harassment, intimidation, and coercion at all sites and in all facilities where the Contractor's employees are assigned to work. The Contractor, if possible, will assign two or more women to each construction project. The Contractor shall ensure that foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at these sites or facilities.

(2) Establish and maintain a current list of sources for minority and female recruitment. Provide written notification to minority and female recruitment sources and community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

(3) Establish and maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant, referrals of minorities or females from unions, recruitment sources, or community organizations, and the action taken with respect to each individual. If an individual was sent to the union hiring hall for referral and not referred back to the Contractor by the union or, if referred back, not employed by the Contractor, this shall be documented in the file, along with whatever additional actions the Contractor may have taken.

(4) Immediately notify the Deputy Assistant Secretary when the union or unions with which the Contractor has a collective bargaining agreement has not referred back to the Contractor a minority or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

(5) Develop on-the-job training opportunities and/or participate in training programs for the area that expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under subparagraph (g)(2) of this clause.

(6) Disseminate the Contractor's equal employment policy by--

(i) Providing notice of the policy to unions and to training, recruitment, and outreach programs, and requesting their cooperation in assisting the Contractor in meeting its contract obligations;

(ii) Including the policy in any policy manual and in collective bargaining agreements;

(iii) Publicizing the policy in the company newspaper, annual report, etc.;

(iv) Reviewing the policy with all management personnel and with all minority and female employees at least once a year; and

(v) Posting the policy on bulletin boards accessible to employees at each location where construction work is performed.

(7) Review, at least annually, the Contractor's equal employment policy and affirmative action obligations with all employees having responsibility for hiring, assignment, layoff, termination, or other employment decisions. Conduct review of this policy with all on-site supervisory personnel before initiating construction work at a job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed,

## AMENDMENT NO. 0002

and disposition of the subject matter.

(8) Disseminate the Contractor's equal employment policy externally by including it in any advertising in the news media, specifically including minority and female news media. Provide written notification to, and discuss this policy with, other Contractors and subcontractors with which the Contractor does or anticipates doing business.

(9) Direct recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than 1 month before the date for acceptance of applications for apprenticeship or training by any recruitment source, send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

(10) Encourage present minority and female employees to recruit minority persons and women. Where reasonable, provide after-school, summer, and vacation employment to minority and female youth both on the site and in other areas of the Contractor's workforce.

(11) Validate all tests and other selection requirements where required under 41 CFR 60-3.

(12) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities. Encourage these employees to seek or to prepare for, through appropriate training, etc., opportunities for promotion.

(13) Ensure that seniority practices job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the Contractor's obligations under this contract are being carried out.

(14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user rest rooms and necessary dressing or sleeping areas shall be provided to assure privacy between the sexes.

(15) Maintain a record of solicitations for subcontracts for minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's equal employment policy and affirmative action obligations.

(h) The Contractor is encouraged to participate in voluntary associations that may assist in fulfilling one or more of the affirmative action obligations contained in subparagraphs (g)(1) through (16) of this clause. The efforts of a contractor association, joint contractor-union, contractor-community, or similar group of which the contractor is a member and participant may be asserted as fulfilling one or more of its obligations under subparagraphs (g)(1) through (16) of this clause, provided the Contractor--

- (1) Actively participates in the group;
- (2) Makes every effort to ensure that the group has a positive impact on the employment of minorities and women in the industry;
- (3) Ensures that concrete benefits of the program are reflected in the Contractor's minority and female workforce participation;
- (4) Makes a good-faith effort to meet its individual goals and timetables; and
- (5) Can provide access to documentation that demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply is the Contractor's, and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

(i) A single goal for minorities and a separate single goal for women shall be established. The Contractor is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the Contractor may be in violation of Executive Order 11246, as amended, if a particular group is employed in a substantially disparate manner.

(j) The Contractor shall not use goals or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-27

## AMENDMENT NO. 0002

(k) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts under Executive Order 11246, as amended.

(l) The Contractor shall carry out such sanctions and penalties for violation of this clause and of the Equal Opportunity clause, including suspension, termination, and cancellation of existing subcontracts, as may be imposed or ordered under Executive Order 11246, as amended, and its implementing regulations, by the OFCCP. Any failure to carry out these sanctions and penalties as ordered shall be a violation of this clause and Executive Order 11246, as amended.

(m) The Contractor in fulfilling its obligations under this clause shall implement affirmative action procedures at least as extensive as those prescribed in paragraph (g) of this clause, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of Executive Order 11246, as amended, the implementing regulations, or this clause, the Deputy Assistant Secretary shall take action as prescribed in 41 CFR 60-4.8.

(n) The Contractor shall designate a responsible official to--

(1) Monitor all employment-related activity to ensure that the Contractor's equal employment policy is being carried out;

(2) Submit reports as may be required by the Government; and

(3) Keep records that shall at least include for each employee the name, address, telephone number, construction trade, union affiliation (if any), employee identification number, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, separate records are not required to be maintained.

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

(End of clause)

32 52.222-35 AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (APR 1998)

(a) Definitions. As used in this clause--

"All employment openings" includes all positions except executive and top management, those positions that will be filled from within the contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment.

"Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility to serve the area where the employment opening is to be filled, including the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.

"Positions that will be filled from within the Contractor's organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings that the Contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization.

"Veteran of the Vietnam era" means a person who--

(1) Served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge; or

(2) Was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975.

(b) General. (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-28

## AMENDMENT NO. 0002

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

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

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

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

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

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

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

(d) Applicability. This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

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

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

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

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

(g) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$10,000 or more unless

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-29

## AMENDMENT NO. 0002

exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

(End of clause)

33 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)

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

- (i) Recruitment, advertising, and job application procedures;
- (ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
- (iii) Rates of pay or any other form of compensation and changes in compensation;
- (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- (v) Leaves of absence, sick leave, or any other leave;
- (vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;
- (vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- (viii) Activities sponsored by the Contractor, including social or recreational programs; and
- (ix) Any other term, condition, or privilege of employment.

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

(b) Postings. (1) The Contractor agrees to post employment notices stating--

- (i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and
- (ii) The rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.

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

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

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

(End of clause)

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-30

**AMENDMENT NO. 0002**

34 52.222-37 EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1999)

(a) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on--

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

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

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

(c) Reports shall be submitted no later than September 30 of each year beginning September 30, 1988.

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

(1) As of the end of any pay period during the period January through March 1st of the year the report is due, or (2) as of December 31, if the contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The count of veterans reported according to paragraph (a) of this clause shall be based on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program at 38 U.S.C. 4212 to identify themselves to the Contractor. The invitation shall state that the information is voluntarily provided; that the information will be kept confidential; that disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and that the information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.

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

(End of clause)

35 52.223-2 CLEAN AIR AND WATER (APR 1984)

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

"Clean air standards," as used in this clause, means--

(1) Any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, work practices, or other requirements contained in, issued under, or otherwise adopted under the Air Act or Executive Order 11738;

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

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

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

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

"Compliance," as used in this clause, means compliance with--

(1) Clean air or water standards; or

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

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-31

## AMENDMENT NO. 0002

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

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

(b) The Contractor agrees--

(1) To comply with all the requirements of section 114 of the Clean Air Act (42 U.S.C. 7414) and section 308 of the Clean Water Act (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, and all regulations and guidelines issued to implement those acts before the award of this contract;

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

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

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

(End of clause)

(R 7-103.29 1975 OCT)

(R 1-1.2302)

36 52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (APR 1998)

(a) Executive Order 12856 of August 3, 1993, requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001-11050) and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101-13109).

(b) The Contractor shall provide all information needed by the Federal facility to comply with the emergency planning reporting requirements of Section 302 of EPCRA; the emergency notice requirements of Section 304 of EPCRA; the list of Material Data Safety Sheets required by Section 311 of EPCRA; the emergency and hazardous chemical inventory forms of Section 312 of EPCRA; the toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction and recycling information required by Section 6607 of PPA; and the toxic chemical reduction goals requirements of Section 3-302 of Executive Order 12856.

(End of clause)

37 52.223-6 DRUG-FREE WORKPLACE (JAN 1997)

(a) Definitions. As used in this clause--

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession or use of any controlled substance.

"Drug-free workplace" means the site(s) for the performance of work done by the Contractor in connection with a specific contract at which employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other Contractor

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-32

## AMENDMENT NO. 0002

employee who has other than a minimal impact or involvement in contract performance.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall--within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration--

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

(2) Establish an ongoing drug-free awareness program to inform such employees about--

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will--

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

(ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction.

(5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(i) Taking appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency, and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.

(End of clause)

38 52.223-14 TOXIC CHEMICAL RELEASE REPORTING (OCT 1996)

(a) Unless otherwise exempt, the Contractor, as owner or operator of a facility used in the performance of this contract, shall file by July 1 for the prior calendar year an annual Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023(a) and (g)), and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106). The Contractor shall file, for each facility subject to the Form R filing and reporting requirements, the annual Form R throughout the life of the contract.

(b) A Contractor owned or operated facility used in the performance of DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-33

**AMENDMENT NO. 0002**

this contract is exempt from the requirement to file an annual Form R if--

(1) The facility does not manufacture, process, or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c);

(2) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

(3) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

(4) The facility does not fall within Standard Industrial Classification Code (SIC) designations 20 through 39 as set forth in Section 19.102 of the Federal Acquisition Regulation (FAR); or

(5) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

(c) If the Contractor has certified to an exemption in accordance with one or more of the criteria in paragraph (b) of this clause, and after award of the contract circumstances change so that any of its owned or operated facilities used in the performance of this contract is no longer exempt--

(1) The Contractor shall notify the Contracting Officer; and

(2) The Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall (i) submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible; and (ii) continue to file the annual Form R for the life of the contract for such facility.

(d) The Contracting Officer may terminate this contract or take other action as appropriate, if the Contractor fails to comply accurately and fully with the EPCRA and PPA toxic chemical release filing and reporting requirements.

(e) Except for acquisitions of commercial items as defined in FAR Part 2, the Contractor shall--

(1) For competitive subcontracts expected to exceed \$100,000 (including all options), include a solicitation provision substantially the same as the provision at FAR 52.223-13, Certification of Toxic Chemical Release Reporting; and

(2) Include in any resultant subcontract exceeding \$100,000 (including all options), the substance of this clause, except this paragraph (e).

(End of clause)

39 52.225-11 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (AUG 1998)

(a) Unless advance written approval of the Contracting Officer is obtained, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services originating from sources within, or that were located in or transported from or through, countries whose products are banned from importation into the United States by Executive order or regulations of the Office of Foreign Assets Control, Department of the Treasury. Those countries include Cuba, Iran, Iraq, Libya, North Korea, and Sudan.

(b) The Contractor shall not acquire for use in the performance of this contract any supplies or services from entities controlled by the Government of Iraq.

(c) The Contractor agrees to insert the provisions of this clause, including this paragraph (c), in all subcontracts hereunder.

(End of clause)

40 52.225-15 BUY AMERICAN ACT--CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS ACT AND NORTH AMERICAN FREE TRADE AGREEMENT (JUN 1997)

(a) Definitions. As used in this clause--

"Components" means those articles, materials, and supplies incorporated directly into construction materials.

"Construction material" means an article, material, or supply brought to the construction site for incorporation into the building or work. Construction material also includes an item brought to the site

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-34

## AMENDMENT NO. 0002

pre-assembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, which are discrete systems incorporated into a public building or work and which are produced as a complete system, shall be evaluated as a single and distinct construction material regardless of when or how the individual parts or components of such systems are delivered to the construction site.

"Designated country construction material" means a construction material that (a) is wholly the growth, product, or manufacture of a designated country (as defined at FAR 25.401), or (b) in the case of a construction material which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in a designated country into a new and different construction material distinct from the materials from which it was transformed.

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

"North American Free Trade Agreement (NAFTA) country" means Canada or Mexico.

"NAFTA country construction material" means a construction material that (a) is wholly the growth, product, or manufacture of a NAFTA country, or (b) in the case of a construction material which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in a NAFTA country into a new and different construction material distinct from the materials from which it was transformed.

(b)(1) The Buy American Act (41 U.S.C. 10a--10d) requires that only domestic construction material be used in performing this contract, except as provided in paragraphs (b)(2), (b)(3), and (b)(4) of this clause.

(2) The Trade Agreements Act and the North American Free Trade Agreement (NAFTA) provide that designated country and NAFTA country construction materials are exempted from application of the Buy American Act.

(3) The requirement in paragraph (b)(1) of this clause does not apply to the excepted construction material or components listed by the Government as follows:

%Insert list of applicable accepted materials or indicate "none"

(4) Other foreign construction material may be added to the list in paragraph (b)(3) of this clause if the Government determines that--

(i) The cost would be unreasonable (the cost of a particular domestic construction material shall be determined to be unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent, unless the agency head determines a higher percentage to be appropriate);

(ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or (iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(5) The Contractor agrees that only domestic construction materials, NAFTA country construction materials, or designated country construction materials will be used by the Contractor, subcontractors, material men, and suppliers in the performance of this contract, except for foreign construction materials, if any, listed in paragraph (b)(3) of this clause.

(c) Request for determination.

(1) Contractors requesting to use foreign construction material under paragraph (b)(4) of this clause shall provide adequate information for Government evaluation of the request for a determination regarding the inapplicability of the Buy American Act. Each submission shall include a description of the foreign and domestic construction materials, including unit of measure, quantity, price, time of delivery or availability, location of the construction project, name and address of the proposed contractor, and a detailed justification of the reason for use of foreign materials cited in accordance with paragraph (b)(4) of this clause. A

**AMENDMENT NO. 0002**

submission based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause. The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(2) If the Government determines after contract award that an exception to the Buy American Act applies, the contract shall be modified to allow use of the foreign construction material, and adequate consideration shall be negotiated. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration shall not be less than the differential established in paragraph (b)(4)(i) of this clause.

(3) If the Government does not determine that an exception to the Buy American Act applies, the use of that particular foreign construction material will be a failure to comply with the Act.

(d) For evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the following information and any applicable supporting data based on the survey of suppliers shall be included in the request:

Foreign and Domestic Construction Materials Price Comparison

Construction material description	Unit of measure	Quantity	Price (dollars) +
Item 1:			
Foreign construction material.....	.....	.....	.....
Domestic construction material.....	.....	.....	.....
Item 2:			
Foreign construction material.....	.....	.....	.....
Domestic construction material.....	.....	.....	.....

List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary. Include other applicable supporting information.

+ Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).

(End of clause)

41 52.226-1 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (MAY 1999)

(a) For Department of Defense contracts, this clause applies only if the contract includes a subcontracting plan incorporated under the terms of the clause at 52.219-9, Small Business Subcontracting Plan. It does not apply to contracts awarded based on a subcontracting plan submitted and approved under paragraph (g) of the clause at 52.219.

(b) Definitions. As used in this clause:

"Indian" means any person who is a member of any Indian tribe, band, group, pueblo or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c) and any "Native" as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601).

"Indian organization" means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C., Chapter 17.

"Indian-owned economic enterprise" means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership shall constitute not less than 51 percent of the enterprise.

"Indian tribe" means any Indian tribe, band, group, pueblo or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1542(c).

"Interested party" means a prime contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

(c) The Contractor agrees to use its best efforts to give Indian organizations and Indian-owned economic enterprises (25 U.S.C. 1544) the

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

## AMENDMENT NO. 0002

maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with efficient performance of its contract.

(1) The Contracting Officer and the Contractor, acting in good faith, may rely on the representation of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason to question that status. In the event of a challenge to the representation of a subcontractor, the Contracting Officer shall refer the matter to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), Attn: Chief, Division of Contracting and Grants Administration, 1849 C Street, NW, MS-334A-SIB, Washington, DC 20245. The BIA will determine the eligibility and notify the Contracting Officer. The 5 percent incentive payment will not be made within 50 working days of subcontract award or while a challenge is pending. If a subcontractor is determined to be an ineligible participant, no incentive payment will be made under the Indian Incentive Program.

(2) The Contractor may request an adjustment under the Indian Incentive Program to the following:

- (i) The estimated cost of a cost-type contract.
- (ii) The target cost of a cost-plus-incentive-fee prime contract.
- (iii) The target cost and ceiling price of a fixed-price incentive prime contract.
- (iv) The price of a firm-fixed-price prime contract.

(3) The amount of the equitable adjustment to the prime contract shall be 5 percent of the estimated cost, target cost or firm-fixed-price included in the subcontract initially awarded to the Indian organization or Indian-owned economic enterprise.

(4) The Contractor has the burden of proving the amount claimed and must assert its request for an adjustment prior to completion of contract performance.

(d) The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, shall authorize an incentive payment of 5 percent of the amount paid to the subcontractor. Contracting Officers shall seek funding in accordance with agency procedures. The Contracting Officer's decision is final and not subject to the Disputes clause of this contract.

(End of clause)

42 52.227-1 AUTHORIZATION AND CONSENT (JUL 1995)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent (1) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract or (2) used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

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

(End of clause)

## AMENDMENT NO. 0002

43 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT  
(AUG 1996)

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

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

(c) The Contractor agrees to include, and require inclusion of, this clause in all subcontracts at any tier for supplies or services (including construction and architect-engineer subcontracts and those for material, supplies, models, samples, or design or testing services) expected to exceed the simplified acquisition threshold at FAR 2.101.

(End of clause)

44 52.227-4 PATENT INDEMNITY--CONSTRUCTION CONTRACTS (APR 1984)

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

(End of clause)

(R 7-602.16 1964 JUN)

45 52.228-2 ADDITIONAL BOND SECURITY (OCT 1997)

The Contractor shall promptly furnish additional security required to protect the Government and persons supplying labor or materials under this contract if--

(a) Any surety upon any bond, or issuing financial institution for other security, furnished with this contract becomes unacceptable to the Government;

(b) Any surety fails to furnish reports on its financial condition as required by the Government;

(c) The contract price is increased so that the penal sum of any bond becomes inadequate in the opinion of the Contracting Officer; or

(d) An irrevocable letter of credit (ILC) used as security will expire before the end of the period of required security. If the Contractor does not furnish an acceptable extension or replacement ILC, or other acceptable substitute, at least 30 days before an ILC's scheduled expiration, the Contracting officer has the right to immediately draw on the ILC.

(End of clause)

46 52.228-11 PLEDGES OF ASSETS (FEB 1992)

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

(1) Pledge of assets; and

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

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

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

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

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-38

**AMENDMENT NO. 0002**

provide--

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

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

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

(End of clause)

47 52.229-3 FEDERAL, STATE, AND LOCAL TAXES (JAN 1991)

(a) "Contract date," as used in this clause, means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

"All applicable Federal, State, and local taxes and duties," as used in this clause, means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

"After-imposed Federal tax," as used in this clause, means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

"After-relieved Federal tax," as used in this clause, means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

(b) The contract price includes all applicable Federal, State, and local taxes and duties.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.

(f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.

(h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

(End of clause)

**AMENDMENT NO. 0002**

48 52.229-5 TAXES--CONTRACTS PERFORMED IN U.S. POSSESSIONS OR PUERTO RICO (APR 1984)

The term "local taxes," as used in the Federal, State, and local taxes clause of this contract, includes taxes imposed by a possession of the United States or by Puerto Rico.

(End of clause)  
(AV 7-103.10(c) 1963 NOV)  
(AV 1-11.401-3(a))

49 52.232-5 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (MAY 1997)

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

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

(1) The Contractor's request for progress payments shall include the following substantiation:

(i) An itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested.

(ii) A listing of the amount included for work performed by each subcontractor under the contract.

(iii) A listing of the total amount of each subcontract under the contract.

(iv) A listing of the amounts previously paid to each such subcontractor under the contract.

(v) Additional supporting data in a form and detail required by the Contracting Officer.

(2) In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site also may be taken into consideration if--

(i) Consideration is specifically authorized by this contract; and

(ii) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) Contractor certification. Along with each request for progress payments, the Contractor shall furnish the following certification, or payment shall not be made: (However, if the Contractor elects to delete paragraph (c)(4) from the certification, the certification is still acceptable.)

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

(1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of chapter 39 of Title 31, United States Code;

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

(4) This certification is not to be construed as final acceptance of a subcontractor's performance.

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

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

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

(d) Refund of unearned amounts. If the Contractor, after making a certified request for progress payments, discovers that a portion or all of such request constitutes a payment for performance by the Contractor that fails to conform to the specifications, terms, and conditions of this

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-40

## AMENDMENT NO. 0002

contract (hereinafter referred to as the "unearned amount"), the Contractor shall--

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

(2) Be obligated to pay the Government an amount (computed by the Contracting Officer in the manner provided in paragraph (j) of this clause) equal to interest on the unearned amount from the 8th day after the date of receipt of the unearned amount until--

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

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

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

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

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

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

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

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

(1) Completion and acceptance of all work;

(2) Presentation of a properly executed voucher; and

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

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

(j) Interest computation on unearned amounts. In accordance with 31 U.S.C. 3903(c)(1), the amount payable under subparagraph (d)(2) of this clause shall be--

(1) Computed at the rate of average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the Contractor receives the unearned amount; and

(2) Deducted from the next available payment to the Contractor.

(End of clause)

## AMENDMENT NO. 0002

50 52.232-17 INTEREST (JUN 1996)

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

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

(1) The date fixed under this contract.

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

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

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

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

(End of clause)

51 52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

(End of clause)

52 52.232-27 PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (JUN 1997)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in section 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(3) concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments--

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

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

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-42

## AMENDMENT NO. 0002

milestones in any project:

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

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

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

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

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

(2) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(2)(i) through (a)(2)(ix) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice, with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(4) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of mailing or transmission.)

(iii) Contract number or other authorization for work or services performed (including order number and contract line item number).

(iv) Description of work or services performed.

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

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

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

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

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

(x) While not required, the Contractor is strongly encouraged to assign an identification number to each invoice.

(3) Interest penalty. An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

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

## AMENDMENT NO. 0002

(ii) A receiving report or other Government documentation authorizing payment was processed and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.

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

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

(i) For the sole purpose of computing an interest penalty that might be due the Contractor for payments described in paragraph (a)(1)(ii) of this clause, Government acceptance or approval shall be deemed to have occurred constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. In the event that actual acceptance or approval occurs within the constructive acceptance or approval period, the determination of an interest penalty shall be based on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

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

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

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

(C) For incorrect electronic funds transfer (EFT) information, in accordance with the EFT clause of this contract.

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

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

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

(6) Additional interest penalty.

(i) A penalty amount, calculated in accordance with subdivision

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-44

**AMENDMENT NO. 0002**

(a)(6)(iii) of this clause, shall be paid in addition to the interest penalty amount if the Contractor--

(A) Is owed an interest penalty of \$1 or more;

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

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with subdivision (a)(6)(ii) of this clause, postmarked not later than 40 days after the date the invoice amount is paid.

(ii)(A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall--

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that--

(1) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made; or

(2) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(iii)(A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty, except--

(1) The additional penalty shall not exceed \$5,000;

(2) The additional penalty shall never be less than \$25; and

(3) No additional penalty is owed if the amount of the underlying interest penalty is less than \$1.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in subdivision (a)(4)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified in subdivision (a)(6)(iii)(A) of this clause.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(D) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) Contract financing payments--

(1) Due dates for recurring financing payments. If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the \_\_\_\_\_ day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(2) Due dates for other contract financing. For advance payments, loans, or other arrangements that do not involve recurring submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) Interest penalty not applicable. Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) Subcontract clause requirements. The Contractor shall include in each subcontract for property or services (including a material supplier)

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-45

## AMENDMENT NO. 0002

for the purpose of performing this contract the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Make such payment within--

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

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

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-46

## AMENDMENT NO. 0002

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

(5) Notice to Contracting Officer. Notify the Contracting Officer upon--

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

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

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

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

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

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

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

(f) Third-party deficiency reports--

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

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

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

(2) Subsequent payment or interest charge. As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the Contractor shall--

(i) Pay the amount withheld under paragraph (f)(1)(ii) of this clause to such first-tier subcontractor; or

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

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

(1) The amount to be withheld;

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

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

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

(i) Prime-subcontractor disputes. A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-47

## AMENDMENT NO. 0002

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

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

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

(End of clause)

53 52.233-1 DISPUTES (DEC 1998)

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

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

(c) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph (d)(2) of this clause. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d)(1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2)(i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows:

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

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

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

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-48

## AMENDMENT NO. 0002

Contractor's specific reasons for rejecting the offer.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in (FAR) 48 CFR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

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

(End of clause)

54 52.233-3 PROTEST AFTER AWARD (AUG 1996)

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

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

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if--

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; provided, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal at any time before final payment under this contract.

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

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

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

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

(End of clause)

55 52.236-2 DIFFERING SITE CONDITIONS (APR 1984)

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-49

**AMENDMENT NO. 0002**

(a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or (2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.

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

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

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

(End of clause)

56 52.236-3 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (APR 1984)

(a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Government, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Government.

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

(End of clause)

57 52.236-5 MATERIAL AND WORKMANSHIP (APR 1984)

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

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-50

## AMENDMENT NO. 0002

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

(c) All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may require, in writing, that the Contractor remove from the work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.

(End of clause)  
(R 7-602.9 1964 JUN)

58 52.236-6 SUPERINTENDENCE BY THE CONTRACTOR (APR 1984)

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

(End of clause)

59 52.236-7 PERMITS AND RESPONSIBILITIES (NOV 1991)

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

(End of clause)

60 52.236-8 OTHER CONTRACTS (APR 1984)

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

(End of clause)

61 52.236-9 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (APR 1984)

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

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-51

## AMENDMENT NO. 0002

those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(b) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site, and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

(End of clause)

62 52.236-10 OPERATIONS AND STORAGE AREAS (APR 1984)

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

(b) Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the Government. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

(End of clause)

63 52.236-11 USE AND POSSESSION PRIOR TO COMPLETION (APR 1984)

(a) The Government shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the Government intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Government's possession or use shall not be deemed an acceptance of any work under the contract.

(b) While the Government has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the work resulting from the Government's possession or use, notwithstanding the terms of the clause in this contract entitled "Permits and Responsibilities." If prior possession or use by the Government delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

(End of clause)

64 52.236-12 CLEANING UP (APR 1984)

The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish,

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-52

## AMENDMENT NO. 0002

tools, scaffolding, equipment, and materials that are not the property of the Government. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer.

(End of clause)

65 52.236-13 I ACCIDENT PREVENTION (NOV 1991)--ALTERNATE I (NOV 1991)

(a) The Contractor shall provide and maintain work environments and procedures which will (1) safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities; (2) avoid interruptions of Government operations and delays in project completion dates; and (3) control costs in the performance of this contract.

(b) For these purposes on contracts for construction or dismantling, demolition, or removal of improvements, the Contractor shall--

(1) Provide appropriate safety barricades, signs, and signal lights;

(2) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910; and

(3) Ensure that any additional measures the Contracting Officer determines to be reasonably necessary for the purposes are taken.

(c) If this contract is for construction or dismantling, demolition or removal of improvements with any Department of Defense agency or component, the Contractor shall comply with all pertinent provisions of the latest version of U.S. Army Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, in effect on the date of the solicitation.

(d) Whenever the Contracting Officer becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or Government personnel, the Contracting Officer shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any stop work order issued under this clause.

(e) The Contractor shall insert this clause, including this paragraph (e), with appropriate changes in the designation of the parties, in subcontracts.

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

(1) Submit a written proposed plan for implementing this clause. The plan shall include an analysis of the significant hazards to life, limb, and property inherent in contract work performance and a plan for controlling these hazards; and

(2) Meet with representatives of the Contracting Officer to discuss and develop a mutual understanding relative to administration of the overall safety program.

(End of clause)

66 52.236-15 SCHEDULES FOR CONSTRUCTION CONTRACTS (APR 1984)

(a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-53

## AMENDMENT NO. 0002

directed by the Contracting Officer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the Government. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract.

(End of clause)

67 52.236-17 LAYOUT OF WORK (APR 1984)

The Contractor shall lay out its work from Government-established base lines and bench marks indicated on the drawings, and shall be responsible for all measurements in connection with the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the work. The Contractor shall be responsible for executing the work to the lines and grades that may be established or indicated by the Contracting Officer. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Contracting Officer may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

(End of clause)

(R 7-604.3 1965 JAN)

68 52.236-21 I SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997)--ALTERNATE I (APR 1984)

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

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

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

(d) Shop drawings means drawings, submitted to the Government by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-54

## AMENDMENT NO. 0002

construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements, and (2) the installation (i.e., fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the contractor to explain in detail specific portions of the work required by the contract. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

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

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

(g) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor. Upon completing the work under this contract, the Contractor shall furnish a complete set of all shop drawings as finally approved. These drawings shall show all changes and revisions made up to the time the equipment is completed and accepted.

(End of clause)

69 52.236-26 PRECONSTRUCTION CONFERENCE (FEB 1995)

If the Contracting Officer decides to conduct a preconstruction conference, the successful offeror will be notified and will be required to attend. The Contracting Officer's notification will include specific details regarding the date, time, and location of the conference, any need for attendance by subcontractors, and information regarding the items to be discussed.

(End of clause)

70 52.242-13 BANKRUPTCY (JUL 1995)

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

(End of clause)

71 52.242-14 SUSPENSION OF WORK (APR 1984)

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-55

## AMENDMENT NO. 0002

(a) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience of the Government.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

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

(End of clause)

72 52.243-4 CHANGES (AUG 1987)

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

(1) In the specifications (including drawings and designs);

(2) In the method or manner of performance of the work;

(3) In the Government-furnished facilities, equipment, materials, services, or site; or

(4) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances, and source of the order and (2) that the Contractor regards the order as a change order.

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

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

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of the proposal, unless this period is extended by the Government. The statement of proposal for adjustment may be included in the notice under paragraph (b) above.

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

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-56

**AMENDMENT NO. 0002**

(End of clause)

73 52.246-12 INSPECTION OF CONSTRUCTION (AUG 1996)

(a) Definition. "Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.

(b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

(c) Government inspections and tests are for the sole benefit of the Government and do not--

(1) Relieve the Contractor of responsibility for providing adequate quality control measures;

(2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;

(3) Constitute or imply acceptance; or

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

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

(e) The Contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The Government may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

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

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

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

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

(End of clause)

74 52.246-21 WARRANTY OF CONSTRUCTION (MAR 1994)

(a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (i) of this clause, that work

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-57

## AMENDMENT NO. 0002

performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

(b) This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If the Government takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date the Government takes possession.

(c) The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Government-owned or controlled real or personal property, when that damage is the result of--

(1) The Contractor's failure to conform to contract requirements; or

(2) Any defect of equipment, material, workmanship, or design furnished.

(d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

(e) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

(f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the Government shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall--

(1) Obtain all warranties that would be given in normal commercial practice;

(2) Require all warranties to be executed, in writing, for the benefit of the Government, if directed by the Contracting Officer; and

(3) Enforce all warranties for the benefit of the Government, if directed by the Contracting Officer.

(h) In the event the Contractor's warranty under paragraph (b) of this clause has expired, the Government may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

(i) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the Government nor for the repair of any damage that results from any defect in Government-furnished material or design.

(j) This warranty shall not limit the Government's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.

(End of clause)

(R 7-604.4 1976 JUL)

75 52.248-3 I VALUE ENGINEERING--CONSTRUCTION (MAR 1989)--ALTERNATE I (APR 1984)

(a) General. The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The Contractor shall share in any instant contract savings realized from accepted VECP's, in accordance with paragraph (f) below.

(b) Definitions. "Collateral costs," as used in this clause, means agency costs of operation, maintenance, logistic support, or Government-furnished property.

"Collateral savings," as used in this clause, means those measurable net reductions resulting from a VECP in the agency's overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

"Contractor's development and implementation costs," as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

"Government costs," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-58

## AMENDMENT NO. 0002

logistic support. The term does not include the normal administrative costs of processing the VECP.

"Instant contract savings," as used in this clause, means the estimated reduction in Contractor cost of performance resulting from acceptance of the VECP, minus allowable Contractor's development and implementation costs, including subcontractors' development and implementation costs (see paragraph (h) below).

"Value engineering change proposal (VECP)" means a proposal that--

(1) Requires a change to this, the instant contract, to implement; and

(2) Results in reducing the contract price or estimated cost without impairing essential functions or characteristics; provided, that it does not involve a change--

(i) In deliverable end item quantities only; or

(ii) To the contract type only.

(c) VECP preparation. As a minimum, the Contractor shall include in each VECP the information described in subparagraphs (1) through (7) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

(1) A description of the difference between the existing contract requirement and that proposed, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, and the effect of the change on the end item's performance.

(2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) A separate, detailed cost estimate for (i) the affected portions of the existing contract requirement and (ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under paragraph (h) below.

(4) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.

(5) A prediction of any effects the proposed change would have on collateral costs to the agency.

(6) A statement of the time by which a contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.

(7) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.

(d) Submission. The Contractor shall submit VECP's to the Resident Engineer at the worksite, with a copy to the Contracting Officer.

(e) Government action. (1) The Contracting Officer shall notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer shall notify the Contractor within the 45-day period and provide the reason for the delay and the expected date of the decision. The Government will process VECP's expeditiously; however, it shall not be liable for any delay in acting upon a VECP.

(2) If the VECP is not accepted, the Contracting Officer shall notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.

(3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause. The Contracting Officer may accept the VECP, even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The Contracting Officer's decision to accept or reject all or part of any VECP shall be final and not subject to the Disputes clause or otherwise subject to litigation under the Contract Disputes Act of 1978 (41 U.S.C. 601-613).

(f) Sharing. (1) Rates. The Government's share of savings is determined by subtracting Government costs from instant contract savings

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-59

## AMENDMENT NO. 0002

and multiplying the result by (i) 45 percent for fixed-price contracts or (ii) 75 percent for cost-reimbursement contracts.

(2) Payment. Payment of any share due the Contractor for use of a VECP on this contract shall be authorized by a modification to this contract to--

- (i) Accept the VECP;
- (ii) Reduce the contract price or estimated cost by the amount of instant contract savings; and
- (iii) Provide the Contractor's share of savings by adding the amount calculated to the contract price or fee.

(g) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of \$50,000 or more and may include one in subcontracts of lesser value. In computing any adjustment in this contract's price under paragraph (f) above, the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs clearly resulting from a VECP accepted by the Government under this contract, but shall exclude any value engineering incentive payments to a subcontractor. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that these payments shall not reduce the Government's share of the savings resulting from the VECP.

(h) Data. The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

"These data, furnished under the Value Engineering--Construction clause of contract \_\_\_\_\_, shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations."

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

(End of clause)

76 52.249-2 I TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (SEP 1996)--  
ALTERNATE I (SEP 1996)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

- (1) Stop work as specified in the notice.
- (2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
- (3) Terminate all subcontracts to the extent they relate to the work terminated.
- (4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.

(6) As directed by the Contracting Officer, transfer title and deliver

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-60

## AMENDMENT NO. 0002

to the Government (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (b)(6) of this clause; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(c) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

(d) After expiration of the plant clearance period as defined in Subpart 45.6 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(e) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1 year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(f) Subject to paragraph (e) of this clause, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (f) or paragraph (g) of this clause, exclusive of costs shown in subparagraph (g)(3) of this clause, may not exceed the total contract price as reduced by (1) the amount of payments previously made and (2) the contract price of work not terminated. The contract shall be modified, and the Contractor paid the agreed amount. Paragraph (g) of this clause shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(g) If the Contractor and Contracting Officer fail to agree on the whole amount to be paid the Contractor because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined as follows, but without duplication of any amounts agreed upon under paragraph (f) of this clause:

(1) For contract work performed before the effective date of termination, the total (without duplication of any items) of--

(i) The cost of this work;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (g)(1)(i) of this clause; and

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-61

## AMENDMENT NO. 0002

(iii) A sum, as profit on subdivision (g)(1)(i) of this clause, determined by the Contracting Officer under 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subdivision (iii) and shall reduce the settlement to reflect the indicated rate of loss.

(2) The reasonable costs of settlement of the work terminated, including--

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

(h) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (g) of this clause, the fair value, as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government or to a buyer.

(i) The cost principles and procedures of Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(j) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (e), (g), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal or request for equitable adjustment within the time provided in paragraph (e) or (l), respectively, and failed to request a time extension, there is no right of appeal.

(k) In arriving at the amount due the Contractor under this clause, there shall be deducted--

(1) All unliquidated advance or other payments to the Contractor under the terminated portion of this contract;

(2) Any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Government.

(l) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within 90 days from the effective date of termination unless extended in writing by the Contracting Officer.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(n) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-62

**AMENDMENT NO. 0002**

records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

(End of clause)

77 52.249-10 DEFAULT (FIXED-PRICE CONSTRUCTION) (APR 1984)

(a) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

(b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if-

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (i) acts of God or of the public enemy, (ii) acts of the Government in either its sovereign or contractual capacity, (iii) acts of another Contractor in the performance of a contract with the Government, (iv) fires, (v) floods, (vi) epidemics, (vii) quarantine restrictions, (viii) strikes, (ix) freight embargoes, (x) unusually severe weather, or (xi) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes clause.

(c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Government.

(d) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

78 52.252-4 ALTERATIONS IN CONTRACT (APR 1984)

Portions of this contract are altered as follows:

\_\_\_\_\_

(End of clause)  
(R 7-105.1(a) 1949 JUL)

79 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any \_\_\_\_\_ (48 CFR \_\_\_\_\_) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-63

**AMENDMENT NO. 0002**

(End of clause)  
(NM)

80 52.253-1 COMPUTER GENERATED FORMS (JAN 1991)

(a) Any data required to be submitted on a Standard or Optional Form prescribed by the Federal Acquisition Regulation (FAR) may be submitted on a computer generated version of the form, provided there is no change to the name, content, or sequence of the data elements on the form, and provided the form carries the Standard or Optional Form number and edition date.

(b) Unless prohibited by agency regulations, any data required to be submitted on an agency unique form prescribed by an agency supplement to the FAR may be submitted on a computer generated version of the form provided there is no change to the name, content, or sequence of the data elements on the form and provided the form carries the agency form number and edition date.

(c) If the Contractor submits a computer generated version of a form that is different than the required form, then the rights and obligations of the parties will be determined based on the content of the required form.

(End of clause)

81 52.201-7000 CONTRACTING OFFICER'S REPRESENTATIVE (DEC 1991)

(a) Definition. "Contracting officer's representative" means an individual designated in accordance with subsection 201.602-2 of the Defense Federal Acquisition Regulation Supplement and authorized in writing by the Contracting Officer to perform specific technical or administrative functions.

(b) If the Contracting Officer designates a contracting officer's representative (COR), the Contractor will receive a copy of the written designation. It will specify the extent of the COR's authority to act on behalf of the Contracting Officer. The COR is not authorized to make any commitments or changes that will affect price, quality, quantity, delivery, or any other term or condition of the contract.

(End of clause)

82 52.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER  
DEFENSE-CONTRACT-RELATED FELONIES (MAR 1999)

(a) Definitions.

As used in this clause--

(1) "Arising out of a contract with the DoD" means any act in connection with--

(i) Attempting to obtain;

(ii) Obtaining; or

(iii) Performing a contract or first-tier subcontract of any agency, department, or component of the Department of Defense (DoD).

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

(3) "Date of conviction" means the date judgment was entered against the individual.

(b) Any individual who is convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD is prohibited from serving--

(1) In a management or supervisory capacity on any DoD contract or first-tier subcontract;

(2) On the board of directors of any DoD contractor or first-tier subcontractor;

(3) As a consultant, agent, or representative for any DoD contractor or first-tier subcontractor; or

(4) In any other capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-64

## AMENDMENT NO. 0002

subcontract.

(c) Unless waived, the prohibition in paragraph (b) of this clause applies for not less than 5 years from the date of conviction.

(d) 10 U.S.C. 2408 provides that a defense Contractor or first-tier subcontractor shall be subject to a criminal penalty of not more than \$500,000 if convicted of knowingly--

(1) Employing a person under a prohibition specified in paragraph (b) of this clause; or

(2) Allowing such a person to serve on the board of directors of the Contractor or first-tier subcontractor.

(e) In addition to the criminal penalties contained in 10 U.S.C. 2408, the Government may consider other available remedies, such as--

(1) Suspension or debarment;

(2) Cancellation of the contract at no cost to the Government; or

(3) Termination of the contract for default.

(f) The Contractor may submit written requests for waiver of the prohibition in paragraph (b) of this clause to the Contracting Officer. Requests shall clearly identify--

(1) The person involved;

(2) The nature of the conviction and resultant sentence or punishment imposed;

(3) The reasons for the requested waiver; and

(4) An explanation of why a waiver is in the interest of national security.

(g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation, except those for commercial items or components.

(h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Federal Benefits Office, U.S. Department of Justice, telephone (202) 616-3507.

(End of clause)

83 52.203-7002 DISPLAY OF DOD HOTLINE POSTER (DEC 1991)

(a) The Contractor shall display prominently in common work areas within business segments performing work under Department of Defense (DoD) contracts, DoD Hotline Posters prepared by the DoD Office of the Inspector General.

(b) DoD Hotline Posters may be obtained from the DoD Inspector General, ATTN: Defense Hotline, 400 Army Navy Drive, Washington, DC 22202-2884.

(c) The Contractor need not comply with paragraph (a) of this clause if it has established a mechanism, such as a hotline, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(End of clause)

84 52.204-7000 DISCLOSURE OF INFORMATION (DEC 1991)

(a) The Contractor shall not release to anyone outside the Contractor's organization any unclassified information, regardless of medium (e.g., film, tape, document), pertaining to any part of this contract or any program related to this contract, unless--

(1) The Contracting Officer has given prior written approval; or

(2) The information is otherwise in the public domain before the date of release.

(b) Requests for approval shall identify the specific information to be released, the medium to be used, and the purpose for the release. The Contractor shall submit its request to the Contracting Officer at least 45 days before the proposed date for release.

(c) The Contractor agrees to include a similar requirement in each subcontract under this contract. Subcontractors shall submit requests for authorization to release through the prime Contractor to the Contracting Officer.

(End of clause)

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-65

## AMENDMENT NO. 0002

85 52.204-7003 CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT (APR 1992)

The Contractor's procedures for protecting against unauthorized disclosure of information shall not require Department of Defense employees or members of the Armed Forces to relinquish control of their work products, whether classified or not, to the Contractor.

(End of clause)

86 52.205-7000 PROVISION OF INFORMATION TO COOPERATIVE AGREEMENT HOLDERS (DEC 1991)

(a) Definition.

"Cooperative agreement holder" means a State or local government; a private, nonprofit organization; a tribal organization (as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-268; 25 U.S.C. 450(c))); or an economic enterprise (as defined in section 3(e) of the Indian Financing Act of 1974 (Pub. L. 93-362; 25 U.S.C. 1452(e))) whether such economic enterprise is organized for profit or nonprofit purposes; which has an agreement with the Defense Logistics Agency to furnish procurement technical assistance to business entities.

(b) The Contractor shall provide cooperative agreement holders, upon their request, with a list of those appropriate employees or offices responsible for entering into subcontracts under defense contracts. The list shall include the business address, telephone number, and area of responsibility of each employee or office.

(c) The Contractor need not provide the listing to a particular cooperative agreement holder more frequently than once a year.

(End of clause)

87 52.209-7000 ACQUISITION FROM SUBCONTRACTORS SUBJECT TO ON-SITE INSPECTION UNDER THE INTERMEDIATE-RANGE NUCLEAR FORCES (INF) TREATY (NOV 1995)

(a) The Contractor shall not deny consideration for a subcontract award under this contract to a potential subcontractor subject to on-site inspection under the INF Treaty, or a similar treaty, solely or in part because of the actual or potential presence of Soviet inspectors at the subcontractor's facility, unless the decision is approved by the Contracting Officer.

(b) The Contractor shall incorporate this clause, including this paragraph (b), in all solicitations and contracts exceeding the simplified acquisition threshold in Part 13 of the Federal Acquisition Regulation, except those for commercial items.

(End of clause)

88 52.219-7003 SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (DoD CONTRACTS) (APR 1996)

This clause supplements the Federal Acquisition Regulation 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, clause of this contract.

(a) Definitions.

"Historically black colleges and universities," as used in this clause, means institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. The term also means any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

"Minority institutions," as used in this clause, means institutions meeting the requirements of section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)). The term also includes Hispanic-serving institutions as defined in section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1)).

(b) Except for company or division-wide commercial items subcontracting plans, the term "small disadvantaged business," when used in the FAR 52.219-9 clause, includes historically black colleges and universities and minority institutions, in addition to small disadvantaged business concerns.

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-66

## AMENDMENT NO. 0002

(c) Work under the contract or its subcontracts shall be credited toward meeting the small disadvantaged business concern goal required by paragraph (d) of the FAR 52.219-9 clause when:

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

(2) It meets the requirements of 10 U.S.C. 2323a.

(d) Subcontracts awarded to workshops approved by the Committee for Purchase from People Who are Blind or Severely Disabled (41 U.S.C. 46-48), may be counted toward the Contractor's small business subcontracting goal.

(e) A mentor firm, under the Pilot Mentor-Protege Program established under Section 831 of Pub. L. 101-510, as amended, may count toward its small disadvantaged business goal, subcontracts awarded--

(1) Protege firms which are qualified organizations employing the severely handicapped; and

(2) Former protege firms that meet the criteria in Section 831(g)(4) of Pub. L. 101-510.

(f) The master plan approval referred to in paragraph (f) of the FAR 52.219-9 clause is approval by the Contractor's cognizant contract administration activity.

(g) In those subcontracting plans which specifically identify small, small disadvantaged, and women-owned small businesses, the Contractor shall notify the Administrative Contracting Officer of any substitutions of firms that are not small, small disadvantaged, or women-owned small businesses for the firms listed in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.

(End of clause)

89 52.223-7004 DRUG-FREE WORK FORCE (SEP 1988)

(a) Definitions.

(1) "Employee in a sensitive position," as used in this clause, means an employee who has been granted access to classified information; or employees in other positions that the Contractor determines involve national security, health or safety, or functions other than the foregoing requiring a high degree of trust and confidence.

(2) "Illegal drugs," as used in this clause, means controlled substances included in Schedules I and II, as defined by section 802(6) of Title 21 of the United States Code, the possession of which is unlawful under Chapter 13 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

(b) The Contractor agrees to institute and maintain a program for achieving the objective of a drug-free work force. While this clause defines criteria for such a program, contractors are encouraged to implement alternative approaches comparable to the criteria in paragraph (c) that are designed to achieve the objectives of this clause.

(c) Contractor programs shall include the following, or appropriate alternatives:

(1) Employee assistance programs emphasizing high level direction, education, counseling, rehabilitation, and coordination with available community resources;

(2) Supervisory training to assist in identifying and addressing illegal drug use by Contractor employees;

(3) Provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues;

(4) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis. Employee drug testing programs shall be established taking account of the following:

(i) The Contractor shall establish a program that provides for testing for the use of illegal drugs by employees in sensitive positions. The extent of and criteria for such testing shall be determined by the Contractor based on considerations that include the nature of the work being performed under the contract, the employee's duties, the efficient use of Contractor resources, and the risks to health, safety, or national security that could result from the failure of an employee adequately to discharge his or her position.

(ii) In addition, the Contractor may establish a program for employee drug testing--

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-67

**AMENDMENT NO. 0002**

(A) When there is a reasonable suspicion that an employee uses illegal drugs; or

(B) When an employee has been involved in an accident or unsafe practice;

(C) As part of or as a follow-up to counseling or rehabilitation for illegal drug use;

(D) As part of a voluntary employee drug testing program.

(iii) The Contractor may establish a program to test applicants for employment for illegal drug use.

(iv) For the purpose of administering this clause, testing for illegal drugs may be limited to those substances for which testing is prescribed by section 2.1 of Subpart B of the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" (53 FR 11980 (April 11 1988)), issued by the Department of Health and Human Services.

(d) Contractors shall adopt appropriate personnel procedures to deal with employees who are found to be using drugs illegally. Contractors shall not allow any employee to remain on duty or perform in a sensitive position who is found to use illegal drugs until such time as the Contractor, in accordance with procedures established by the Contractor, determines that the employee may perform in such a position.

(e) The provisions of this clause pertaining to drug testing programs shall not apply to the extent they are inconsistent with state or local law, or with an existing collective bargaining agreement; provided that with respect to the latter, the Contractor agrees that those issues that are in conflict will be a subject of negotiation at the next collective bargaining session.

(End of clause)

90 52.223-7006 PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS (APR 1993)

(a) Definitions. As used in this clause--

(1) "Storage" means a non-transitory, semi-permanent or permanent holding, placement, or leaving of material. It does not include a temporary accumulation of a limited quantity of a material used in or a waste generated or resulting from authorized activities, such as servicing, maintenance, or repair of Department of Defense (DoD) items, equipment, or facilities.

(2) "Toxic or hazardous materials" means:

(i) Materials referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 U.S.C. 9601(14)) and materials designated under section 102 of CERCLA (42 U.S.C. 9602)(40 CFR Part 302);

(ii) Materials that are of an explosive, flammable, or pyrotechnic nature; or

(iii) Materials otherwise identified by the Secretary of Defense as specified in DoD regulations.

(b) In accordance with 10 U.S.C. 2692, the Contractor is prohibited from storing or disposing of non-DoD-owned toxic or hazardous materials on a DoD installation, except to the extent authorized by a statutory exception to 10 U.S.C. 2692 or as authorized by the Secretary of Defense or his designee.

(End of clause)

91 52.225-7012 PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES (MAY 1999)

(a) The Contractor agrees to deliver under this contract only such of the following articles that have been grown, reprocessed, reused, or produced in the United States, its possessions, or Puerto Rico--

(1) Food;

(2) Clothing;

(3) Tents, tarpaulins, or covers;

(4) Cotton and other natural fiber products;

(5) Woven silk or woven silk blends;

(6) Spun silk yarn for cartridge cloth;

(7) Synthetic fabric, and coated synthetic fabric, including all textile fibers and yarns that are for use in such fabrics;

(8) Canvas products;

(9) Wool (whether in the form of fiber or yarn or contained in fabrics,

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-68

**AMENDMENT NO. 0002**

materials, or manufactured articles); or

(10) Any item of individual equipment (Federal Supply Class 8465) manufactured from or containing such fibers, yarns, fabrics, or materials.

(b) This clause does not apply--

(1) To supplies listed in FAR 25.108(d)(1), or other supplies for which the Government has determined that a satisfactory quality and sufficient quantity cannot be acquired as and when needed at U.S. market prices;

(2) To foods which have been manufactured or processed in the United States, its possessions, or Puerto Rico;

(3) To chemical warfare protective clothing produced in the countries listed in subsection 225.872-1 of the Defense FAR Supplement; or

(4) To fibers and yarns that are for use in synthetic fabric or coated synthetic fabric (but does apply to the synthetic or coated synthetic fabric itself), if--

(i) The fabric is to be used as a component of an end item that is not a textile product. Examples of textile products, made in whole or in part of fabric, include--

(A) Draperies, floor coverings, furnishings, and bedding (Federal Supply Group 72, Household and Commercial Furnishings and Appliances);

(B) Items made in whole or in part of fabric in Federal Supply Group 83, Textile/leather/furs/apparel/findings/tents/flags, or Federal Supply Group 84, Clothing, Individual Equipment and Insignia;

(C) Upholstered seats (whether for household, office, or other use); and

(D) Parachutes (Federal Supply Class 1670); or

(ii) The fibers and yarns are para-aramid fibers and yarns manufactured in the Netherlands.

(End of clause)

92 52.225-7031 SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 1992)

(a) Definitions.

As used in this clause--

(1) "Foreign person" means any person other than a United States person as defined in section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec 2415).

(2) "United States person" is defined in section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

(b) Certification.

By submitting this offer, the Offeror, if a foreign person, company or entity, certifies that it--

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec 2407(a) prohibits a United States person from taking.

(End of clause)

93 52.227-7000 NON-ESTOPPEL (OCT 1966)

The Government reserves the right at any time to contest the enforceability, validity, scope of, or the title to any patent or patent application herein licensed without waiving or forfeiting any right under this contract.

(End of clause)

94 52.227-7022 GOVERNMENT RIGHTS (UNLIMITED) (MAR 1979)

The Government shall have unlimited rights, in all drawings, designs, DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-69

## AMENDMENT NO. 0002

specifications, notes and other works developed in the performance of this contract, including the right to use same on any other Government design or construction without additional compensation to the Contractor. The Contractor hereby grants to the Government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws. The Contractor for a period of three (3) years after completion of the project agrees to furnish the original or copies of all such works on the request of the Contracting Officer.

(End of clause)

95 52.227-7023 DRAWINGS AND OTHER DATA TO BECOME PROPERTY OF GOVERNMENT (MAR 1979)

All designs, drawings, specifications, notes and other works developed in the performance of this contract shall become the sole property of the Government and may be used on any other design or construction without additional compensation to the Contractor. The Government shall be considered the "person for whom the work was prepared" for the purpose of authorship in any copyrightable work under 17 U.S.C. 201(b). With respect thereto, the Contractor agrees not to assert or authorize others to assert any rights nor establish any claim under the design patent or copyright laws. The Contractor for a period of three (3) years after completion of the project agrees to furnish all retained works on the request of the Contracting Officer. Unless otherwise provided in this contract, the Contractor shall have the right to retain copies of all works beyond such period.

(End of clause)

96 52.227-7033 RIGHTS IN SHOP DRAWINGS (APR 1966)

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

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

(End of clause)

97 52.231-7000 SUPPLEMENTAL COST PRINCIPLES (DEC 1991)

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

(End of clause)

98 52.236-7000 MODIFICATION PROPOSALS--PRICE BREAKDOWN (DEC 1991)

(a) The Contractor shall furnish a price breakdown, itemized as required and within the time specified by the Contracting Officer, with any proposal for a contract modification.

(b) The price breakdown--

(1) Must include sufficient detail to permit an analysis of profit, and of all costs for--

- (i) Material;
- (ii) Labor;
- (iii) Equipment;
- (iv) Subcontracts; and
- (v) Overhead; and

(2) Must cover all work involved in the modification, whether the work was deleted, added, or changed.

(c) The Contractor shall provide similar price breakdowns to support any amounts claimed for subcontracts.

(d) The Contractor's proposal shall include a justification for any time extension proposed.

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-70

**AMENDMENT NO. 0002**

(End of clause)

99 52.236-7008 CONTRACT PRICES--BIDDING SCHEDULES (DEC 1991)

(a) The Government's payment for the items listed in the Bidding Schedule shall constitute full compensation to the Contractor for--

(1) Furnishing all plant, labor, equipment, appliances, and materials; and

(2) Performing all operations required to complete the work in conformity with the drawings and specifications.

(b) The Contractor shall include in the prices for the items listed in the Bidding Schedule all costs for work in the specifications, whether or not specifically listed in the Bidding Schedule.

(End of provision)

100 52.242-7000 POSTAWARD CONFERENCE (DEC 1991)

The Contractor agrees to attend any postaward conference convened by the contracting activity or contract administration office in accordance with Federal Acquisition Regulation Subpart 42.5.

(End of clause)

101 52.243-7001 PRICING OF CONTRACT MODIFICATIONS (DEC 1991)

When costs are a factor in any price adjustment under this contract, the contract cost principles and procedures in FAR Part 31 and DFARS Part 231, in effect on the date of this contract, apply.

(End of clause)

102 52.243-7002 REQUESTS FOR EQUITABLE ADJUSTMENT (MAR 1998)

(a) The amount of any request for equitable adjustment to contract terms shall accurately reflect the contract adjustment for which the Contractor believes the Government is liable. The request shall include only costs for performing the change, and shall not include any costs that already have been reimbursed or that have been separately claimed. All indirect costs included in the request shall be properly allocable to the change in accordance with applicable acquisition regulations.

(b) In accordance with 10 U.S.C. 2410(a), any request for equitable adjustment to contract terms that exceeds the simplified acquisition threshold shall bear, at the time of submission, the following certificate executed by an individual authorized to certify the request on behalf of the Contractor:

I certify that the request is made in good faith, and that the supporting data are accurate and complete to the best of my knowledge and belief.

\_\_\_\_\_  
(Official's Name)

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

(c) The certification in paragraph (b) of this clause requires full disclosure of all relevant facts, including--

(1) Cost or pricing data if required in accordance with subsection 15.403-4 of the Federal Acquisition Regulation (FAR); and

(2) Information other than cost or pricing data, in accordance with subsection 15.403-3 of the FAR, including actual cost data and data to support any estimated costs, even if cost or pricing data are not required.

(d) The certification requirement in paragraph (b) of this clause does not apply to--

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

(2) Final adjustment under an incentive provision of the contract.

DACW09-00-0002

\*BOLD ITEMS DENOTES CHANGE UNDER AMENDMENT NO. 0002

00700-71

AMENDMENT NO. 0002

(End of clause)

103 52.247-7024 NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA (NOV 1995)

(a) The Contractor has indicated by the response to the solicitation provision, Representation of Extent of Transportation by Sea, that it did not anticipate transporting by sea any supplies. If, however, after the award of this contract, the Contractor learns that supplies, as defined in the Transportation of Supplies by Sea clause of this contract, will be transported by sea, the Contractor--

(1) Shall notify the Contracting Officer of that fact; and

(2) Hereby agrees to comply with all the terms and conditions of the Transportation of Supplies by Sea clause of this contract.

(b) The Contractor shall include this clause, including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties, in all subcontracts hereunder, except (effective May 1, 1996) subcontracts for the acquisition of commercial items or components.

(End of clause)

104 Government Property (Fixed-Price Contracts) (Dec 1989)

As prescribed in [45.106](#) (b)(1), insert the following clause:

Government Property (Fixed-Price Contracts) (Dec 1989)

1. (a) *Government-furnished property.*

1. (1) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the Government-furnished property described in the Schedule or specifications together with any related data and information that the Contractor may request and is reasonably required for the intended use of the property (hereinafter referred to as "Government-furnished property").

■

2. ([HIT4HIT4](#)[2HIT6HIT6](#)) The delivery or performance dates for this contract are based upon the expectation that Government-furnished property suitable for use (except for property furnished "as is") will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates.

3. (3) If Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt of it, notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either repair, modify, return, or otherwise dispose of the property. After completing the directed action and upon written request of the Contractor, the Contracting Officer shall make an equitable adjustment as provided in paragraph (h) of this clause.

4. (4) If Government-furnished property is not delivered to the Contractor by the required time, the Contracting Officer shall, upon the Contractor's timely written request, make a determination of the delay, if any, caused the Contractor and shall make an equitable adjustment in accordance with paragraph (h) of this clause.

2. (b) *Changes in Government-furnished property.*

1. (1) The Contracting Officer may, by written notice,  
1. (i) decrease the Government-furnished property provided or to be provided under this contract, or  
2. (ii) substitute other Government-furnished property for the property to be provided by the Government, or to be acquired by the Contractor for the Government, under this contract.

2. The Contractor shall promptly take such action as the Contracting Officer may direct regarding the removal, shipment, or disposal of the property covered by such notice.

■

3. ([HIT5HIT5](#)[2HIT7HIT7](#)) Upon the Contractor's written request, the Contracting Officer shall make an equitable adjustment to the contract in accordance with paragraph (h) of this clause,

if the Government has agreed in the Schedule to make the property available for performing this contract and there is any --

1. (i) Decrease or substitution in this property pursuant to subparagraph (b)(1) of this clause; or
  2. (ii) Withdrawal of authority to use this property, if provided under any other contract or lease.
3. (c) *Title in Government property.*
1. (1) The Government shall retain title to all Government-furnished property.
  2. (~~HIT6~~~~HIT6~~~~2~~~~HIT8~~~~HIT8~~) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. However, special tooling accountable to this contract is subject to the provisions of the Special Tooling clause and is not subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.
  3. (3) Title to each item of facilities and special test equipment acquired by the Contractor for the Government under this contract shall pass to and vest in the Government when its use in performing this contract commences or when the Government has paid for it, whichever is earlier, whether or not title previously vested in the Government.
  4. (4) If this contract contains a provision directing the Contractor to purchase material for which the Government will reimburse the Contractor as a direct item of cost under this contract --
    1. (i) Title to material purchased from a vendor shall pass to and vest in the Government upon the vendor's delivery of such material; and
    2. (ii) Title to all other material shall pass to and vest in the Government upon --
      1. (A) Issuance of the material for use in contract performance;
      2. (B) Commencement of processing of the material or its use in contract performance; or
      3. (C) Reimbursement of the cost of the material by the Government, whichever occurs first.
4. (d) *Use of Government property.* The Government property shall be used only for performing this contract, unless otherwise provided in this contract or approved by the Contracting Officer.
5. (e) *Property administration.*
1. (1) The Contractor shall be responsible and accountable for all Government property provided under this contract and shall comply with Federal Acquisition Regulation (FAR) Subpart 45.5,  
  
as in effect on the date of this contract.
  2. (~~HIT7~~~~HIT7~~~~2~~~~HIT9~~~~HIT9~~) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound industrial practice and the applicable provisions of Subpart 45.5 of the FAR.
  3. (3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Contractor shall make such repairs as the Government directs. However, if the Contractor cannot effect such repairs within the time required, the Contractor shall dispose of the property as directed by the Contracting Officer. When any property for which the Government is responsible is replaced or repaired, the Contracting Officer shall make an equitable adjustment in accordance with paragraph (h) of this clause.
  4. (4) The Contractor represents that the contract price does not include any amount for repairs or replacement for which the Government is responsible. Repair or replacement of property for which the Contractor is responsible shall be accomplished by the Contractor at its own expense.
6. (f) *Access.* The Government and all its designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.
7. (g) *Risk of loss.* Unless otherwise provided in this contract, the Contractor assumes the risk of, and shall be responsible for, any loss or destruction of, or damage to, Government property upon its delivery to

the Contractor or upon passage of title to the Government under paragraph (c) of this clause. However, the Contractor is not responsible for reasonable wear and tear to Government property or for Government property properly consumed in performing this contract.

8. (h) *Equitable adjustment*. When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, the Contracting Officer may initiate an equitable adjustment in favor of the Government. The right to an equitable adjustment shall be the Contractor's exclusive remedy. The Government shall not be liable to suit for breach of contract for --
1. (1) Any delay in delivery of Government-furnished property;
  2. (~~HIT8~~~~HIT8~~~~HIT10~~~~HIT10~~) Delivery of Government-furnished property in a condition not suitable for its intended use;
  3. (3) A decrease in or substitution of Government-furnished property; or
  4. (4) Failure to repair or replace Government property for which the Government is responsible.
9. (i) *Final accounting and disposition of Government property*. Upon completing this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government property (including any resulting scrap) not consumed in performing this contract or delivered to the Government. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid to the Government as the Contracting Officer directs.
10. (j) *Abandonment and restoration of Contractor's premises*. Unless otherwise provided herein, the Government --
1. (1) May abandon any Government property in place, at which time all obligations of the Government regarding such abandoned property shall cease; and
  2. (~~HIT9~~~~HIT9~~~~HIT11~~~~HIT11~~) Has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or upon contract completion). However, if the Government-furnished property (listed in the Schedule or specifications) is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.
11. (k) *Communications*. All communications under this clause shall be in writing.
12. (l) *Overseas contracts*. If this contract is to be performed outside of the United States of America, its territories, or possessions, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

(End of Clause)

END OF SECTION 00700

AMENDMENT NO. 0002

TABLE OF CONTENTS  
SECTION 00800  
SPECIAL CONTRACT REQUIREMENTS

1	52.211-10	COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984)
2	52.211-12	LIQUIDATED DAMAGES--CONSTRUCTION (APR 1984)
3	52.211-18	VARIATION IN ESTIMATED QUANTITY (APR 1984)
4	52.214-17	RESERVED
5	52.228-12	PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS (OCT 1995)
6	52.228-14	IRREVOCABLE LETTER OF CREDIT (OCT 1997)
7	52.228-15	Performance and Payment Bonds--Construction (SEP 1996)
8	52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER--CENTRAL CONTRACTOR REGISTRATION (MAY 1999)
9	52.236-1	PERFORMANCE OF WORK BY THE CONTRACTOR (APR 1984)
10	52.236-4	PHYSICAL DATA (APR 1984)
11	52.236-16 I	QUANTITY SURVEYS (APR 1984)--ALTERNATE I (APR 1984)
12	52.236-21	SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997)
13	52.236-7001	CONTRACT DRAWINGS, MAPS, AND SPECIFICATIONS (DEC 1991)
14	52.247-7023	TRANSPORTATION OF SUPPLIES BY SEA (NOV 1995)
15	52.1-4001	CONTRACT ADMINISTRATION DATA
16	52.211-4002	VARIATIONS IN ESTIMATED QUANTITIES - SUBDIVIDED ITEMS (MAR 1995) (EFARS 52.211-5001)
17	52.231-4001	EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE (MAR 1995) EFARS 52-231-5000
18	52.232-4001	CONTINUING CONTRACTS (ALTERNATE) (MAR 1995) EFARS 52-232-5002
19	52.236-4001	PLANT AND MATERIAL REMOVAL AFTER CONTRACT TERMINATION (MAR 1996) EFARS 52.236-5000
20	52.239-4001	YEAR 2000 COMPLIANCE FOR CONSTRUCTION CONTRACTS
21	52.249-4001	BASIS FOR SETTLEMENT OF PROPOSALS EFARS 52.249-5000
22	<b>52.245-0003</b>	<b>IDENTIFICATION OF GOVERNMENT-FURNISHED PROPERTY (APR 1984)</b>

AMENDMENT NO. 0002

SECTION 00800

SPECIAL CONTRACT REQUIREMENTS

1 52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984)

The Contractor shall be required to (a) commence work under this contract within 10 calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than 540 calendar days after the contractor receives the Notice to Proceed. The time stated for completion shall include final cleanup of the premises.

(End of clause)

2 52.211-12 LIQUIDATED DAMAGES--CONSTRUCTION (APR 1984)

(a) If the Contractor fails to complete the work within the time specified in the contract, or any extension, the Contractor shall pay to the Government as liquidated damages, the sum of \$1,350.00 for each day of delay.

(b) If the Government terminates the Contractor's right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned the Government in completing the work.

(c) If the Government does not terminate the Contractor's right to proceed, the resulting damage will consist of liquidated damages until the work is completed or accepted.

(End of clause)

3 52.211-18 VARIATION IN ESTIMATED QUANTITY (APR 1984)

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

(End of clause)

4 52.214-17 RESERVED

5 52.228-12 PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS (OCT 1995)

In accordance with Section 806(a)(3) of Pub. L. 102-190, as amended by Sections 2091 and 8105 of Pub. L. 103-355, upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of this contract for which a payment bond has been furnished to the Government pursuant to the Miller Act, the Contractor shall promptly provide a copy of such payment bond to the requester.

(End of clause)

AMENDMENT NO. 0002

6 52.228-14 IRREVOCABLE LETTER OF CREDIT (OCT 1997)

(a) "Irrevocable letter of credit" (ILC), as used in this clause, means a written commitment by a federally insured financial institution to pay all or part of a stated amount of money, until the expiration date of the letter, upon presentation by the Government (the beneficiary) of a written demand therefor. Neither the financial institution nor the offeror/Contractor can revoke or condition the letter of credit.

(b) If the offeror intends to use an ILC in lieu of a bid bond, or to secure other types of bonds such as performance and payment bonds, the letter of credit and letter of confirmation formats in paragraphs (e) and (f) of this clause shall be used.

(c) The letter of credit shall be irrevocable, shall require presentation of no document other than a written demand and the ILC (including confirming letter, if any), shall be issued/confirmed by an acceptable federally insured financial institution as provided in paragraph (d) of this clause, and--

(1) If used as a bid guarantee, the ILC shall expire no earlier than 60 days after the close of the bid acceptance period;

(2) If used as an alternative to corporate or individual sureties as security for a performance or payment bond, the offeror/Contractor may submit an ILC with an initial expiration date estimated to cover the entire period for which financial security is required or may submit an ILC with an initial expiration date that is a minimum period of one year from the date of issuance. The ILC shall provide that, unless the issuer provides the beneficiary written notice of non-renewal at least 60 days in advance of the current expiration date, the ILC is automatically extended without amendment for one year from the expiration date, or any future expiration date, until the period of required coverage is completed and the Contracting Officer provides the financial institution with a written statement waiving the right to payment. The period of required coverage shall be:

(i) For contracts subject to the Miller Act, the later of--

(A) One year following the expected date of final payment;

(B) For performance bonds only, until completion of any warranty period; or

(C) For payment bonds only, until resolution of all claims filed against the payment bond during the one-year period following final payment.

(ii) For contracts not subject to the Miller Act, the later of--

(A) 90 days following final payment; or

(B) For performance bonds only, until completion of any warranty period.

(d) Only federally insured financial institutions rated investment grade or higher shall issue or confirm the ILC. The offeror/Contractor shall provide the Contracting Officer a credit rating that indicates the financial institution has the required rating(s) as of the date of issuance of the ILC. Unless the financial institution issuing the ILC had letter of credit business of at least \$25 million in the past year, ILCs over \$5 million must be confirmed by another acceptable financial institution that had letter of credit business of at least \$25 million in the past year.

(e) The following format shall be used by the issuing financial institution to create an ILC:

(Issuing Financial Institution's Letterhead or Name and Address)  
Issue Date \_\_\_\_\_  
Irrevocable Letter of Credit No. \_\_\_\_\_  
Account party's name \_\_\_\_\_  
Account party's address \_\_\_\_\_  
For Solicitation No. \_\_\_\_\_

(For reference only)

TO: (U.S. Government agency)

(U.S. Government agency's address)

1. We hereby establish this irrevocable and transferable Letter of Credit in your favor for one or more drawings up to United States \$\_\_\_\_\_. This Letter of Credit is payable at (issuing financial institution's and, if any, confirming financial institution's) office at (issuing financial institution's address and, if any, confirming financial institution's address) and expires with our close of business on \_\_\_\_\_, or any automatically extended expiration date.

2. We hereby undertake to honor your or the transferee's sight draft(s) drawn on the issuing or, if any, the confirming financial institution,

AMENDMENT NO. 0002

for all or any part of this credit if presented with this Letter of Credit and confirmation, if any, at the office specified in paragraph 1 of this Letter of Credit on or before the expiration date or any automatically extended expiration date.

3. (This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are renumbered.) It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for one year from the expiration date hereof, or any future expiration date, unless at least 60 days prior to any expiration date, we notify you or the transferee by registered mail, or other receipted means of delivery, that we elect not to consider this Letter of Credit renewed for any such additional period. At the time we notify you, we also agree to notify the account party (and confirming financial institution, if any) by the same means of delivery.

4. This Letter of Credit is transferable. Transfers and assignments of proceeds are to be effected without charge to either the beneficiary or the transferee/assignee of proceeds. Such transfer or assignment shall be only at the written direction of the Government (the beneficiary) in a form satisfactory to the issuing financial institution and the confirming financial institution, if any.

5. This Letter of Credit is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500, and to the extent not inconsistent therewith, to the laws of \_\_\_\_\_ (state of confirming financial institution, if any, otherwise state of issuing financial institution).

6. If this credit expires during an interruption of business of this financial institution as described in Article 17 of the UCP, the financial institution specifically agrees to effect payment if this credit is drawn against within 30 days after the resumption of our business.

Sincerely,  
(Issuing financial institution)

(f) The following format shall be used by the financial institution to confirm an ILC:

(Confirming Financial Institution's Letterhead or Name and Address)

Date \_\_\_\_\_ 19\_\_\_\_\_

Our Letter of Credit Advice Number \_\_\_\_\_

Beneficiary: \_\_\_\_\_

(U.S. Government agency)

Issuing Financial Institution: \_\_\_\_\_

Issuing Financial Institution's LC No.: \_\_\_\_\_

Gentlemen:

1. We hereby confirm the above indicated Letter of Credit, the original of which is attached, issued by \_\_\_\_\_ (name of issuing financial institution) for drawings of up to United States dollars \_\_\_\_\_/U.S. \$\_\_\_\_\_ and expiring with our close of business on \_\_\_\_\_ (the expiration date), or any automatically extended expiration date.

2. Draft(s) drawn under the Letter of Credit and this Confirmation are payable at our office located at \_\_\_\_\_.

3. We hereby undertake to honor sight draft(s) drawn under and presented with the Letter of Credit and this Confirmation at our offices as specified herein.

4. (This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are renumbered.) It is a condition of this confirmation that it be deemed automatically extended without amendment for one year from the expiration date hereof, or any automatically extended expiration date, unless:

(a) At least 60 days prior to any such expiration date, we shall notify the Contracting Officer, or the transferee and the issuing financial institution, by registered mail or other receipted means of delivery, that we elect not to consider this confirmation extended for any such additional period; or

(b) The issuing financial institution shall have exercised its right to notify you or the transferee, the account party, and ourselves, of its election not to extend the expiration date of the Letter of Credit.

5. This confirmation is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500, and to the extent not inconsistent therewith, to the laws of \_\_\_\_\_ (state of confirming financial institution).

AMENDMENT NO. 0002

6. If this confirmation expires during an interruption of business of this financial institution as described in Article 17 of the UCP, we specifically agree to effect payment if this credit is drawn against within 30 days after the resumption of our business.

Sincerely,  
(Confirming financial institution)

(g) The following format shall be used by the Contracting Officer for a sight draft to draw on the Letter of Credit:

SIGHT DRAFT

\_\_\_\_\_  
(City, State)

\_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
(Name and address of financial institution)

Pay to the order of \_\_\_\_\_

(Beneficiary Agency)

the sum of United States \$ \_\_\_\_\_

This draft is drawn under \_\_\_\_\_

Irrevocable Letter of Credit No. \_\_\_\_\_

By: \_\_\_\_\_

(Beneficiary Agency)

(End of clause)

7 52.228-15 Performance and Payment Bonds--Construction (SEP 1996)

(a) Definitions. As used in this clause--

Contract price means the award price of the contract or, for requirements contracts, the price payable for the estimated quantity; or for indefinite-delivery type contracts, the price payable for the specified minimum quantity.

(b) Unless the resulting contract price is \$100,000 or less, the successful offeror shall be required to furnish performance and payment bonds to the Contracting Officer as follows:

(1) Performance Bonds (Standard Form 25):

(i) The penal amount of performance bonds shall be 100 percent of the original contract price.

(ii) The Government may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.

(iii) The Government may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(2) Payment Bonds (Standard Form 25-A):

(i) The penal amount of payment bonds shall equal--

(A) 50 percent of the contract price if the contract price is not more than \$1 million;

(B) 40 percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(C) \$2.5 million if the contract price is more than \$5 million.

(ii) If the original contract price is \$5 million or less, the Government may require additional protection if the contract price is increased. The penal amount of the total protection shall meet the requirement of subparagraph (b)(2)(i) of this clause.

(iii) The Government may secure additional protection by directing the Contractor to increase the penal sum of the existing bond or to obtain an additional bond.

(c) The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within the time period specified in the Bid Guarantee provision of the solicitation, or otherwise specified by the Contracting Officer, but in any event, before starting work.

(d) The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the Federal Register, or may be obtained from

DACW09-00-B-0002

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AMENDMENT NO. 0002

the U.S. Department of Treasury, Financial Management Service, Surety Bond Branch, 401 14th Street, NW., 2nd Floor, West Wing, Washington, DC 20227.  
(End of clause)

8 52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER--CENTRAL CONTRACTOR REGISTRATION  
(MAY 1999)

(a) Method of payment. (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) Contractor's EFT information. The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment. If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) Contractor EFT arrangements. If the Contractor has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the CCR database, and the Contractor has not notified the Government of the payment receiving point applicable to this contract, the Government shall make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the CCR database.

(f) Liability for uncompleted or erroneous transfers. (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(g) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(h) EFT and assignment of claims. If the Contractor assigns the

AMENDMENT NO. 0002

proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register in the CCR database and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(i) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(j) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

(End of Clause)

9 52.236-1 PERFORMANCE OF WORK BY THE CONTRACTOR (APR 1984)

The Contractor shall perform on the site, and with its own organization, work equivalent to at least 35% percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

(End of clause)

(R 7-603.15 1965 JAN)

(R 1-18.104)

10 52.236-4 PHYSICAL DATA (APR 1984)

Data and information furnished or referred to below is for the Contractor's information. The Government shall not be responsible for any interpretation of or conclusion drawn from the data or information by the Contractor.

(a) The indications of physical conditions on the drawings and in the specifications are the result of site investigations by surveys, auger borings and test borings.

(b) Weather conditions - the contractor shall satisfy himself as to the hazards likely to arise from weather conditions.

(c) Transportation facilities - the contractor shall make his own investigation of the conditions of the existing public and private roads clearances, restrictions, bridge limits and other limitations affecting transportation and ingress and egress at the site of the work. It shall be the contractor's responsibility to construct and maintain, at the contractor's expense, any haul roads required for construction operations.

(d) N/A

(End of clause)

(R 7-603.25 1965 JAN)

11 52.236-16 I QUANTITY SURVEYS (APR 1984)--ALTERNATE I (APR 1984)

(a) Quantity surveys shall be conducted, and the data derived from these surveys shall be used in computing the quantities of work performed and the actual construction completed and in place.

(b) The Contractor shall conduct the original and final surveys and

DACW09-00-B-0002

**\*BOLD ITEM DENOTES CHANGE UNDER AMENDMENT NO. 0002**

AMENDMENT NO. 0002

surveys for any periods for which progress payments are requested. All these surveys shall be conducted under the direction of a representative of the Contracting Officer, unless the Contracting Officer waives this requirement in a specific instance. The Government shall make such computations as are necessary to determine the quantities of work performed or finally in place. The Contractor shall make the computations based on the surveys for any periods for which progress payments are requested.

(c) Promptly upon completing a survey, the Contractor shall furnish the originals of all field notes and all other records relating to the survey or to the layout of the work to the Contracting Officer, who shall use them as necessary to determine the amount of progress payments. The Contractor shall retain copies of all such material furnished to the Contracting Officer.

(End of clause)  
(R 7-603.50(a) 1979 MAR)  
(R 7-603.50(b) 1979 MAR)

12 52.236-21 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997)

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

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

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

(d) Shop drawings means drawings, submitted to the Government by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements, and (2) the installation (i.e., fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the contractor to explain in detail specific portions of the work required by the contract. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

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

(f) If shop drawings show variations from the contract requirements, the

DACW09-00-B-0002

**\*BOLD ITEM DENOTES CHANGE UNDER AMENDMENT NO. 0002**

AMENDMENT NO. 0002

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

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

(End of clause)

13 52.236-7001 CONTRACT DRAWINGS, MAPS, AND SPECIFICATIONS (DEC 1991)

(a) The Government--

(1) Will provide the Contractor, without charge, five CD-ROMS sets (five unless otherwise specified) of large-scale contract drawings and specifications except publications incorporated into the technical provisions by reference;

(2) Will furnish additional sets on request, for the cost of reproduction; and

(3) May, at its option, furnish the Contractor one set of reproducibles, or half-size drawings, in lieu of the drawings in paragraph (a)(1) of this clause.

(b) The Contractor shall--

(1) Check all drawings furnished immediately upon receipt;

(2) Compare all drawings and verify the figures before laying out the work;

(3) Promptly notify the Contracting Officer of any discrepancies; and

(4) Be responsible for any errors which might have been avoided by complying with this paragraph (b).

(c) Large scale drawings shall, in general, govern small scale drawings. Figures marked on drawings shall, in general, be followed in preference to scale measurements.

(d) Omissions from the drawings or specifications or the misdescription of details of work which are manifestly necessary to carry out the intent of the drawings and specifications, or which are customarily performed, shall not relieve the Contractor from performing such omitted or misdescribed details of the work, but shall be performed as if fully and correctly set forth and described in the drawings and specifications.

(e) The work shall conform to the specifications and the contract drawings identified on the following index of drawings:

Title	File	and	Drawing No.
Index to Contract Drawings	470/58		2
Index to Contract Drawings	470/59		3
Index to Contract Drawings	470/60		4

(End of clause)

14 52.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (NOV 1995)

(a) Definitions. As used in this clause--

(1) "Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the Contractor or any subcontractor.

(2) "Department of Defense (DoD)" means the Army, Navy, Air Force, Marine Corps, and defense agencies.

(3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

(4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) "Subcontractor" means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract. However, effective May 1, 1996, the term does not include a supplier, materialman, distributor, or vendor of commercial items or commercial components.

(6) "Supplies" means all property, except land and interests in land,

AMENDMENT NO. 0002

that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.

(i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.

(ii) Supplies includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing.

(7) "U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b) The Contractor shall employ U.S.-flag vessels in the transportation by sea of any supplies to be furnished in the performance of this contract. The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that--

- (1) U.S.-flag vessels are not available for timely shipment;
- (2) The freight charges are inordinately excessive or unreasonable; or
- (3) Freight charges are higher than charges to private persons for transportation of like goods.

(c) The Contractor must submit any request for use of other than U.S.-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract.

Requests shall contain at a minimum--

- (1) Type, weight, and cube of cargo;
- (2) Required shipping date;
- (3) Special handling and discharge requirements;
- (4) Loading and discharge points;
- (5) Name of shipper and consignee;
- (6) Prime contract number; and
- (7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.

(d) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information--

- (1) Prime contract number;
- (2) Name of vessel;
- (3) Vessel flag of registry;
- (4) Date of loading;
- (5) Port of loading;
- (6) Port of final discharge;
- (7) Description of commodity;
- (8) Gross weight in pounds and cubic feet if available;
- (9) Total ocean freight in U.S. dollars; and
- (10) Name of the steamship company.

(e) The Contractor agrees to provide with its final invoice under this contract a representation that to the best of its knowledge and belief--

- (1) No ocean transportation was used in the performance of this contract;
- (2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract;
- (3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or
- (4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

AMENDMENT NO. 0002

	Item Description	Contract Line Items	Quantity
Total.....			

(f) If the final invoice does not include the required representation, the Government will reject and return it to the Contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(g) The Contractor shall include this clause, including this paragraph (g) in all subcontracts under this contract, which exceed the simplified acquisition threshold in Part 13 of the Federal Acquisition Regulation.

(End of clause)

15 52.1-4001 CONTRACT ADMINISTRATION DATA

The Contract Administration Office for this contract subsequent to award is:

Department of the Army  
 Los Angeles District, Corps of Engineers  
 P.O. Box 532711  
 Los Angeles, California 90053-2325  
 ATTN: Ms. Tina Davis-Frazier  
 Telephone No: Area Code (213) 452-3252

Payment will be made by:

USACE Finance Center  
 ATTN: CEFC-AO-P  
 5270 Integrity Drive  
 Millington, TN 38054-5005

Submit Invoices to:

Please refer to Block No. 26 of SF 1442, Solicitation, Offer and Award, which will be completed at time of contract award.

16 52.211-4002 VARIATIONS IN ESTIMATED QUANTITIES - SUBDIVIDED ITEMS (MAR 1995)  
 (EFARS 52.211-5001)

This variation in estimated quantities clause is applicable only to Item No. 3.

(a) Variation from the estimated quantity in the actual work performed under any second or subsequent sub-item or elimination of all work under such a second or subsequent sub-item will not be the basis for an adjustment in contract unit price.

(b) Where the actual quantity of work performed for Items Nos. 3 is less than 85% of the quantity of the first sub-item listed under such item, the contractor will be paid at the contract unit price for that sub-item for the actual quantity of work performed and, in addition, an equitable adjustment shall be made in accordance with the clause FAR 52.211-18, Variation in Estimated Quantities.

(c) If the actual quantity of work performed under Item No. 3 exceeds 115% or is less than 85% of the total estimated quantity of the sub-items under that item and/or if the quantity of work performed under the second sub-item or any subsequent sub-item under Item No. 3 exceeds 115% or is less than 85% of the estimated quantity of any such sub-item, and if such variation causes an increase or a decrease in the time required for performance of this contract the contract completion time will be adjusted in accordance with the clause FAR 52.211-18, Variation in Estimated Quantities.

17 52.231-4001 EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE (MAR 1995)  
 EFARS 52-231-5000

(a) Allowable costs for construction and marine plant and equipment in sound workable condition owned or controlled and furnished by a contractor or subcontractor at any tier shall be based on actual cost

DACW09-00-B-0002

**\*BOLD ITEM DENOTES CHANGE UNDER AMENDMENT NO. 0002**

AMENDMENT NO. 0002

data for each piece of equipment or groups of similar serial and series for which the Government can determine both ownership and operating costs from the contractor's accounting records. When both ownership and operating costs cannot be determined for any piece of equipment or groups of similar serial or series equipment from the contractor's accounting records, costs for that equipment shall be based upon the applicable provisions of EP 1110-1-8, "Construction Equipment Ownership and Operating Expense Schedule," Region VII. Working conditions shall be considered to be average for determining equipment rates using the formula provided in the schedule. For forward pricing, the schedule in effect at the time of negotiations shall apply. For retrospective pricing, the schedule in effect at the time the work was performed shall apply.

(b) Equipment rental costs are allowable, subject to the provisions of FAR 31.105(d)(ii) and FAR 31.205-36 substantiated by certified copies of paid invoices. Rates for equipment rented from an organization under common control, lease-purchase or sale-leaseback arrangements will be determined using the schedule except that rental costs leased from an organization under common control that has an established practice of leasing the same or similar equipment to unaffiliated lessees are allowable. Costs for major repairs and overhaul are unallowable.

(c) When actual equipment costs are proposed and the total amount of the pricing action is over \$25,000, cost or pricing data shall be submitted on Standard Form 1411, "Contract Pricing Proposal Cover Sheet." By submitting cost or pricing data, the contractor grants to the contracting officer or an authorizing representative the right to examine those books, records, documents and other supporting data that will permit evaluation of the proposed equipment costs. After price agreement the contractor shall certify that the equipment costs of pricing data submitted are accurate, complete and current.

(End of clause)

18 52.232-4001 CONTINUING CONTRACTS (ALTERNATE) (MAR 1995) EFARS 52-232-5002

(a) Funds are not available at the inception of this contract to cover the entire contract price. The sum of \$1,000,000.00 has been reserved for this contract and is available for payment to the contractor during the current fiscal year. It is expected that Congress will make appropriations for future fiscal years from which additional funds, together with funds provided by one or more non-federal project sponsors will be reserved for this contract. The liability of the United States for payment beyond the funds reserved for this contract is contingent on the reservation of additional funds.

(b) Failure to make payment in excess of the amount currently reserved, or that may be reserved from time to time, shall not be considered a breach of this contract, and shall not entitle the contractor to a price adjustment under the terms of this contract except as specifically provided in paragraphs (e) and (h) below.

(c) The Government may at any time reserve additional funds for payments under the contract if there are funds available for such purpose. The contracting officer will promptly notify the contractor of any additional funds reserved for the contract by issuing and administrative modification to the contract.

(d) If earnings will be such that funds reserved for the contract will be exhausted before the end of any fiscal year, the contractor shall give written notice to the contracting officer of the estimated date of exhaustion and of additional funds which will be needed to meet payments due or to become due under this contract during that fiscal year. This notice shall be given not less than 45 nor more than 60 days prior to the estimated date of exhaustion.

(e) No payments will be made after exhaustion of funds except to the extent that additional funds are reserved for the contract. If and when sufficient additional funds are reserved, the contractor shall be entitled to simple interest on any payment that the contracting officer determines was actually earned under the terms of this contract and would have been made except for exhaustion of funds. Interest shall be computed from the time such payment would otherwise have been made until actually or constructively made, and shall be at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat 97, as in effect on the first day of the delay in such payment.

DACW09-00-B-0002

**\*BOLD ITEM DENOTES CHANGE UNDER AMENDMENT NO. 0002**

AMENDMENT NO. 0002

(f) Any suspension, delay, or interruption of work arising from exhaustion or anticipated exhaustion of funds shall not constitute a breach of this contract and shall not entitle the contractor to any price adjustment under a "Suspension of Work" or similar clause or in any other manner under this contract.

(g) An equitable adjustment in performance time shall be made for any increase in the time required for performance of any part of the work arising from exhaustion of funds or the reasonable anticipation of exhaustion of funds.

(h) If, upon the expiration of sixty (60) days after the beginning of the fiscal year following an exhaustion of funds, the Government has failed to reserve sufficient additional funds to cover payments otherwise due, the contractor, by written notice delivered to the contracting officer at any time before such additional funds are reserved, may elect to treat his right to proceed with the work as having been terminated. Such a termination shall be at no cost to the Government, except that, to the extent that additional funds to make payment therefore are allocated to this contract, it may be treated as a termination for the convenience of the Government.

(i) If at any time it becomes apparent that the funds reserved for any fiscal year are in excess of the funds required to meet all payments due or to become due the contractor because of work performed and to be performed under this contract during the fiscal year, the Government reserves the right, after notice to the contractor, to reduce said reservation by the amount of such excess.

(j) The term "Reservation" means monies that have been set aside and made available for payments under this contract.

(End of clause)

19 52.236-4001 PLANT AND MATERIAL REMOVAL AFTER CONTRACT TERMINATION (MAR 1996)  
EFARS 52.236-5000

Should this contract be terminated as provided in clause 52.232-5001 because of the failure of Congress to provide additional funds for its completion, the contractor may be permitted to remove plant and material on which payments for preparatory work have been made, subject to an equitable deduction from the amounts due the contractor to reimburse the United States for the unabsorbed value of such plant and material.

(End of clause)

20 52.239-4001 YEAR 2000 COMPLIANCE FOR CONSTRUCTION CONTRACTS

a. In accordance with FAR 39.106, the contractor shall ensure that with respect to any design, construction, goods, or services under this contract as well as any subsequent task/delivery orders issued under this contract (if applicable) all information technology contained therein shall be Year 2000 compliant. Specifically:

b. The contractor shall:

(1) Perform, maintain, and provide an inventory of all major components to include structures, equipment, items, parts, and furnishings under this contract and each task/delivery order which may be affected by the Y2K compliance requirement.

(2) Indicate whether each component is currently Year 2000 compliant or requires an upgrade for compliance prior to Government acceptance.

21 52.249-4001 BASIS FOR SETTLEMENT OF PROPOSALS EFARS 52.249-5000

Actual costs will be used to determine equipment costs for a settlement proposal submitted on the total cost basis under FAR 49.206-2(b). In evaluating a terminations settlement proposal using the total costs basis, the following principals will be applied to determine allowable equipment costs:

(1) Actual costs for each piece of equipment, or groups of similar serial or series equipment, need not be available in the contractor's accounting records to determine total actual equipment costs.

(2) If equipment costs have been allocated to a contract using predetermined rates, those charges will be adjusted to actual costs.

DACW09-00-B-0002

**\*BOLD ITEM DENOTES CHANGE UNDER AMENDMENT NO. 0002**

AMENDMENT NO. 0002

(3) Recorded job costs adjusted for unallowable and unallowable expenses will be used to determine equipment operating expenses.

(4) Ownership costs (depreciation) will be determined using the contractor's depreciation schedule (subject to the provisions of FAR 31.205-11).

(5) License, taxes, storage and insurance costs are normally recovered as an indirect expense and unless the contractor charges these costs directly to contracts, they will be recovered through the indirect expense rate.

(End of Statement)

22 52.243-0003 IDENTIFICATION OF GOVERNMENT-FURNISHED PROPERTY (APR 1984)

(a) The Government will furnish to the Contractor the property identified in the Schedule to be incorporated or installed into the work or used in performing the contract. The listed property will be furnished f.o.b. railroad cars at the place specified in the contract Schedule or f.o.b. truck at the project site. The Contractor is required to accept delivery, pay any demurrage or detention charges, and unload and transport the property to the job site at its own expense. When the property is delivered, the Contractor shall verify its quantity and condition and acknowledge receipt in writing to the Contracting Officer. The Contractor shall also report in writing to the Contracting Officer within 24 hours of delivery any damage to or shortage of the property as received. All such property shall be installed or incorporated into the work at the expense of the Contractor, unless otherwise indicated in the contract.

(b) Each item of property to be furnished under this clause shall be identified by quantity, item and description as follows:

SCHEDULE		
<u>QUANTITY</u>	<u>ITEM</u>	<u>DESCRIPTION</u>
4	1	Concrete Pilasters

The estimated value of the Government Furnished property under this contract is expected to be \$2,800.00.

SECTION TABLE OF CONTENTS

GENERAL REQUIREMENTS

SECTION 01200

1. REFERENCES . . . . . SECTION 01200 PAGE 1

2. PROJECT FACILITIES . . . . . SECTION 01200 PAGE 1

3. CONSTRUCTION SIGNS . . . . . SECTION 01200 PAGE 2

4. MAINTENANCE OF PROJECT FACILITIES . . . . . SECTION 01200 PAGE 2

5. SCRAP MATERIAL . . . . . SECTION 01200 PAGE 3

6. SALVAGE MATERIALS . . . . . SECTION 01200 PAGE 3

7. ARCHAEOLOGICAL FINDINGS DURING CONSTRUCTION . . . . . SECTION 01200 PAGE 3

8. PUBLIC UTILITIES, NOTICES, AND RESTRICTIONS . . . . . SECTION 01200 PAGE 3

9. PUBLIC SAFETY . . . . . SECTION 01200 PAGE 13

10. OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA) STANDARDS . . . . . SECTION 01200 PAGE 13

11. PERMITS . . . . . SECTION 01200 PAGE 14

12. REQUIRED INSURANCE . . . . . SECTION 01200 PAGE 14

13. GRAFFITI REMOVAL . . . . . SECTION 01200 PAGE 15

14. AS-BUILT DRAWINGS . . . . . SECTION 01200 PAGE 15

15. NOTICE OF PARTNERSHIP . . . . . SECTION 01200 PAGE 16

16. TIME EXTENSIONS FOR UNUSUALLY SEVERE WEATHER . . . . . SECTION 01200 PAGE 16

FIGURE 1, PROJECT SIGN . . . . . SECTION 01200 PAGE 18

FIGURE 2, SIGN DETAILS . . . . . SECTION 01200 PAGE 19

FIGURE 3, HARD HAT SIGN . . . . . SECTION 01200 PAGE 20

FIGURE 4, SAFETY SIGN . . . . . SECTION 01200 PAGE 21

-- End Table of Contents -

## SECTION 01200

## GENERAL REQUIREMENTS

1. REFERENCES. The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by the basic designation only.

## 1.1 Federal Specifications (FS).

FS FF-B-575	(Rev C) Bolts, Hexagon and Square
FS FF-N-105	(Rev B; Int Am 4) Nails, Brads, Staples and Spikes: Wire, Cut and Wrought
FS FF-N-836	(Rev D; Am 2) Nut, Square, Hexagon, Cap, Slotted, Castle, Knurled, Welding and Single Ball Seat
FS MM-L-751	(Rev H) Lumber; Softwood
FS TT-E-529	(Rev G) Enamel, Alkyd, Semi-Gloss
FS TT-P-25	(Rev E; Am 2) Primer Coating, Exterior (Undercoat for Wood, Ready-Mixed, White and Tints)

## 1.2 National Institute of Standards and Technology (NIST).

NIST PS 1	(1983) Construction and Industrial Plywood
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2. PROJECT FACILITIES. The Contractor shall construct and/or erect the following project facilities:

2.1 Construction Signs. The signs shall be erected as soon as possible and within 15 days after commencement of work under this contract.

2.1.1 Five Project Signs at locations designated by the Contracting Officer.

2.1.2 Warning Signs facing approaching traffic on all roads crossing under overhead power transmission lines.

2.1.3 Six hard hat signs at locations directed.

2.2 Project Engineer's Office. No new facility required. The Contractor shall provide furnishings and maintenance of the existing facilities (48' x 60' and 24' x 60' office trailers) as specified hereinafter.

2.3 Bulletin Board at the Contractor's office. Immediately upon beginning of work, the Contractor shall provide a weatherproof glass-covered bulletin board not less than 36 by 48 inches in size for displaying the Equal Employment Opportunity

poster, a copy of the wage decision contained in the contract, Wage Rate Information poster, and other information approved by the Contracting Officer. The bulletin board shall be located at the project site in a conspicuous place easily accessible to all employees, as approved by the Contracting Officer. Legible copies of the aforementioned data shall be displayed until work is completed. Upon completion of work the bulletin board shall be removed by and remain the property of the Contractor.

2.4 Sanitary Facilities. The Contractor shall provide and maintain within the construction area minimum field-type sanitary facilities approved by the Contracting Officer.

### 3. CONSTRUCTION SIGNS.

#### 3.1 Materials.

3.1.1 Lumber shall conform to FS MM-L-751, and shall be seasoned Douglas Fir, S4S, Grade D or better except that posts, braces and spacers shall be construction Grade (WCLB).

3.1.2 Plywood shall conform to NIST PS 1, grade A-C, Group 1, exterior type.

3.1.3 Bolts, Nuts and Nails. Bolts shall conform to FS FF-B-575, nuts shall conform to FS FF-N-836, and nails shall conform to FS FF-N-105.

3.1.4 Paints and Oils. Paints shall conform to FS TT-P-25 for primer and FS TT-E-529 for finish paint and lettering.

#### 3.2 Construction.

3.2.1 Project and hard hat signs shall be constructed as detailed on Figures 1, 2 and 3 attached at the end of this section. Decals and safety signs will be furnished by the Contracting Officer.

3.2.2 Warning Signs shall be constructed of plywood not less than ½ inch thick and shall be securely bolted to the supports with the bottom of the sign face 3 feet above the ground. The sign face shall be 2 x 4 feet, all letters shall be 4 inches in height, and the wording shall be: "WARNING: OVERHEAD TRANSMISSION LINES."

3.3 Painting. All exposed surfaces and edges of plywood shall be given one coat of linseed oil and be wiped prior to applying primer. All exposed surfaces of signs and supports shall be given one coat of primer and 2 finish coats of white paint. Except as otherwise indicated, lettering on all signs shall be black and sized as indicated.

### 4. MAINTENANCE OF PROJECT FACILITIES.

4.1 General. The Contractor shall maintain the project facilities in good condition throughout the life of the project. Upon completion of work under this contract, the contractor-furnished facilities covered under this section will remain the property of the Government.

4.2 Utilities and Furnishings. An adequate supply of cooked drinking water shall be supplied and maintained. Sewer, permanent water supply, telephone, and electrical service shall be provided and maintained. The cost for sewer, water, and electricity usage will be the responsibility of the Contractor. The cost for the telephone usage will be the responsibility of the Government. The Contractor shall provide commercial grade furniture for the project engineer's office, consisting of two each four drawer filing cabinets, two book shelves, three telephone lines (one main number with two roll-over lines), one fax line, six modem lines, and appurtenant items. Items shall be maintained by the Contractor. In addition, the existing fax machine and copy machine at the project office shall be serviced by the Contractor. At the conclusion of the performance period of this contract, the Contractor's responsibilities for maintenance of the facilities as described above will cease. The Contractor-furnished temporary fencing and temporary power equipment, including poles, covered in this section will remain the property of the Government.

4.3 Cleaning and Janitorial Services. The Contractor shall provide cleaning and janitorial services for the existing trailers located in the South Imperial Yard (two offices, approximately 48' by 60' and 24'x 60') for the duration of the contract. Service shall be provided three times a week and all cleaning and janitorial materials (including paper towels, toilet paper and hand soap) shall be provided by the Contractor. Services shall include window cleaning once a month and carpet shampooing once every four months. Trash service shall also be provided (3 cy trash dumpster with weekly pickups). The Contractor shall remove and dispose of all broken test cylinders from the testing laboratory once a month.

5. SCRAP MATERIAL. Materials indicated to be removed and not indicated to be salvaged, stored or reinstalled are designated as scrap and shall become the property of the Contractor and be removed from the site of work. The Contractor by signing this contract hereby acknowledges that he made due allowance for value, if any, of such scrap in the contract price.

6. SALVAGE MATERIALS. All materials removed and indicated to be either stored or reinstalled are designated as salvaged materials. Any salvaged materials which are excess upon completion of the work and are not indicated to be stored shall become the property of the Contractor.

7. ARCHAEOLOGICAL FINDINGS DURING CONSTRUCTION. Should the Contractor or any of his employees in the performance of this contract find or uncover any archaeological remains, he shall notify the Project Engineer immediately. Such notifications will be a brief statement in writing giving the location and nature of the findings. Should the discovery site require archaeological studies resulting in delays and/or additional work, the Contractor will be compensated by an equitable adjustment under the CONTRACT CLAUSES of the contract.

8. PUBLIC UTILITIES, NOTICES, AND RESTRICTIONS.

8.1 General. The approximate location of all railroads, pipe lines, power and communication lines, and other utilities known to exist within the limits of the work are indicated on the drawings. The sizes, locations, and names of owners of such utilities are given from available information, but their accuracy is not guaranteed. Except as otherwise indicated on the drawings, all existing utilities will be left in place and the Contractor shall conduct his operations in such a

manner that the utilities will be protected from damage at all times, or arrangements shall be made by the Contractor for their relocation at the Contractor's own expense. The Contractor shall be responsible for any damage to utilities known to exist and shall reimburse the owner for such damage caused by his operations.

8.2 Relocation or Removal. Utilities to be relocated or removed not as part of this contract are designated "To be Relocated by Others" or "To be Removed by Others," respectively. Utilities shown on the plans and not so designated will be left in place and be subject to the clause of the contract: PROTECTION OF EXISTING VEGETATION, STRUCTURES, UTILITIES, AND IMPROVEMENTS of the CONTRACT CLAUSES. The Contractor may make arrangements with the owner for the temporary relocation and restoration of utilities not designated to be relocated, or for additional work in excess of the work needed to relocate utilities designated for relocation at no additional cost to the Government.

8.3 Utilities Not Shown. If the Contractor encounters, within the construction limits of the entire project, utilities not shown on the plans and not visible as of the date of this contract and if such utilities will interfere with construction operations, he shall immediately notify the Contracting Officer in writing to enable a determination by the Contracting Officer as to the necessity for removal or relocation. If such utilities are left in place, removed or relocated, as directed by the Contracting Officer, the Contractor shall be entitled to an equitable adjustment for any additional work or delay.

8.4 Coordination. The Contractor shall consult and cooperate with the owner of utilities that are to be relocated or removed by others to establish a mutual performance schedule and to enable coordination of such work with the construction work. These consultations shall be held as soon as possible after award of the contract or sufficiently in advance of anticipated interference with construction operations to provide required time for the removal or relocation of affected utilities.

8.5 Notices.

8.5.1 Utilities to be Relocated or Protected. Unless otherwise specified, the Contractor shall notify the Contracting Officer, in writing, 30 calendar days prior to starting work on any utility to be protected. On each protection, notification shall include dates on which the Contractor plans excavation, and construction work, as applicable. The Contractor shall also notify and make positive contact with the following representatives of utility owners not less than 14 days, unless otherwise specified, prior to start of work in the vicinity of their respective utilities:

ARCO Products Co.(Refinery)  
Mr. Robert Streed  
5900 Cherry Avenue  
Long Beach, CA 90805  
(562) 728-2483

Central Basin Municipal Water District  
Mr. David Ruhl  
Senior Water Resources Engineer

17140 Avalon Boulevard, Suite 210  
Carson, CA 90746-1296  
(310) 217-2222-ph  
(310) 217-2414-fax

Chevron Pipeline Co.  
Mr. Gerald McClellan  
16301 Trojan Way  
La Mirada, CA90638-1530  
(714) 228-1504  
Mr. Steve Conley  
(805) 632-1060

City of Compton Water Department  
Mr. Reggie Taber  
205 S. Willow Brook Avenue  
Compton, CA 90220  
(310) 605-5585-fax  
(310) 631-0332

Department of Water and Power  
Utility Coordinating Section  
Mr. Louie Ferrer  
Rm. 813, GOB 111 North Hope Street  
Los Angeles, CA 90012-2694  
(213) 367-2659

General Telephone Company  
Mr. Ernie Ebara  
Supervising Engineer  
200 West Ocean Boulevard, 8th Floor  
Long Beach, CA 90802  
(562) 903-7910  
(562) 921-7510-fax  
Mr. Stephen Deck  
(714) 375-6706

Liberty Cable T.V.  
Mr. Eduardo Morales  
Plant Manager  
3125 Firestone Boulevard  
South Gate, CA 90280  
(213) 567-2437

Lomita Gasoline Company  
Mr. Mike Cherpeski  
(562) 424-1693

Los Angeles County Department of Public Works, Construction Division  
Mr. Ali Zadeh  
P.O. Box 1460  
Alhambra, CA 91802-1460  
(815) 458-3129

Los Angeles County Sanitation District  
Mr. Calvin Jin  
(310) 638-1161

Metropolitan Water District - Civil Engineering Substructure Section  
Angela Hall  
P.O. Box 54153  
Los Angeles, CA 90054  
(213) 217-7259

Metropolitan Water District - Operations Maintenance Branch  
(Field Inspection Personnel)  
Mr. Benny Yee  
(213) 217-7723

Mobil Oil Corporation  
Teri Shinde  
R/W & Claims Specialist  
3700 W. 190th Street  
Torrance, CA 90509-2929  
(310) 212-4586

Pacific Bell  
Mr. Rick Rodriguez  
3939 E. Coronado  
Anaheim, CA 92807  
(626) 578-3697

Pacific Bell Telephone Company  
Engineering Office  
Pat Haupenthal, Project Engineer  
Richard Hayes, Project Engineer  
100 West Alondra Boulevard, Building A  
Room 202  
Gardena, CA 90248  
(310) 515-4358  
(310) 324-3950

Pacific Bell Telephone Company  
Mr. Lorey Lavery  
Public Works Coordinator  
14709 Vanowen Street, Room 218  
Van Nuys, CA 91405

Park Water Company  
Reclaimed Water  
Mr. Mike Williams  
9750 Washburn Road  
Downey, CA 90241-7002  
(562) 923-0250

South Gate Water Department  
Mr. John Chambers

Superintendent  
4244 Santa Ana Street  
South Gate, CA 90280  
(213) 563-5795

Southern California Edison Company (Distribution)  
Mr. Mark Meizner  
500 N. State College, Suite 750  
Orange, CA 92668  
(714) 895-0551 (Mon-Fri)  
(714) 646-2914 (Sat/Emergency)

Southern California Edison Company (Planning)  
Mr. Ken Forte  
(South Gate, Lynwood, & Hollydale)  
1624 Cashdan Street  
Compton, CA 90224  
(310) 608-5135

Southern California Edison Company (Transmission)  
Mr. Arnie Aparicio  
Project Manager  
14803 Chestnut Street  
Westminster, CA 92683  
(714) 934-0846

Southern California Edison Company (Transmission)  
Mr. Wally Zimmerman  
Telephone (626) 237-0504

Southern California Gas Company - District Facility  
Mr. Jim Lucas  
Technical Supervisor  
P.O. Box 3334  
Anaheim, CA 92803-3334  
(714) 634-3121

Southern California Gas Company  
Mr. Richard Isaacs  
ML 8286 Box 3249  
Los Angeles, CA 90051-1249  
(310) 687-2017 (Mon-Fri)  
(213) 881-8113 (Sat/Emergency)

Texaco Trading and Transportation, Inc.  
Mr. Roger Ang  
(661) 328-2338

**8.5.1.1 Prior to beginning any work to the gaging station, the contractor shall contact Hydraulic/Water Conservation Division, System Support Section at (626) 458-6188 for the coordination of removing the existing equipment in the gaging station.**

8.5.2 Permanent Utility Relocations by Others. Except as otherwise specified, the Contractor shall notify the Contracting Officer, in writing, not less than 14 days in advance of the date on which he will complete trenching, excavation, fill or rough grading, as applicable, at each location where such completed work is required for temporary or permanent relocations by others. The Contractor shall allow a period of 14 calendar days at each relocation, after which time the Contractor may resume his operations.

8.5.3 The Contractor shall notify Mr. Yggy C. Ruiz of the Los Angeles County Department of Public Works 14 days prior to start of construction to post notification for the homeless to remove their personal belongings out of the project area, telephone (562) 861-0316.

8.5.4 Chevron Pipeline Requirement. The Contractor shall submit a copy of the approval letter or permit from Chevron Pipeline Company Engineering/Technical Services Department. To maintain compliance with Pipeline Safety Laws and Chevron Pipe Line Company (CPL) policy, all Contractors associated with the project shall comply with the following minimum facilities inspection requirements.

8.5.4.1 A CPL representative must be present whenever Contractors are working over or near CPL facilities. The Contractor is responsible for obtaining a permit or an approval letter from CPL prior to doing any work over or near CPL facilities.

8.5.4.2 Notify CPL Facilities Inspection Office at (714) 228-1503 and Underground Service Alert at: (800) 227-2600 a minimum of two working days prior to any on-site work.

8.5.4.3 Excavators must verify exact elevations/depth of cover (DOC) of CPL facilities in conflict with the project by excavating with hand tools. CPL facilities are to be exposed by hand digging only, before using power-operated equipment over or within pipeline easements operated or maintained by CPL. DOC information is proprietary and confidential property of Chevron Pipeline Company. The project Design Team and Excavation Contractors may use data obtained, for the sole purpose of assisting with design of the project to determine proper excavation techniques and construction requirements, to protect the pipelines in place during performance of project activity over or near CPL and to prevent unauthorized or illegal encroachment of CPL facilities.

8.5.4.4 CPL facilities must be protected from hazards causing pipelines to move or sustain abnormal loads, or excess localized stress and potential pipeline rupture. Anticipated external loads must be provided for during construction and upon completion of approved improvements over or near CPL facilities. DOC data must be obtained for calculation of safe load bearing factors to be determined before deployment of heavy equipment or placement of load-bearing structures over CPL product pipelines.

8.5.4.5 Final DOC over CPL facilities must meet minimum Department of Transportation depth of cover requirements, plus maximum allowable external load application and approved by CPL Engineering/Technical Services Department. Adequate ground cover is required and critical for maintaining safe pipeline operations. Existing cover over CPL is to be field verified by the Contractor under observation of the assigned CPL Facilities Inspector.

8.5.4.6 Specific details of proposed foreign utilities crossing CPL are required to be planned in advance with CPL. Installation of utility crossings must be placed below CPL facilities and provide 24" clearance if feasible, but not less than minimum 12" of clearance is required for any utility crossings. Only lateral service crossing are permitted within CPL easements. Parallel utilities are not permitted.

8.5.4.7 CPL facilities are Cathodically Protected: In event of improvements proposing any metallic pipes or structures in proximity to the easement, it is absolutely necessary that arrangements be made for the protection of CPL facilities in order to prevent problems of electrical interference upon the pipelines.

8.5.4.8 Backfill must protect coating and support pipe. Only rock free native soil or clean sand may be used as backfill material. No cement slurry allowed within 12" of CPL pipelines.

8.5.4.9 No unapproved structures are permitted (e.g., foundations, footings, trees, etc.) within CPL easements.

8.5.4.10 Proposed temporary or permanent structures or improvements adjacent to CPL easement boundaries require engineering/technical calculations to determine safe construction offset distances, appropriate angle of repose, surcharge or overburden factors, to ensure prevention of undermining proposed improvements in the event of future CPL pipeline maintenance or emergency excavations to access pipeline facilities. Contractor shall provide all calculations for temporary and permanent structures and loadings required for construction.

8.5.4.11 If it is determined by CPL Engineering/Technical Services that adequate cover, clearance or protection from load bearing forces from temporary or permanent structures cannot be obtained, then CPL would require CPL facilities to be relocated, lowered in place or additional fill placed above the pipelines. Except express terms and conditions in reference to responsibility for costs, it is expected that improvements requiring pipeline system design changes that CPL would be reimbursed for actual costs to perform work for such changes (i.e., changes in DOC, lowering, relocation or removal of pipelines to accommodate new construction improvements for Project Site Development).

8.5.4.12 All Contractors associated with the project agree to sign and abide by the terms of CPL's Acknowledgment of Line Crossing Procedures and/or Hazardous Liquid Substructure Notification, as specified at time of construction by the CPL Facilities Inspector. Failure to comply with requirements of Pipeline Safety Laws subject the violator to liability for any damage incurred by CPL Facilities during excavation/construction operations. Civil and/or Criminal Penalties may result from Failure to Comply.

8.5.5 Police, Highway Patrol, and Fire Department. Police, Highway Patrol, and Fire Department shall be notified by the Contractor whenever a street is to be closed to traffic. If the closing is to be of long duration, a single notification to each department on the last working day before closing will be sufficient. A single notification shall then be made at the time the street is again opened to traffic. If the closing is to be of short duration or if

different sections of the streets are to be closed at different times, notifications shall be made on a day-to-day basis.

8.5.6 Existing Bench Marks and R/W Markers. The Contractor shall notify the Contracting Officer, in writing, 7 days in advance of the time he proposes to remove any bench mark or right-of-way marker.

8.5.7 Spill Reporting. The Contractor shall notify the Contracting Officer immediately after all spills, regardless of quantity, including all personnel exposures. The Contractor shall submit a written notification not later than 7 calendar days after the initial notification. The written notification shall include the following:

- a. Item spilled, leaked or released in an unauthorized manner (Identification, Quantity and Manifest Numbers).
- b. Whether the amount spilled, leaked or released in an unauthorized manner is EPA reportable and, if reported, a copy of the report.
- c. Exact location of the spill, leak or unauthorized release.
- d. Nature of exposure to personnel.
- e. Containment procedures initiated.
- f. Anticipated cleanup and disposal procedures.
- g. Disposal location of spill, leak or unauthorized release residue.

8.5.8 The Contractor shall notify Mr. Ruben Lopez, Director of Community Development/Redevelopment, (323) 563-9566, City of South Gate, at least 14 days prior to using the staging area.

8.5.9 County Sanitation Districts of Los Angeles County.

8.5.9.1 Contractor must locate Districts' trunk sewers by potholing before constructing any footings within the Districts' easements.

8.5.9.2 Continuous access to the sewer manholes located within the project site must be maintained at all times. The minimum clearance requirements for a typical District maintenance vehicle is 12 feet in width and 15 feet in height. The means by which access is to be provided to any impacted sewer manholes must be indicated on a site plan and submitted to the Districts prior to construction.

8.5.9.3 All construction occurring within the Districts' easements shall be performed in the presence of a District inspector. Please contact Calvin Jin, Sewerage System Superintendent of the Compton Field Office, at (310) 638-1161, least two weeks prior to construction to make the necessary arrangements.

8.5.9.4 Construction Within a District's Easement and Adjustment of County Sanitation District Manholes to New Grade. Contractor must complete the following prior to construction within the District's easement. Contractor shall receive onsite approval of any proposed activity within the district's easement by a

District inspector. When Sanitation District manholes must be adjusted to a new grade because of regrading and/or resurfacing over the manhole, the work will be done by District personnel in conjunction with the contractor responsible for the regrading and/or resurfacing, pursuant to the following procedure.

1. Contractor shall notify the District's Sewerage Superintendent at (310) 638-1161, forty-eight hours prior to commencement of any work in the area of the manhole.

2. If grade over manhole is to be lowered:

(a) Contractor shall furnish and deliver a temporary steel cover plate of a thickness and size approved by the District for said manhole.

(b) Contractor shall excavate around the manhole to a depth and distance outside of the manhole as required for District to accomplish (c) below.

(c) District shall remove the existing manhole frame and cover and any interfering portion of the manhole shaft and shall place the steel cover plate over the manhole.

(d) Contractor shall store and protect frame and cover for later installation by District and shall fill and/or pave over the steel plate to final grade.

(e) Contractor shall remove paving and/or fill as necessary to permit District to adjust manhole to final grade. (Removal of paving and/or fill shall be to a minimum of less than 6 inches below final grade and 12 inches outside of the manhole if the steel plate is more than 6 inches below final grade.)

(f) District personnel shall adjust manhole and set frame and cover to final grade.

(g) Contractor shall place and compact the backfill and pavement as necessary to complete the work.

3. If grade over manhole is to be raised:

(a) Contractor shall fill and/or pave directly over frame and cover to final grade.

(b) Steps (e) through (g) of 2 above shall be followed except that if grade is to be raised more than 2 feet, the Contractor shall excavate around the manhole shaft under step (2) to a depth and diameter as necessary for District to remove and reconstruct manhole shaft with required taper and as specified by District.

The Contractor shall be responsible for furnishing, placing, and maintaining barricades and lights as necessary to protect the public from danger due to the work being done.

8.5.10 Metropolitan Water District. The Contractor shall notify Mr. Benny Yee (Operations Maintenance Branch) at (213) 217-7723, at least two days (Monday

through Thursday) prior to starting work in the vicinity of Metropolitan Water District (MWD) facilities.

8.5.10.1 If construction equipment is to be used that will impose loads greater than that of an AASHTO H-20 vehicle, specifications of said equipment shall be submitted to metropolitan for review and written approval a minimum of 14 days prior to starting work in the vicinity of MWD facilities. Construction equipment that will impose loads greater than that of an AASHTO H-20 vehicle shall not be used within 20 feet of MWD manholes or other structures.

8.5.10.2 When the total cover over MWD pipelines is greater than 5 feet, and when the ground is maintained in a smooth condition with a uniform slope for 50 feet on each side of the pipeline, equipment operating over the pipeline shall be restricted to a loaded CAT 666B scraper or equivalent.

## 8.6 Restrictions.

8.6.1 Representatives of Other Agencies. Personnel representing owners and agencies may be present for various portions of the work. However, the Contractor will be responsible only to the Contracting Officer.

8.6.2 The Contractor will not be permitted to cross existing paved roadways and residential roadways with construction equipment except at approved marked crossings. The Contractor shall maintain the crossings in accordance with applicable state, county, and city regulations.

8.6.3 Working Hours. The Contractor shall restrict all construction activities, including warming equipment, to the following schedule:

Monday through Friday	7 a.m. to 7:00 p.m.
Saturday	9 a.m. to 6:00 p.m.

Access to the job site will be allowed 30 minutes prior to starting time unless otherwise approved by the Contracting Officer. No work will be permitted on Sundays or Federal Holidays.

## 8.6.4 Bicycle Trail Closure and Signing and Striping

8.6.4.1 Closure. The bicycle trail shall be closed. Signage with the limits, date and time of closure shall be posted along the trail in both directions two (2) weeks prior to the actual closing of the trail. Signage shall contain the period and extent of closure. The Contractor shall notify Ryan Romo, Los Angeles County Department of Public Works at (626) 458-3941 at least one (1) month prior to bicycle trail closure and immediately after the signs have been placed. The bike path must be adequately barricaded at each end of the bike path closure limits. Additional signage warning of construction area, and location maps provided by L.A. County Department of Public Works Planning Division, as shown on the plans, shall be posted at the intermediate access gates and at each end of the closure.

8.6.4.2 Signing and Striping. Existing signage for the bicycle trail shall be removed and delivered to the Los Angeles County Department of Public Works. The Contractor shall contact Mr. Ryan Romo, Los Angeles County Department of Public

Works (Bicycle Trail Coordinator), (626) 458-3941, 24 hours prior to delivering the existing bicycle trail signs to 1525 Alcazar Street, Los Angeles, CA 90033, for the anti-graffiti coating treatment to the signs by L.A. County. The Contractor shall be responsible for returning the treated signs and placing them at the locations indicated on the plans or as approved by the Contracting Officer.

8.6.5 Levee and Parapet Wall Construction. The contractor will be allowed to do any work on the landward side or the top of the levee during the flood season, November 15 to April 15, provided that the work does not effectively remove any more than the top one foot of the levee. This limitation will not impact the construction of the levee in the fill areas. The Contractor is restricted from building the parapet walls during the November 15 to April 15 rainy season unless the Contractor can demonstrate, to the satisfaction of the Contracting Officer, that the parapet wall can be constructed by removing only a two-foot portion of the concrete channel slope and reducing the effective levee height by 1 foot.

8.6.6 Right of Way and Permit Restrictions.

8.6.6.1 Gun Club (Trap Shooting Range). The Gun Club will be open between noon and dusk on Wednesday and Fridays. Construction activities will not be permitted on Wednesdays and Fridays between Rio Hondo Channel right levee, Station 9+00 to Station 24+50 and Los Angeles River left levee, Station 642+00 to Station 654+00.

8.6.6.2 No access is available on the west side of Rio Hondo Channel both north and south of the UPRR tracks. A temporary invert ramp(s) would be required to access the west side of Rio Hondo Channel and Los Angeles River confluence. A Right of Entry Agreement between the Contractor and UPRR will be required prior to any work within UPRR right of way. Contact Greg Jacquez, Railroad Coordinator, Programs Development Division, Los Angeles County Department of Public Works, (626) 458-3935, to obtain folder no. and forms for right of entry agreement.

8.6.6.3 Los Angeles County stockpile site Station 58+12 to 48+75 will be cleaned up by County forces. The clean-up is estimated to be completed by January 31, 2000. Contact Yggy Ruiz, (562) 861-0316.

8.6.6.4 World Oil property, Rio Hondo right levee Station 78+50 to 80+70: no construction can take place until April 1, 2000.

8.6.6.5 Janis Investment property, Station 637+69 to 647+54: no construction can be started until January, 2000.

8.6.6.6 Kroyer Company (Sam's Club), west side of Rio Hondo Channel right levee, Station 81+00 to 83+20: no access available until April, 2000.

8.6.6.7 Caltrans property - L.A. River left levee Station 561+50 to Station 571+50; L.A. River left levee Station 652+00 to Station 658+00; L.A. River right levee Station 558+00 to Station 574+00; L.A. River right levee Station 648+25 to Station 653+50 - encroachment permit not available until January 15, 2000.

8.6.6.8 Chevron Pipeline Company - L.A. River left levee Station 535+00 to Station 539+00; L.A. River left levee Station 562+00 to Station 570+50; L.A. River left levee Station 618+00 to Station 620+00; L.A. River right levee Station 535+78 to Station 538+88; L.A. River right levee Station 618+00 to Station 620+00; L.A.

River right levee Station 625+00 to Station 670+00 - permit will not be available until January, 2000. Contractor must comply with Section 1200, paragraph 8.5.4.

8.6.6.9 Arco Pipeline, Rio Hondo Channel left levee, Station 15+00 to Station 23+20.

8.6.6.10 Pacific Pipeline, Rio Hondo Channel left levee, Station 15+00 to Station 23+20.

#### **8.6.7 Start of Construction Restrictions on Downstream Portion of Project.**

8.6.7.1 Construction of parapet walls, levee fill and anything else that would increase the capacity of the Los Angeles River downstream of Station 570+00 shall not commence prior to April 1, 2001.

8.6.7.2 Construction of revetment on the weir (landward side) located on the left side of the Los Angeles River approximately between Stations 622+15 and 600+00 shall not commence prior to April 1, 2001. Construction of revetment on the weir (landward side) located on the right side of the Los Angeles River approximately between Stations 579+15 and 564+85 shall not commence prior to April 1, 2001.

8.6.8 The Chevron Utility Bridge located upstream of Rosecrans Avenue will be relocated under a separate contract. The relocation is expected to occur between June 1, 2000, and April 1, 2001. The Contractor shall coordinate his activities in the vicinity of the Chevron Bridge with the Contractor for the Chevron Bridge Relocation Project to avoid conflicts.

8.6.9 In order for personnel of the Army Corps of Engineers, the Los Angeles County Department of Public Works and other contractors to have access to the Los Angeles River from the maintenance yard located south of Imperial Highway, the Contractor shall coordinate any activities that could block access from the maintenance yard with the aforementioned entities prior to any such activity.

9. PUBLIC SAFETY. Attention is directed to the CONTRACT CLAUSE: PERMITS AND RESPONSIBILITIES. The Contractor shall furnish, install, maintain and remove temporary fencing, barricades, and/or guards, as required, to provide protection in the interest of public safety and in conformance with applicable Federal, State, and local laws and ordinances. As a minimum, this will include an 8-foot chain-link fence which completely encloses each and every part of the project which the Contractor worked in or is working on. The plan of this temporary fencing shall be furnished to the Contracting Officer for approval and the fence erected prior to commencement of any work. Whenever the Contractor's operations create a condition hazardous to the public, he shall furnish at his own expense and without cost to the Government, such flagmen and guards as are necessary to give adequate warning to the public of any dangerous conditions to be encountered and he shall furnish, erect, or maintain such fences, barricades, lights, signs and other devices as are necessary to prevent accidents and avoid damage or injury to the public. Flagmen and guards, while on duty and assigned to give warning and safety devices, shall conform to applicable city, county, and state requirements. Should the Contractor appear to be neglectful or negligent in furnishing adequate warning and protection measures, the Contracting Officer may direct attention to the existence of a hazard and the necessary warning and protective measures shall be furnished and installed by the Contractor without additional cost to the

Government. Should the Contracting Officer point out the inadequacy of warning and protective measures, such action of the Contracting Officer shall not relieve the Contractor from any responsibility for public safety or abrogate his obligation to furnish and pay for those devices. The installation of any general illumination shall not relieve the Contractor of his responsibility for furnishing and maintaining any protective facility.

10. OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA) STANDARDS. The OCCUPATIONAL SAFETY and HEALTH ACT (OSHA) STANDARDS for CONSTRUCTION (Title 29, Code of Federal Regulations Part 1926 as revised from time to time) and the Corps of Engineers General Safety and Health Requirements Manual, EM 385-1-1, are both applicable to this contract. The most stringent requirement of the two standards will be applicable.

10.1 Accident Reporting. In accordance with EM 385-1-1, the Contractor shall submit a written summary of worker's compensation claims which have been filed by workers in connection with work on the project. The summary shall be submitted at the time when the work is approximately 50 percent complete and at project completion. The summary shall include all subcontractors. The Contractor's and subcontractor's compensation insurance carrier shall certify that the summaries are "correct and true".

#### 11. PERMITS.

11.1 General. Reference is made to the clause of the contract entitled "Permits and Responsibilities," which obligates the Contractor to obtain all required licenses and permits, including, but not necessarily limited to the following specified hereinbelow.

11.1.1 National Pollutant Discharge Elimination System (NPDES) Permit. The project requires an NPDES permit from the California State Water Resources Control Board, Division of Water Quality. The general permit requires development and implementation of Storm Water Pollution Prevention Plan (SWPPP), which shall be maintained on-site throughout the construction period. A copy of a plan will be furnished to the Contractor by the Government. The Contractor shall maintain a current copy of the plan on-site, and shall comply with all provisions of the plan. Modifications to the plan as necessary to reflect Contractor's construction methods shall be submitted by the Contractor to the Government for approval.

12. REQUIRED INSURANCE. Contractor shall maintain insurance in full force and effect throughout the term of this contract. The policy or policies of insurance maintained by Contractor shall provide the limits and coverages as set forth herein below.

12.1 Insurance shall be in force the first day of the term of this contract.

12.2 Each insurance policy required by this Contract shall contain the following clauses:

a. "This insurance shall not be canceled, limited in scope of coverage or nonrenewed until after thirty (30) days written notice has been given to Los Angeles County, Department of Public Works, 900 S. Fremont Avenue, P.O. Box 1460, Alhambra, CA 91802.

b. "All rights of subrogation are hereby waived against the County of Los Angeles, and the members of the Board of Supervisors and elective or appointive officers or employees, when acting within the scope of their employment or appointment, and County Districts and their Board or Commissions which are governed by the County Board of Supervisors."

c. "As respects operation of the named insured performed on behalf of the Government, the following are added as additional insureds:

The County of Los Angeles, the City of Long Beach, the City of Paramount, and the City of Compton.

LIABILITY INSURANCE

<u>Coverage</u>	<u>Minimum Limits</u>
Comprehensive General Liability including Completed Operations, Broad Form Property Damage Endorsement, and Comprehensive Automobile Liability	\$1,000,000.00 combined single limit per occurrence.
Worker's Compensation	Statutory

12.3 Worker's Compensation. Each liability and worker's compensation insurance policy required by this contract shall contain clause numbers 13.2 (a.) and (c.) above, and the following clause:

"It is agreed that any insurance maintained by the County of Los Angeles will apply in excess of, and not contribute with, insurance provided by this policy."

12.3.1 The procuring of such required policies of insurance shall not be construed to limit Contractor's liability hereunder not to fulfill the indemnification provisions and requirements of this Contract.

12.3.2 Contractor agrees to indemnify and save harmless agency, its officers, and employees from and against any and all claims, demands, losses, defense costs, or liability of any kind or nature which Agency, its officers, agents and employees may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property as a result of, arising out of, or in any manner connected with Contractors performance under the terms of this contract, excepting only liability arising out of the sole negligence of agency.

13. GRAFFITI REMOVAL. The Contractor shall remove or cover all graffiti found in the work area within 48 hours of findings, **until the total contract is accepted.**

14. AS-BUILT DRAWINGS.

14.1 General. The Contractor shall prepare and furnish the as-built drawings for the project. The as-built drawings shall be a record of the construction as installed and completed by the Contractor. They shall include all the information shown on the contract set of drawings and a record of all deviations, modifications, or changes from those drawings, however minor, which were incorporated in the work, all additional work not appearing on the contract

drawings, and all changes which are made after final inspection of the contract work. In event the Contractor accomplishes additional work which changes the as-built conditions of the facility after submission of the as-built drawings, the Contractor shall furnish revised and/or additional drawings as required to depict as-built conditions. The requirements for these additional drawings will be the same as for the as-built drawings included in the original submission. The drawings shall show the following information, but not be limited thereto:

(a) The location and description of any utility lines or other installations of any kind or description known to exist within the construction area. The location includes dimensions to permanent features.

(b) The location and dimensions of any changes within the building or structures.

(c) Correct grade or alignment of roads, channels, structures or utilities if any changes were made from contract plans.

(d) Correct elevations if changes were made in site grading.

(e) Changes in details of design or additional information obtained from working drawings specified to be prepared and/or furnished by the Contractor including but not limited to fabrication, erection, installation plans and placing details, pipe sizes, dimensions of equipment foundations, etc.

(f) The topography and grades of all drainage installed or affected as a part of the project construction.

(g) All changes or modifications which result from the final inspection.

14.2 Preliminary As-Built Drawings. The Contractor shall maintain one (1) set of full size, blue-line prints marked up in red to show the as-built conditions. This set of as-built prints shall be kept current and available at the job site at all times. All changes from what is shown on the contract plans, whether it be from changes requested by the Contracting Officer or resulting from additional information which might be uncovered in the course of construction, shall be accurately and neatly recorded as they occur by means of details and notes. The marked-up as-built prints will be jointly inspected for accuracy and completeness by the Contracting Officer and Contractor prior to submission of each monthly pay estimate. Information to be included on these preliminary drawings shall conform to the requirements as stated above. Any and all as-built modifications shall be reflected on all sheets affected by the modifications.

14.2.1 Review Submittal. Not later than 14 calendar days after acceptance of the project by the Government, the Contractor shall deliver to the Contracting Officer one (1) full size set of blue-line drawings marked up to depict the as-built conditions. If upon review, the drawings are found to contain errors and/or omissions, they shall be returned to the Contractor for corrections.

14.3 Computer Drawing Files (CADD).

14.3.1 General. The Contractor shall develop the final computer file as-built drawings from the approved preliminary drawings. The computer files shall be

delivered in MicroStation file format DGN, a Computer-Aided Design and Drafting (CADD) program. Drawings shall be prepared in general accordance with the Los Angeles District manual "Standards Manual for U.S. Army Corps of Engineers Computer-Aided Design and Drafting (CADD) Systems".

14.3.2 Original contract CADD files. The Government will provide all the computerized drawing files used to produce the advertised contract drawings on CD-ROM.

14.3.3 Delivery. Prior to finalizing the plans, two sets of drawings shall initially be provided to the Contracting Officer for review and approval. The Contracting Officer shall complete his review within ten (10) working days. Upon final approval, the Contractor shall furnish two (2) full size sets and two (2) half size sets of the final as-built plans on reproducible mylars, and the computerized project files in MicroStation file format DGN on CD ROM. All project files, whether revised or not, shall be provided to the Contracting Officer.

15. NOTICE OF PARTNERSHIP. The Government intends to encourage the foundation of a cohesive partnership with the Contractor and its subcontractors. This partnership will be structured to draw on the strengths of each organization to identify and achieve reciprocal goals. The objectives are effective and efficient contract performance and intended to achieve completion within budget, on schedule, and in accordance with plans and specifications. This partnership would be bilateral in makeup, and participation will be totally voluntary. Any cost associated with effectuating this partnership will be agreed to by both parties and will be shared equally with no change in contract price. To implement this partnership initiative, it is anticipated that within 60 days of Notice to Proceed the Contractor's on-site project manager and the Government's Resident Engineer would attend a one or two day partnership development seminar/team building workshop together with the Contractor's key on-site staff and key Government personnel. Follow-up workshops of 1 to 2 days duration would be held periodically throughout the duration of the contract as agreed to by the Contractor and Government.

16. TIME EXTENSIONS FOR UNUSUALLY SEVERE WEATHER (ER 415-1-15, 31 OCT 89).

16.1 This provision specifies the procedure for determination of time extensions for unusually severe weather in accordance with the Contract Clause entitled: DEFAULT (FIXED PRICE CONSTRUCTION). In order for the Contracting Officer to award a time extension under this clause, the following conditions must be satisfied:

(a) The weather experienced at the project site during the contract period must be found to be unusually severe, that is, more severe than the adverse weather anticipation for the project location during any given month.

(b) The unusually severe weather must actually cause a delay to the completion of the project. The delay must be beyond the control and without the fault or negligence of the Contractor.

16.2 The following schedule of monthly anticipated adverse weather delays will constitute the base line for monthly weather time evaluations. The Contractor's progress schedule must reflect these anticipated adverse weather delays in all weather dependent activities.

## MONTHLY ANTICIPATED ADVERSE WEATHER DELAY WORK DAYS BASED ON FIVE (5) DAY WORK WEEK

<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUN</u>	<u>JUL</u>	<u>AUG</u>	<u>SEP</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>
10	10	2	1	0	0	1	1	3	3	5	5

16.3 Upon acknowledgment of the Notice to Proceed (NTP) and continuing throughout the contract, the Contractor will record on the daily CQC report, the occurrence of adverse weather and resultant impact to normally scheduled work. Actual adverse weather delay days must prevent work on critical activities for 50 percent or more of the Contractor's scheduled work day. The number of actual adverse weather days shall include days impacted by actual adverse weather (even if adverse weather occurred in previous month), be calculated chronologically from the first to the last day of each month, and be recorded as full days. If the number of actual adverse weather delay days exceeds the number of days anticipated in subparagraph 17.2, ABOVE, the Contracting Officer will convert any qualifying delays to calendar days, giving full consideration for equivalent fair weather work days. and issue a modification in accordance with the Contract Clause entitled: DEFAULT (FIXED PRICE CONSTRUCTION).

-- End of Section --

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SECTION TABLE OF CONTENTS

MEASUREMENT AND PAYMENT

SECTION 01250

1. GENERAL . . . . . SECTION 01250 PAGE 1

2. CLEAR SITE AND REMOVE OBSTRUCTIONS . . . . . SECTION 01250 PAGE 1

3. EXCAVATION . . . . . SECTION 01250 PAGE 1

4. COMPACTED FILL . . . . . SECTION 01250 PAGE 2

5. STONE PROTECTION . . . . . SECTION 01250 PAGE 2

6. GROUTING STONE PROTECTION . . . . . SECTION 01250 PAGE 2

7. GEOTEXTILE. . . . . SECTION 01250 PAGE 3

8. CONCRETE . . . . . SECTION 01250 PAGE 3

9. RETAINING WALLS . . . . . SECTION 01250 PAGE 4

10. SIDE DRAIN . . . . . SECTION 01250 PAGE 4

11. ASPHALT CONCRETE PAVEMENT . . . . . SECTION 01250 PAGE 4

12. AGGREGATE BASE COURSE . . . . . SECTION 01250 PAGE 5

13. SAFETY RAILING . . . . . SECTION 01250 PAGE 5

14. FENCING . . . . . SECTION 01250 PAGE 5

15. GATES . . . . . SECTION 01250 PAGE 5

16. BOLLARDS . . . . . SECTION 01250 PAGE 5

17. ACCESS LADDER . . . . . SECTION 01250 PAGE 5

18. HYDROSEEDING . . . . . SECTION 01250 PAGE 5

19. HYDROSEEDING MAINTENANCE . . . . . SECTION 01250 PAGE 6

20. TREE, SHRUB, GROUND COVER, AND VINE PLANTINGS . . . . . SECTION 01250 PAGE 6

21. TREES, SHRUBS, GROUND COVERS, AND VINES MAINTENANCE . . . . . SECTION 01250 PAGE 6

22. JUTE MESH . . . . . SECTION 01250 PAGE 6

23. IRRIGATION SYSTEM . . . . . SECTION 01250 PAGE 6

24. BICYCLE TRAIL STRIPING AND SIGNING. . . . . SECTION 01250 PAGE 6

25. BICYCLE TRAIL CLOSURE AND DETOUR. . . . . SECTION 01250 PAGE 6

26. BENCHES, BICYCLE RACKS, PADS AND SIGN PEDESTALS. . . . . SECTION 01250 PAGE 6

27. GAGING STATION. . . . . SECTION 01250 PAGE 6

28. UTILITY RELOCATION/RECONSTRUCTION . . . . . SECTION 01250 PAGE 6

30. AS-BUILT DRAWINGS . . . . . SECTION 01250 PAGE 7

31. QUALITY ASSURANCE VEHICLES . . . . . SECTION 01250 PAGE 7

-- End of Table of Contents --

## SECTION 01250

## MEASUREMENT AND PAYMENT

## 1. GENERAL.

The contract price and payment shall constitute full compensation as stated in the Contract Clause, CONTRACT PRICES - BIDDING SCHEDULES, for completion of the work. No separate payment will be made for any material or work covered in this specification, but not specifically mentioned as part of a bid items, and all costs into which the work pertains or considered incidental to all bid items. As stated in Contract Clause, SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION, the word "provided" shall be understood to mean "furnished and installed" when used in this section or elsewhere in the technical sections.

## 2. CLEAR SITE AND REMOVE OBSTRUCTIONS.

Payment for Clear Site and Remove Obstructions will be made at the applicable contract price, which payment shall constitute full compensation for clearing, grubbing within the channel rights-of-way and at fill sites inside the construction easement and removal of all indicated obstructions within the project limits. Except as otherwise specified, payment for includes applicable earthwork; removing and plugging abandoned lines; removal of existing asphalt concrete pavement, asphalt concrete berms, wood sheds, K-rail, concrete pier noses, concrete training walls, concrete walls, concrete piles, concrete wing walls, gaging station, flood control features (stone, reinforced concrete, removal of fencing, grouted stone work); removal of junk (old street lights, light standards, tanks, conveyors, pipes, etc.), piles of rock, rubble, concrete and asphalt; removal of miscellaneous trash and debris; removal of vegetation; removal of materials for salvage; protection, replacement or restoration of utilities, fences, walls and features indicated to remain; and the disposal of all materials.

## 3. EXCAVATION.

3.1 Measurement. A survey of the site shall be made prior to commencement of work, and all measurements will be based on this survey without regard to any changes in the site that may be made between the excavation lines and grades indicated on the drawings or staked in the field and ground surfaces as indicated by the above mentioned surveys. The actual slopes as excavated may be greater or less than those indicated or staked depending on the materials excavated and methods used in performing the work, but such alterations shall not change the measurement for payment from the original lines as specified herein. The quantity of directed excavation necessary for the removal of unsuitable foundation material as specified shall be included in the measurement of the excavation where the unsuitable soils are encountered. Quantities will be computed in cubic yards by the average end area method and the planimeter will be considered a precise instrument for measurement of plotted cross sections. All excavation outside of excavation lines shown on the drawings or staked in the field will be considered as being for the convenience of the Contractor.

## 3.2 Payment.

3.2.1 Payment for Excavation will be made at the applicable contract price, which payment shall constitute full compensation for excavation and disposal of excavated materials.

3.2.2 Unsatisfactory Soils. No separate payment will be made for the excavation and disposal of unsatisfactory soils. When such excavation is directed, payment will be included in the applicable contract price for the items of work under which the unsuitable soils are encountered. When there is no applicable contract item an adjustment will be made.

3.2.3 Excavation for Structures. No separate payment will be made for excavation for structures. All costs therefore shall be included in the applicable contract item to which the work applies.

3.2.4 Trenches. No separate payment will be made for excavation of utility and pipe trenches. All costs therefore shall be included in the applicable contract prices for the items to which the work applies.

#### 4. COMPACTED FILL.

4.1 Measurement for compacted fill will be made between the excavation and structure lines and the fill limit lines, or between the ground lines and fill lines, as indicated or staked in the field. Quantities will be computed in cubic yards by the average end area method and the planimeter will be considered a precise instrument for measuring plotted cross sections.

#### 4.2 Payment.

4.2.1 Payment for Compacted Fill will be made at the applicable contract price, which payment shall constitute full compensation for obtaining, placing and compacting the fill.

4.2.2 Fill for Structures. No separate payment will be made for fill or backfill about structures. All such costs shall be included in the applicable contract prices for items to which the work applies.

4.2.3 Trenches. No separate payment will be made for backfilling of pipelines. All costs in connection therewith shall be included in the contract prices for items to which the work applies.

4.2.4 Subgrade Preparation. No separate payment will be made for subgrade preparation and all costs in connection therewith shall be included in the contract prices for items to which the work applies.

4.2.5 No separate payment will be made for borrow.

#### 5. STONE PROTECTION.

5.1 Measurement. The quantity of stone to be paid for will be number of tons (2,000 pounds), determined by scale weights, acceptably placed within the lines and grades shown on the drawings or directed by the Contracting Officer.

5.2 Payment for Landscape Stone and Grouted Landscape Stone will be made at the applicable contract price, which payment shall constitute full compensation for obtaining and placing the stone, complete.

5.3 Payment for Stone Protection will be made at the applicable contract price, per ton, which shall constitute full compensation for obtaining and placing the stone protection, complete.

#### 6. GROUTING STONE PROTECTION

6.1 Measurement. The quantity of grouting stone protection and grouting landscape stone will be measured in cubic yards based on the volume determined from the calculated batch volume and number of batches acceptably placed within the lines and grades shown on the drawings.

6.2 Payment. Payment for grouting stone protection and grouting landscape stone will be made at the applicable contract price per cubic yard, which shall constitute full compensation for grouting stone protection, complete.

#### 7. GEOTEXTILE.

7.1 Measurement. Installed Geotextile will be measured for payment in place to the nearest square yard of protected area as delineated in the drawings.

7.2 Payment for Geotextile will be made at the applicable contract price, which payment shall constitute full compensation for constructing the filter fabric, complete. No payment will be made for filter fabric replaced because of waste, contamination, damage, repair, or due to contractor fault or negligence.

#### 8. CONCRETE.

8.1 Concrete Parapet Wall. ~~Payment for the Concrete Parapet Wall shall be made at the applicable contract price, which payment shall constitute full compensation for the parapet wall, complete. Payment shall not include removal of stonework, asphalt, and concrete channel lining for which other applicable payment items are provided.~~ Payment for the Concrete Parapet Wall shall be made at the applicable contract price, which payment shall constitute full compensation for earthwork, concrete (including Portland cement), steel reinforcement, wall texturing, joints, bridge connections, utility openings, waterstops, form work, complete. Payment shall not include removal of stonework, asphalt, and concrete channel lining for which other applicable payment items are provided.

8.2 ~~Concrete Slope Paving. Payment for the Concrete Slope Paving shall be made at the applicable contract price, which payment shall constitute full compensation for the slope paving, complete. Payment shall not include removal of stonework, and concrete channel lining for which other applicable payment items are provided.~~

8.3 Concrete Channel Lining. Payment for the Concrete Channel Lining shall be made at the applicable contract price, which payment shall constitute full compensation for the channel lining, complete. Payment shall not include removal of stonework, and concrete channel lining for which other applicable payment items are provided.

8.4 Concrete Channel Invert. Payment for the Concrete Channel Invert shall be made at the applicable contract price, which payment shall constitute full compensation for the channel invert, complete. Payment shall not include removal of concrete channel lining for which other applicable payment items are provided.

8.5 Concrete Training Wall. Payment for Concrete Training Wall shall be made at the applicable contract price, which payment shall constitute full compensation for the training wall, complete. Payment shall not include removal of concrete channel lining for which other applicable payment items are provided.

8.6 Concrete Cutoff Wall. Payment for Concrete Cutoff Wall for the armoring shall be made at the applicable contract price, which payment shall constitute full compensation for the cutoff wall, complete.

8.7 Concrete Driveway. Payment for Concrete Driveway shall be made at the applicable contract price, which payment shall constitute full compensation for the driveway, complete.

8.8 Concrete Ribbon Gutter. Payment for Concrete Ribbon Gutter shall be made at the applicable contract price, which payment shall constitute full compensation for the ribbon gutter, complete.

8.9 Concrete Curb. Payment for Concrete Curb shall be made at the applicable contract price, which payment shall constitute full compensation for the curb, complete.

8.10 Concrete Curb and Gutter. Payment for Concrete Curb and Gutter shall be made at the applicable contract price, which payment shall constitute full compensation for the curb and gutter, complete.

8.11 Concrete Sidewalk. Payment for Concrete Sidewalk shall be made at the applicable contract price, which payment shall constitute full compensation for sidewalk, complete.

8.12 Concrete Pilasters. Payment for Concrete Pilasters shall be made at the applicable contract price, which payment shall constitute full compensation for the pilaster, complete.

8.13 Concrete Pilasters (Ralph C. Dills Park). Payment for Concrete Pilasters (Ralph C. Dills Park) shall be made at the applicable contract price, which payment shall constitute full compensation for the pilaster, complete. The concrete pilasters will be provided by the Resident Engineer and will be stockpiled at the Los Angeles County Maintenance Yard.

## 9. RETAINING WALLS.

Payment for Retaining Walls (Retaining Walls Nos. 8, 28, 41, 542, and 656 will be made at the applicable contract price, which payment shall constitute full compensation for ~~the retaining wall~~ **concrete (including Portland cement), steel reinforcement, walltexturing, joints, utility openings, form work**, complete. The earthwork included shall be only that earthwork which is located outside the limits of earthwork for which other payment is provided. Payment will not include fencing for which other applicable payment items are provided.

## 10. SIDE DRAIN.

Payment for Side Drain at each location shall be made at the applicable contract price, which payment shall constitute full compensation for the side drain, complete.

## 11. ASPHALT CONCRETE PAVEMENT.

11.1 Measurement. The unit of measurement for the asphalt concrete pavement will be the ton (2,000 pounds). The Contractor shall weigh each load on a certified platform scale and shall furnish the Contracting Officer with duplicate Weighmaster's Certificates showing the actual net weights. One tickets shall be furnished to the plant inspector and one ticket to the inspector at the construction site. The bituminous mixture shall be weighed after mixing and no deduction will be made for the weight of bituminous material incorporated therein. Asphalt concrete used for the convenience of the Contractor will not be measured for payment.

11.2 Payment for Asphalt Concrete Pavement will be made at the applicable contract price, which payment shall constitute full compensation for asphalt concrete surfacing, complete, including the concrete header and appurtenant work.

11.3 Payment for Asphalt Concrete, dikes and downdrains will be made at the applicable contract price, which payment shall constitute full compensation for asphalt concrete, dikes and downdrains, complete.

## 12. AGGREGATE BASE COURSE.

12.1 Measurement. The unit of measurement for the Aggregate Base Course will be the ton (2,000 pounds). The Contractor shall weigh each load on a certified platform scale and furnish the Contracting Officer with Duplicate Weighmaster's Certificates showing the actual net weights. One ticket shall be furnished to the plant inspector and one ticket to the inspector at the construction site. Aggregate base course used for the convenience of the Contractor will not be measured for payment.

12.2 Payment for Aggregate Base Course will be made at the applicable contract price, which payment shall constitute full compensation for aggregate base course, complete.

## 13. SAFETY RAILING

13.1 Measurement of Safety Railing will be made to the nearest linear foot horizontally along the centerline from end-to-end of the railing in place.

13.2 Payment

13.3 Payments for Safety Railing will made at the applicable contract price, which payment shall constitute full compensation for the safety railing, complete.

## 14. FENCING

14.1 Measurement of Chain Link Fencing, Ornamental Fencing, and Ornamental Fencing (Ralph C. Dills Park) will be made to the nearest linear foot horizontally along the

centerline from end-to-end of the fence in place. Temporary fencing will not be included in the measurement.

#### 14.2 Payment

14.2.1 Payment for Chain Link Fencing, Ornamental Fencing, and Ornamental Fencing (Ralph C. Dills Park) will be made at the applicable contract price, which payment shall constitute full compensation for furnishing and installing the fencing, complete in place.

#### 15. GATES.

14.1 Gates. Payment for Chain Link Maintenance, Chain Link Pedestrian, Chain Link Access, Ornamental Maintenance, and Ornamental Pedestrian and Ornamental Access Gates will be made at the applicable contract price, which payment shall constitute full compensation for the gates, complete.

16. BOLLARDS. Payment for Bollards will be made at the applicable contract price, which payment shall constitute full compensation for the bollards, complete.

17. ACCESS LADDER. Payment for Access Ladder will be made at the applicable contract price, which payment shall constitute full compensation for Access Ladder, complete.

18. HYDROSEEDING. Payment for Seeding Operations will be made at the applicable contract price which payment shall constitute full compensation for the grading, tillage, soil amending, fertilizing, seeding, mulching, establishing, and maintaining of areas to be seeded.

19. HYDROSEEDING MAINTENANCE. Payment for Hydroseeding Maintenance will be made at the applicable contract price, which payment shall constitute full compensation for maintenance, including the cost of the water, during the establishment period of the hydroseeded area of 12 months.

20. TREE, SHRUB, GROUND COVER, AND VINE PLANTINGS. Payment for Tree, Shrub, Groundcover, and Vine Plantings will be made at the applicable contract price, which payment shall constitute full compensation for obtaining, planting, and maintaining all trees, shrubs, ground cover, and vines, complete, including the cost of the water and electricity.

21. TREES, SHRUBS, GROUND COVERS, AND VINES PLANTING MAINTENANCE. Payment for Trees, Shrubs, Ground Covers and Vines Maintenance will be made at the applicable contract price, which payment shall constitute full compensation for maintenance during the establishment period of the Trees, Shrubs, Ground Covers, and Vine Plantings of 12 months, including the cost of water and electricity.

22. JUTE MESH. Measurement of jute mesh will be by square foot placed. Payment for jute mesh will be made at the applicable contract price, which payment shall constitute full compensation for jute mesh, complete.

23. IRRIGATION SYSTEM. Payment for Irrigation System will be made at the applicable contract price, which payment shall constitute full compensation for the irrigation system, complete in place, including irrigation crossover hardware,

trenching, bedding, and backfilling. Payment will include all costs for electrical system for irrigation controller, including the cost of water and electricity.

24. BICYCLE TRAIL STRIPING AND SIGNING. Payment for Bicycle Trail Striping and Signing will be made at the applicable contract price, which payment shall constitute full compensation for providing bicycle trail striping and signing.

25. BICYCLE TRAIL CLOSURE AND DETOUR. Payment for Bicycle Trail Closure will be made at the applicable contract price, which payment shall constitute full compensation for providing the closure and detours, including, striping, temporary barricades, signing, fences, and restoration of the closure and detour areas upon completion of the work.

26. BENCHES, BICYCLE RACKS, PADS AND SIGN PEDESTALS. Payment for Benches, Bicycle Racks, Pads and Sign Pedestals will be made at the applicable contract price, which payment shall constitute full compensation for providing the benches, trash receptacles, bicycle racks and concrete pads and sign pedestals, complete, including concrete and steel reinforcement.

27. GAGING STATION. Payment for Gaging Station will be made at the applicable contract price, which payment shall constitute full compensation for the gaging station, complete.

28. UTILITY RELOCATION/RECONSTRUCTION

28.1 SWIFT-WATER RESCUE ANCHOR DEVICE. Payment for Swift-water Rescue Anchor Device will be made at the applicable contract price, which payment shall constitute full compensation for the anchor device, complete.

29. TEMPORARY BARRIER. Payment for Temporary Barrier will be made at the applicable contract price, which payment shall constitute full compensation for providing Temporary Barrier, complete.

30. AS-BUILT DRAWINGS. Payment for As-built drawings will be made at the applicable contract price, which payment shall constitute full compensation for providing the project as-built drawings.

31. QUALITY ASSURANCE VEHICLES. Payment for Quality Assurance Vehicles will be made at the applicable contract price, which payment shall constitute full compensation for providing the vehicles, including all fuel, maintenance, repair, replacement of parts and insurance, complete.

-- End of Section -

SECTION TABLE OF CONTENTS

GENERAL REQUIREMENTS

SECTION 01330

SUBMITTAL PROCEDURES

PART 1 GENERAL

1.1 SUBMITTAL CLASSIFICATION . . . . . SECTION 01330 PAGE 1

    1.1.1 Government Approved . . . . . SECTION 01330 PAGE 1

    1.1.2 Information Only . . . . . SECTION 01330 PAGE 1

1.2 APPROVED SUBMITTALS . . . . . SECTION 01330 PAGE 1

1.3 DISAPPROVED SUBMITTALS . . . . . SECTION 01330 PAGE 1

1.4 WITHHOLDING OF PAYMENT . . . . . SECTION 01330 PAGE 1

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 GENERAL . . . . . SECTION 01330 PAGE 2

3.2 SUBMITTAL REGISTER (ENG FORM 4288) . . . . . SECTION 01330 PAGE 2

3.3 SCHEDULING . . . . . SECTION 01330 PAGE 2

3.4 TRANSMITTAL FORM (ENG FORM 4025) . . . . . SECTION 01330 PAGE 2

3.5 SUBMITTAL PROCEDURE . . . . . SECTION 01330 PAGE 3

    3.5.1 Procedures . . . . . SECTION 01330 PAGE 3

    3.5.2 Deviations . . . . . SECTION 01330 PAGE 3

3.6 CONTROL OF SUBMITTALS . . . . . SECTION 01330 PAGE 3

3.7 GOVERNMENT APPROVED SUBMITTALS . . . . . SECTION 01330 PAGE 3

3.8 INFORMATION ONLY SUBMITTALS . . . . . SECTION 01330 PAGE 3

3.9 STAMPS . . . . . SECTION 01330 PAGE 3

ENG FORM 4288 . . . . . SECTION 01330 PAGE 5

ENG FORM 4025 . . . . . SECTION 01330 PAGE 14

-- End of Table of Contents --

## SECTION 01330

## SUBMITTAL PROCEDURES

## PART 1 GENERAL

## 1.1 SUBMITTAL CLASSIFICATION

Submittals are identified with submittal description (SD) numbers and are classified as follows:

## 1.1.1 Government Approved

Governmental approval is required for extensions of design, critical materials, deviations, equipment whose compatibility with the entire system must be checked, and other items as designated by the Contracting Officer. Within the terms of the Contract Clause entitled "Specifications and Drawings for Construction," they are considered to be "shop drawings."

## 1.1.2 Information Only

All submittals not requiring Government approval will be for information only. They are not considered to be "shop drawings" within the terms of the Contract Clause referred to above.

## 1.2 APPROVED SUBMITTALS

The Contracting Officer's approval of submittals shall not be construed as a complete check, but will indicate only that the general method of construction, materials, detailing and other information are satisfactory. Approval will not relieve the Contractor of the responsibility for any error which may exist, as the Contractor under the CQC requirements of this contract, is responsible for the dimensions and design of adequate connections, details and satisfactory construction of all work. After submittals have been approved by the Contracting Officer, no resubmittal for the purpose of substituting materials or equipment will be given consideration unless accompanied by an explanation as to why a substitution is necessary.

## 1.3 DISAPPROVED SUBMITTALS

The Contractor shall make all corrections required by the Contracting Officer and promptly furnish a corrected submittal in the form and number of copies as specified for the initial submittal. The Contractor shall resubmit corrected submittal within 14 days. If the Contractor considers any correction indicated on the submittals to constitute a change to the contract, notice as required under the Contract Clause entitled "Changes" shall be given promptly to the Contracting Officer.

## 1.4 WITHHOLDING OF PAYMENT

Payment for materials incorporated in the work will not be made if required approvals have not been obtained.

## PART 2 PRODUCTS (Not Applicable)



## PART 3 EXECUTION

### 3.1 GENERAL

The Contractor shall make submittals as required by the specifications. The Contracting Officer may request submittals in addition to those specified when deemed necessary to adequately describe the work covered in the respective sections. Units of weights and measures used on all submittals shall be the same used in the contract drawings. Each submittal shall be complete and in sufficient detail to allow ready determination of compliance with contract requirements. Prior to submittal, all items shall be checked and approved by the Contractor's Quality Control (CQC) representative and each respective transmittal form (ENG Form 4025) shall be stamped, signed, and dated by the CQC representative indicating actions taken. Proposed deviations from the contract requirements shall be clearly identified. Submittals shall include items such as: Contractor's, manufacturer's, or fabricator's drawings; descriptive literature including (but not limited to) catalog cuts, diagrams, operating charts or curves; test reports; test cylinders; samples; O&M manuals (including parts list); certifications; warranties and other such required submittals. Submittals requiring Government approval shall be scheduled and made prior to the acquisition of the material or equipment covered thereby. Samples remaining upon completion of the work shall be picked up and disposed of in accordance with Manufacturer's Material Safety Data Sheets (MSDS) and in compliance with existing laws and regulations.

### 3.2 SUBMITTAL REGISTER (ENG FORM 4288)

At the end of this section is one set of ENG Forms 4288 listing each item of equipment and material for which submittals are required by the specifications. The Contractor will also be given the submittal register as a diskette containing the computerized Eng Form 4388 and instructions on the use of the diskette. Columns "d" through "r" have been completed by the Government; the Contractor shall complete columns "a" and "s" through "u" and submit the forms (hard copy plus associated electronic file) to the Contracting Officer for approval within 15 calendar days after Notice to Proceed. The Contractor shall keep this diskette up to date and shall submit it to the Government together with the monthly payment request. The approved submittal register will become the scheduling document and will be used to control submittals throughout the life of the contract. This register and the progress schedules shall be coordinated.

### 3.3 SCHEDULING

Submittals covering component items forming a system or items that are interrelated shall be scheduled to be coordinated and submitted concurrently. Certifications to be submitted with the pertinent drawings shall be so scheduled. Adequate time (a minimum of 15 calendar days exclusive of mailing time) shall be allowed and shown on the register for review and approval. No delays, damages or time extensions will be allowed for time lost in late submittals.

### 3.4 TRANSMITTAL FORM (ENG FORM 4025)

The sample transmittal form (ENG Form 4025) attached to this section shall be used for submitting both Government approved and information only submittals in accordance with the instructions on the reverse side of the form. These forms will be furnished

to the Contractor. This form shall be properly completed by filling out all the heading blank spaces and identifying each item submitted. Special care will be exercised to ensure proper listing of the specification paragraph and/or sheet number of the contract drawings pertinent to the data submitted for each item.

### 3.5 SUBMITTAL PROCEDURE

Submittals shall be made as follows:

#### 3.5.1 Procedures

Submittals shall be made to the Contracting Officer's Representative. Two copies of submittals for information only are required. Six copies are required for all other submittals.

#### 3.5.2 Deviations

For submittals which include proposed deviations requested by the Contractor, the column "variation" of ENG Form 4025 shall be checked. The Contractor shall set forth in writing the reason for any deviations and annotate such deviations on the submittal. The Government reserves the right to rescind inadvertent approval of submittals containing unnoted deviations.

### 3.6 CONTROL OF SUBMITTALS

The Contractor shall carefully control his procurement operations to ensure that each individual submittal is made on or before the Contractor scheduled submittal date shown on the approved "Submittal Register."

### 3.7 GOVERNMENT APPROVED SUBMITTALS

Upon completion of review of submittals requiring Government approval, the submittals will be identified as having received approval by being so stamped and dated. Four copies of the submittal will be retained by the Contracting Officer and two copies of the submittal will be returned to the Contractor.

### 3.8 INFORMATION ONLY SUBMITTALS

Normally submittals for information only will not be returned. Approval of the Contracting Officer is not required on information only submittals. These submittals will be used for information purposes. The Government reserves the right to require the Contractor to resubmit any item found not to comply with the contract. This does not relieve the Contractor from the obligation to furnish material conforming to the plans and specifications and will not prevent the Contracting Office from requiring removal and replacement if nonconforming material is incorporated in the work. This does not relieve the Contractor of the requirement to furnish samples for testing by the Government laboratory or check testing by the Government in those instances where the technical specifications so prescribe.

### 3.9 STAMPS

Stamps used by the Contractor on the submittal data to certify that the submittal meets contract requirements shall be similar to the following:

<p>CONTRACTOR</p> <p>(Firm Name)</p> <p>_____ Approved</p> <p>_____ Approved with corrections as noted on submittal data and/or attached sheets(s).</p> <p>SIGNATURE: _____</p> <p>TITLE: _____</p> <p>DATE: _____</p>
---

-- End of Section --

**SUBMITTAL REGISTER**

(ER 415-1-10)

CONTRACT NO.

TITLE AND LOCATION

LOS ANGELES RIVER IMPROVEMENT  
CONFLUENCE REACH

CONTRACTOR

SPECIFICATION SECTION

TRANS MITTAL NO.	ITEM NO.	SPECIFICATION PARAGRAPH NO.	DESCRIPTION OF ITEM SUBMITTED	TYPE OF SUBMITTAL										CLASSIFI CATION		REVIEWER	CONTRACT SCHEDULE DATES			CONTRACTOR ACTION			GOVERNMENT ACTION		REMARKS
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a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u	v	w	x	y	
		SECTION 01200 GENERAL REQUIREMENTS																							
		8.8.4	APPROVAL LETTER (CPL)										X	X											
		12.1.4	SAFETY PLAN						X					X											
		15	AS BUILT DRAWINGS		X									X											
		SECTION 01430 ENVIRONMENTAL PROTECTION																							
		1.2.1	ENVIRONMENTAL PROTECTION PLAN						X					X											
		SECTION 1451 CONTRACTOR QUALITY CONTROL																							
		3.2	QUALITY CONTROL PLAN						X					X											
		3.11	PROJECT MANAGEMENT SYSTEM						X					X											
		SECTION 02200 EXCAVATION																							
		1.5.1	BRACING/SHORING		X									X											
		1.8	BURIED STONE -	X								X		X											
			EXCAVATION LIMITS																						

**SUBMITTAL REGISTER**

(ER 415-1-10)

CONTRACT NO.

TITLE AND LOCATION

LOS ANGELES RIVER IMPROVEMENT  
CONFLUENCE REACH

CONTRACTOR

SPECIFICATION SECTION

TRANS MITTAL NO.	ITEM NO.	SPECIFICATION PARAGRAPH NO.	DESCRIPTION OF ITEM SUBMITTED	TYPE OF SUBMITTAL										CLASSIFI CATION		REVIEWER	CONTRACT SCHEDULE DATES			CONTRACTOR ACTION			GOVERNMENT ACTION		REMARKS
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a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u	v	w	x	y	
		SECTION 02215 GEOTEXTILES USED AS FILTERS																							
		2.1.4	MILL CERTIFICATE							X				X											
		SECTION 02316 EXCAVATION, TRENCHING AND BACKFILLING FOR UTILITY SYSTEMS																							
		1.3.1	FIELD DENSITY TESTS						X					X											
		SECTION 02250 FILLS AND SUBGRADE PREPARATION																							
		1.3.1	FIELD DENSITY TEST						X					X											
		1.3.3	SOURCES						X		X			X											
		SECTION 02551 BITUMINOUS PAVING																							
		1.2.1	TEST RESULTS						X					X											
		1.2.2	WAYBILLS AND DELIVERY TICKETS											X	X										
		SECTION 02558 BITUMINOUS TACK COAT																							
		1.2.1	TEST						X					X											
		1.2.1	WAYBILLS AND DELIVERY TICKETS											X	X										

**SUBMITTAL REGISTER**

(ER 415-1-10)

CONTRACT NO.

TITLE AND LOCATION

LOS ANGELES RIVER IMPROVEMENT  
CONFLUENCE REACH

CONTRACTOR

SPECIFICATION SECTION

TRANS MITTAL NO.	ITEM NO.	SPECIFICATION PARAGRAPH NO.	DESCRIPTION OF ITEM SUBMITTED	TYPE OF SUBMITTAL										CLASSIFI CATION		REVIEWER	CONTRACT SCHEDULE DATES			CONTRACTOR ACTION			GOVERNMENT ACTION		REMARKS
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a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u	v	w	x	y	
		SECTION 02580 PAVEMENT MARKINGS																							
		1.2.1	EQUIPMENT LIST	X										X											
		1.2.1	INSTRUCTIONS	X										X											
		1.2.1	MATERIALS TEST						X				X												
		1.2.1	VOLATILE ORGANIC COMPOUND VOC CONTENT							X			X												
		SECTION 02600 STONE PROTECTION																							
		1.2.1	FIELD SAMPLE								X		X												
		3.2.3	SCALE TICKETS									X	X												
		SECTION 02605 LANDSCAPE STONE																							
		1.2.1	FIELD SAMPLE								X		X												
		3.2.3	SCALE TICKETS									X	X												

**SUBMITTAL REGISTER**

(ER 415-1-10)

CONTRACT NO.

TITLE AND LOCATION

LOS ANGELES RIVER IMPROVEMENT  
CONFLUENCE REACH

CONTRACTOR

SPECIFICATION SECTION

TRANS MITTAL NO.	ITEM NO.	SPECIFICATION PARAGRAPH NO.	DESCRIPTION OF ITEM SUBMITTED	TYPE OF SUBMITTAL										CLASSIFI CATION		REVIEWER	CONTRACT SCHEDULE DATES			CONTRACTOR ACTION			GOVERNMENT ACTION		REMARKS
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		SECTION 02650 GROUTING STONE PROTECTION																							
		1.2.1	QUALITY TESTS						X					X											
		1.2.2	CERTIFICATES							X				X											
		SECTION 02720 STORM DRAINAGE SYSTEM																							
		1.2	FRAME AND COVER							X				X											
		1.2	PLACING PIPE			X								X											
		1.2	PIPELINE TESTING							X				X											
		1.2	HYDROSTATIC TEST							X				X											
		1.2	DENSITY							X				X											
		1.2	PIPE								X			X											
		SECTION 02722 AGGREGATE BASE COURSE																							
		1.4.1	EQUIPMENT		X									X											
		1.4.2	SAMPLING AND TESTING						X					X											
		1.4.3	WAYBILLS AND DELIVERY TICKETS										X	X											

**SUBMITTAL REGISTER**

(ER 415-1-10)

CONTRACT NO.

TITLE AND LOCATION

LOS ANGELES RIVER IMPROVEMENT  
CONFLUENCE REACH

CONTRACTOR

SPECIFICATION SECTION

TRANS MITTAL NO.	ITEM NO.	SPECIFICATION PARAGRAPH NO.	DESCRIPTION OF ITEM SUBMITTED	TYPE OF SUBMITTAL										CLASSIFI CATION	REVIEWER	CONTRACT SCHEDULE DATES			CONTRACTOR ACTION			GOVERNMENT ACTION		REMARKS
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a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u	v	w	x	y
		SECTION 02811 IRRIGATION SYSTEMS																						
		1.2	TEMPORARY IRRIGATION		X									X										
		1.3	FRAMED INSTRUCTIONS	X									X											
		1.3	CATALOG DATA / MAT'LS	X									X											
		1.3	FIELD TESTS/VALVES/ACC.						X				X											
		1.3	PRESSURE TESTS							X			X											
		1.3	OPERATION & MAINTENANCE MANUAL									X	X											
		SECTION 02935 HYDROSEEDING																						
		1.2	DELIVERY SCHEDULE						X				X											
		1.2	APPLICATION OF PESTICIDE			X		X						X										
		1.2	MAINTENANCE REPORT						X				X											
		1.2	HYDROSEED EST.						X				X											
		1.2	CERTIFICATES							X			X											
		1.2	SEED							X			X											
		1.2	FERTILIZER							X			X											
		1.2	PESTICIDE							X				X										

**SUBMITTAL REGISTER**

(ER 415-1-10)

CONTRACT NO.

TITLE AND LOCATION

LOS ANGELES RIVER IMPROVEMENT  
CONFLUENCE REACH

CONTRACTOR

SPECIFICATION SECTION

TRANS MITTAL NO.	ITEM NO.	SPECIFICATION PARAGRAPH NO.	DESCRIPTION OF ITEM SUBMITTED	TYPE OF SUBMITTAL										CLASSIFI CATION		REVIEWER	CONTRACT SCHEDULE DATES			CONTRACTOR ACTION			GOVERNMENT ACTION		REMARKS
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a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u	v	w	x	y	
		1.2	TOP SOIL							X				X											
		SECTION 02950 TREE, SHRUBS, GROUNDCOVER, AND VINES																							
		1.2	EROSION CONTROL MAT'L	X								X													
		1.2	APPLICATION OF PESTICIDE			X							X												
		1.2	DELIVERY OF PESTICIDE				X						X												
		1.2	SOIL TEST					X					X												
		1.2	PERCOLATION TEST					X					X												
		1.2	TOP SOIL							X				X											
		1.2	SOIL AMENDMENTS							X			X												
		1.2	PLANTS							X			X												
		1.2	PESTICIDE							X				X											
		1.2	PLANT ESTABLISHMENT PERIOD									X	X												
		1.2	MAINTENANCE REPORT									X		X											
		1.2	INSTRUCTIONS									X	X												

**SUBMITTAL REGISTER**  
(ER 415-1-10)

CONTRACT NO.

TITLE AND LOCATION  
LOS ANGELES RIVER IMPROVEMENT  
CONFLUENCE REACH

CONTRACTOR

SPECIFICATION SECTION

TRANS MITTAL NO.	ITEM NO.	SPECIFICATION PARAGRAPH NO.	DESCRIPTION OF ITEM SUBMITTED	TYPE OF SUBMITTAL										CLASSIFI CATION		REVIEWER	CONTRACT SCHEDULE DATES			CONTRACTOR ACTION			GOVERNMENT ACTION		REMARKS
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a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u	v	w	x	y	
		SECTION 03101 FORMWORK FOR CONCRETE																							
		1.3.1	MATERIALS	X										X											
		1.3.2	SHOP DRAWINGS		X									X											
		1.3.3	FIELD INSPECTION						X					X											
		1.3.3	FORMWORK NOT SUPPORTING																						
			WEIGHT OF CONCRETE						X					X											
		SECTION 03150 EXPANSION, CONTRACTION, AND CONSTRUCTION JOINTS																							
		1.2	REPORTS						X					X											
		1.2.2	SAMPLES										X	X											
		SECTION 03210 STEEL BARS AND WELDED WIRE FABRIC FOR CONCRETE REINFORCEMENT																							
		1.3.1	FABRICATION PLACEMENT		X									X											
		1.3.2	BUTT SPLICES					X						X											
		1.3.3	MATERIALS									X	X												

**SUBMITTAL REGISTER**  
(ER 415-1-10)

CONTRACT NO.

TITLE AND LOCATION  
LOS ANGELES RIVER IMPROVEMENT  
CONFLUENCE REACH

CONTRACTOR

SPECIFICATION SECTION

TRANS MITTAL NO.	ITEM NO.	SPECIFICATION PARAGRAPH NO.	DESCRIPTION OF ITEM SUBMITTED	TYPE OF SUBMITTAL										CLASSIFICATION		REVIEWER	CONTRACT SCHEDULE DATES			CONTRACTOR ACTION			GOVERNMENT ACTION		REMARKS
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a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u	v	w	x	y	
		SECTION 03301 CAST IN PLACE STRUCTURAL CONCRETE																							
		1.5.1.1	CONCRETE MIXTURE PROPORTIONS						X					X											
		1.5.1.2	CEMENT AND POZZOLAN						X					X											
		1.5.1.3	GROUT						X					X											
		1.5.1.3.2	PREPACKAGED MATERIAL						X					X											
		1.5.1.3.3	MIXTURE PROPORTIONS						X					X											
		1.5.2.1	IMPERVIOUS SHEET CURING MATERIALS								X			X											
		1.5.2.2	AIR-ENTRAINING ADMIXTURE								X			X											
		1.5.2.3	CURING COMPOUND								X			X											
		1.5.3.1	BATCH PLANT	X										X											
		1.5.3.2	MIXERS	X										X											
		1.5.3.3	CONVEYING EQ.	X										X											
		1.5.3.4	PLACING	X										X											
		1.5.3.5	JOINT CLEANUP	X										X											
		1.5.3.5	CURING	X										X											
		1.5.3.7	HOT WEATHER REQUIREMENTS	X										X											

**SUBMITTAL REGISTER**

(ER 415-1-10)

CONTRACT NO.

TITLE AND LOCATION

LOS ANGELES RIVER IMPROVEMENT  
CONFLUENCE REACH

CONTRACTOR

SPECIFICATION SECTION

TRANS MITTAL NO.	ITEM NO.	SPECIFICATION PARAGRAPH NO.	DESCRIPTION OF ITEM SUBMITTED	TYPE OF SUBMITTAL											CLASSIFI CATION	REVIEWER	CONTRACT SCHEDULE DATES			CONTRACTOR ACTION			GOVERNMENT ACTION		REMARKS				
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																										e	f	g	h
a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u	v	w	x	y					
			<b>SECTION 03340 CONCRETE SIDEWALKS, CURBS, BUTTERS AND DRIVEWAY ENTRANCES</b>																										
		1.2	FIELD CONTROL TESTS									X		X															
			<b>SECTION 05500 MISCELLANEOUS METALS</b>																										
		1.2.1.1	SHOP DRAWINGS		X										X														
		1.2.1.2	MATERIALS CERT.								X				X														
		1.2.1.3	PAINTS SYSTEM							X					X														
			<b>SECTION 13100 GAGING STATION</b>																										
		1.2.1	DOOR AND FRAME		X										X														
		1.2.2	HINGED MANHOLE COVER		X										X														
		1.2.3	LIGHTING AND ELECTRICAL		X										X														
		1.2.4	OBSERVATION WELL		X										X														
			INSTALLATION																										

**SUBMITTAL REGISTER**  
(ER 415-1-10)

CONTRACT NO.

TITLE AND LOCATION  
LOS ANGELES RIVER IMPROVEMENT  
CONFLUENCE REACH

CONTRACTOR

SPECIFICATION SECTION

TRANS MITTAL NO.	ITEM NO.	SPECIFICATION PARAGRAPH NO.	DESCRIPTION OF ITEM SUBMITTED	TYPE OF SUBMITTAL										CLASSIFI CATION		REVIEWER	CONTRACT SCHEDULE DATES			CONTRACTOR ACTION			GOVERNMENT ACTION		REMARKS
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		SECTION 16375 ELECTRICAL DISTRIBUTION SYSTEM, UNDERGROUND																							
		1.3.1	CATALOG DATA	X											X										
		1.3.1	MATERIAL, EQUIPMENT AND																						
			FIXTURE LISTS	X											X										
		1.3.2	ELECTRICAL DISTRIBUTION																						
			SYSTEM		X										X										
		1.3.3	FACTORY TEST						X					X											
			FIELD TESTING						X					X											
			TEST REPORT						X					X											
		1.3.4	MATERIAL AND EQUIPMENT							X				X											

SECTION TABLE OF CONTENTS

SPECIAL CONSTRUCTION

GAGING STATION

SECTION 13100

PART 1	GENERAL . . . . .	SECTION 13100	PAGE 1
1.1	Reference . . . . .	SECTION 13100	PAGE 1
1.2	Submittals . . . . .	SECTION 13100	PAGE 1
1.2.1	Door and Frame . . . . .	SECTION 13100	PAGE 1
1.2.2	Hinged Manhole Cover . . . . .	SECTION 13100	PAGE 1
1.2.3	Lighting and Electrical . . . . .	SECTION 13100	PAGE 1
1.2.4	Observation Well Installation . . . . .	SECTION 13100	PAGE 1
PART 2	PRODUCTS . . . . .	SECTION 13100	PAGE 1
2.1	Materials . . . . .	SECTION 13100	PAGE 1
PART 3	EXECUTION . . . . .	SECTION 13100	PAGE 1
3.1	Demolition . . . . .	SECTION 13100	PAGE 1
3.2	Installation . . . . .	SECTION 13100	PAGE 1

-- End of Table of Contents --

SECTION 13100

GAGING STATION

PART 1 GENERAL

1.1 Reference

F319-R Plans. "Standard Specifications for Public Works Construction," 1997 Edition.

Uniform Building Code (Current Edition).

1.2 Submittals

Contractor shall submit shop drawings for the following

1.2.1 Door and Frame

1.2.2 Hinged Manhole Cover

1.2.3 Lighting and Electrical

1.2.4 Observation Well Installation

PART 2 PRODUCTS

2.1 Materials

Materials shall be in accordance with the Plans and applicable section of the referenced specifications.

PART 3 EXECUTION

3.1 Demolition

Contractor shall notify the Los Angeles County Department of Public Works, Hydraulic/Water Conservation Division, (626) 458-6188, four weeks prior to the start of demolition of the existing gaging station.

3.2 Installation

Installation shall be in accordance with the Plans and applicable sections of the referenced specifications.

-- End of Section --