

ATTACHMENT "A"

**Lexington County  
Grant Programs Division  
Community Development Block Grant Recovery Program**



**Contract Special Provisions**

*(Required by Title 24 of the Code of the Federal Register as well as other selected contract provisions required by the Lexington County Community Development Office for CDBG-assisted grants/activities)*

The following Federal Regulations, Contract Provisions and Clauses are incorporated into this agreement in their entirety, and made an integral part hereof.

**1. Prime Contractor Responsibilities:**

The Contractor is required to assume sole responsibility for the complete effort and enforcement of laws and regulations under this contract. The County will consider the Contractor to be the sole point of contact with regard to all contractual matters.

**2. Compliance with ARRA:**

The Contractor will comply with applicable requirements of Title XII of the American Recovery and Reinvestment Act of 2009.

**3. Buy American Provision:**

The Contractor acknowledges to and for the benefit of the Owner that it understands the goods and services under this Agreement are being funded with monies made available by the American Reinvestment and Recovery Act of 2009 (Recovery Act) and section 1605 of such law contains provisions commonly known as “Buy American.” The Buy American requirement prohibits the use of Recovery Act funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States (“Buy American requirement”) including iron, steel, and manufactured goods provided by the Contractor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Owner that (a) the Contractor has reviewed and understands the Buy American requirement, (b) all of the iron, steel, and manufactured goods used in the project will be and/or have been produced in the United States in a manner that complies with the Buy American requirement, unless an exception to the requirement is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support an exception to the Buy American requirement, as may be requested by the Owner or applicable Federal or State agencies. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Owner to recover as damages against the Contractor any loss, expense or cost (including without limitation attorney’s fees) incurred by the Owner resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part from CDBG-R). Neither this paragraph (nor any provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the Owner.

**4. Reversion of Assets:**

All real property acquired or improved in whole or in part with CDBG funds in excess of \$25,000 under this Contract must continue in the use that provides the service benefits and national objectives for which it was funded until five years after expiration of this Contract as set forth in 24 CFR 470, or such longer period of time as determined by the County; or it must be disposed of in a manner resulting in a reimbursement to the County in the amount of

the current fair market value of the property less any portion thereof attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property.

**5. Legal Services:**

No attorney-at-law shall be engaged through the use of any funds provided under this contract in suits against the State, Local Public Body or any political subdivision.

**6. Political Activity:**

None of the funds, materials, property or services provided directly or indirectly under this contract shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office or otherwise in violation of the provisions of the "Hatch" Act.

**7. Reporting of Fraudulent Activity:**

If at any time during the term of this contract anyone has reason to believe by whatever means that, under this or any other program administered by the County a recipient of funds has improperly or fraudulently applied for or received benefits, monies' or services pursuant to this or any other contract, such information shall be reported to the appropriate authorities.

**8. Acquisitions, Relocation and Antidisplacement:**

In carrying out this agreement, the contractor agrees to comply with the requirements of the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970 as amended by the Uniform Relocation Act Amendments of 1987 Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987. Any displacement of persons resulting from the proposed CDBG project will be carried out in accordance with Section 104(d) of the Housing and Community Development Act of 1974, as amended.

**9. Equal Employment Opportunity (Executive Order 11246 dated 9/24/65, as amended by Executive Order 11375 dated 10/13/67):**

The contractor hereby agrees that it will incorporate or cause to be incorporated into any contract, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR 60, which is paid for in whole or in part with funds obtained from the federal government or borrowed on the credit of the federal government pursuant to a grant, contract, loan insurance or guarantee or undertaken pursuant to any federal program involving such grant, contract, loan insurance or guarantee, the following equal opportunity clause:

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

- A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of

pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination.

- B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- C. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, and with the rules, regulations and relevant orders of the Secretary of Labor.
- E. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, as amended, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.
- G. The contractor will include the portion of the sentence immediately preceding paragraph A and the provisions of paragraphs A through G in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 14, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.
- H. The contractor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a state or local

government, the above equal opportunity clause is not applicable to any agency, instrument or subdivision of such government which does not participate in work on or under the contract.

- I. The contractor agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.
- J. The contractor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, as amended, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate proceedings.

**10. Compliance in the Provision of Training, Employment and Business Opportunities:**

- A. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development through the County and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC, 1701, Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.
- C. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the

project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.

#### **11. Subcontracting with Small and Minority Firms, Women's Business Enterprises:**

It is national policy to award a fair share of contracts to small and minority and women's owned businesses. Accordingly, affirmative steps must be taken to assure that small, minority and women owned businesses are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

- A. Including qualified small and minority businesses on solicitation lists;
- B. Assuring that small, minority and women owned businesses are solicited whenever they are potential sources;
- C. Whenever economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small, minority and women owned businesses' participation;
- D. Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority businesses; and
- E. Using the services and assistance of the Small Business Administration, the Governor's Office of Small and Minority Business Assistance, the Department of Commerce and the Community Services Administration as required.

#### **12. Title VI Civil Rights Act of 1964:**

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the contractor), agrees as follows:

- A. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices.
- B. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.
- C. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts,

their sources of information and its facilities as may be determined by the County or the United States Department of Housing and Urban Development to be pertinent to ascertain compliance with such regulations, orders and instructions. Where any information is required or a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the awarding agency, the County, or the United States Department of Housing and Urban Development, as appropriate, and shall set forth what efforts it has made to obtain the information.

- D. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the County or the United States Department of Housing and Urban Development shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:
- (1) Withholding of payments to the contractor under the contract until the contractor complies; and/or,
  - (2) Cancellation, termination or suspension of the contract, in whole or in part.
- E. The contractor shall include the provisions of paragraph (A) through (E) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the County or the United States Department of Housing and Urban Development may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the County to enter into such litigation to protect the interests of the County, and, in addition, the contractor may request the United States Department of Housing and Urban Development to enter into such litigation to protect the interests of the United States.

**13. Title VIII Civil Rights Acts of 1968 (as applicable):**

The contractor shall comply with Title VIII Civil Rights Acts of 1968 which prohibits discrimination in the sale or rental of dwellings (as defined), discrimination in the financing or housing, blockbusting, and discriminatory advertising; and makes it unlawful to deny any person access to, or membership or participation in, any multiple listing service or real estate broker organization for discriminatory reasons.

**14. Section 109 Housing and Urban Development Act of 1974 (as applicable):**

The contractor provides that no person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part under this title.

**15. Section 504 Rehabilitation Act of 1973:**

- A. The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee

or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- B. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- C. In the event of the contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- D. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the County, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- E. The contractor will 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 504 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- F. The contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 504 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

#### **16. Lead-Based Paint:**

The construction or rehabilitation of residential structures with assistance provided under this Agreement is subject to the HUD Lead-Based Paint regulations, 24 CFR 35. Any grants or loans made by the County for the rehabilitation of residential structures with assistance provided under this Agreement shall be made subject to the provisions for the elimination of lead-based paint hazards under Subpart B of said regulations, and the County shall be responsible for the inspections and certifications required under Section 35.14(f) thereof.

#### **17. Fair Housing Amendments Act of 1988 (as applicable):**

The contractor shall comply with Fair Housing Amendments Act of 1988 which amends Title VIII of the Civil Rights Act of 1968 that prohibits discrimination on the basis of race, color, religion, sex or national origin in the sale, rental and financing of dwellings. The 1988 Act extends coverage of the 1968 Act to persons with disabilities and families with children.

In addition, the 1988 amendments establish certain design and construction requirements for new multi-family housing built for first occupancy on or after March 13, 1991.

**18. Age Discrimination Act of 1975:**

The contractor shall comply with the Age Discrimination Act of 1975 which provides that no person, on the basis of age, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

**19. Americans With Disabilities Act of 1990:**

The contractor shall comply with the Americans With Disabilities Act of 1990 which provides that no person, on the basis of handicap, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

**20. Conflict of Interest (24 CFR 85.36 and 24 CFR 570.611):**

- A. The contractor shall maintain a written code or standards of conduct, which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by federal funds. No employee, officer or agent of the county shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Persons covered under this section include any person who is:
- (1) An employee, agent, consultant, officer, or elected or appointed official of the county, any designated public agency or any subrecipient agency that is receiving CDBG funds;
  - (2) Any member of his/her immediate family;
  - (3) his or her partner; or
  - (4) An organization, which employs, or is about to employ, any of the above, or has a financial or other interest in the firm selected for award.
- B. The contractor's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements funded with CDBG funds. To the extent permitted by state or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the contractors or their agents.
- C. No persons described in (1) through (4) above who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter.

## **21. Debarment Certification:**

The contractor must comply with Federal Debarment and Suspension regulations prior to entering into a financial agreement for any transaction as outlined below.

- A. Any procurement contract for goods and services, regardless of type, is expected to equal or exceed the Federal procurement small purchase threshold (which is \$25,000 and includes all federal funding sources).
- B. Any procurement contract for goods and services, regardless of amount, under which the Contractor will have a critical influence on or substantive control over the transaction.

## **22. Records and Audits:**

The contractor shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this contract and such other records as may be deemed necessary by the County to assure proper accounting for all funds applicable to this contract. These records will be made available for audit purposes to the County or any authorized representative, and will be retained for five years after the expiration of this contract unless permission to destroy them is granted.

## **23. Retention and Access Requirements For Records (24 CFR 85.42):**

- A. The contractor shall comply with Retention and Access Requirements For Records (24 CFR 85.42) and County records access and retention requirements, to wit:
- B. Financial records, supporting documents, statistical records and all other records pertinent to a grant shall be retained for a period of five (5) years, with the following qualifications:
  - (1) If any litigation, claim, negotiation, audits or other action is started before the expiration of the five-year period, the records shall be retained until all litigation, claim or audit findings involving the records have been resolved, or the five-year period, whichever is later.
  - (2) Records of nonexpendable property acquired with federal funds shall be retained for five years after final disposition of such property.
  - (3) When records are transferred to or maintained by the federal sponsoring agency, the five-year retention required is not applicable to the County.
- C. The five-year retention period starts from the date of final payment by the County.
- D. The County shall request transfer of certain records to its custody when it is determined that the records possess long-term retention value. However, in order to avoid duplicate record keeping, the County may make arrangements to retain any records that are continuously needed for joint uses.

- E. The County, the United States Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers and records to make audits, examinations, excerpts and transcripts.
- F. Unless otherwise required by law, the County shall not place restrictions that will limit public access to the records that are pertinent to a grant except when the agency can demonstrate that such records must be kept confidential and would have been excepted from disclosure pursuant to the Freedom of Information Act (5 USC 552) if the records had belonged to the grantor agency.

**24. Compliance with State and Local Laws:**

The contractor specifically agrees that in performance of the services herein enumerated, the contractor and his/her employees/agents will comply with any applicable State, and Local Statutes, ordinances and regulations at the time this agreement is executed.

**25. Federal Labor Standards Provisions:**

In carrying out this agreement, the contractor agrees to comply with the following Federal Labor Standards Provisions for applicable construction contracts in excess of \$2,000 or residential rehabilitation contracts involving more than eight units. These regulations must be complied with or sanctions will be instituted.

A. Minimum Wage Rates For Laborers and Mechanics:

All laborers and mechanics will be paid, unconditionally and not less than once each week, and without subsequent deduction or rebate on any account (except such payroll deductions as are made mandatory by law and other such payroll deductions as are permitted by the applicable regulations issued by the Secretary of Labor, United States Department of Labor, pursuant to the Copeland Act, hereinafter identified), the full amount due at time of payment computed at wage rates not less than those contained in the wage determination decision of said Secretary of Labor (a copy of which is attached and herein incorporated by reference), regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor and such laborers and mechanics. For the purpose of this clause, contributions made or costs reasonably anticipated under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section 5.5(a)(1)(iv) of Title 29, Code of Federal Regulations. Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period are deemed to be constructively made or incurred during such weekly period.

B. Under Payments of Wages and Salaries:

In cases of underpayment of wages by the Contractor or by any subcontractor to laborers or mechanics employed by the Contractor or subcontractor upon the work covered by this contract, the County, in addition to such other rights as may be afforded it under this

contract, shall withhold from the Contractor out of any payments due the Contractor, so much thereof as the County may consider necessary to pay such laborers or mechanics the full amount of wages required by this Contract. The amount so withheld may be disbursed by the County, for and on account of the Contractor or the subcontractor, (as may be appropriate), to the respective laborers or mechanics to whom the same is due on their behalf to plans, funds, or programs for any type of fringe benefit prescribed in the applicable wage determination.

C. Anticipated Costs of Fringe Benefits:

If the Contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing fringe benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this contract, provided 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. A copy of any findings made by the Secretary of Labor in respect to fringe benefits being provided by the Contractor must be submitted to the County with the first payroll filed by the Contractor subsequent to receipt of the findings.

D. Overtime Compensation Required by Contract Work Hours and Safety Standards Act (76 Stat. 357-360: Title 40 U.S.C., Section 327-332):

(1) Overtime Requirements:

No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, including watchmen and guards, shall require or permit any laborer or mechanic in any work week in which he is employed on such work to work in excess of 40 hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of 40 hours in such work week.

(2) Violation-Liability for Unpaid Wages, Liquidated Damages:

In the event of any violation of the clause set forth in Paragraph (1), the Contractor and any subcontractor shall be liable such affected employee for his unpaid wages and shall, in addition, be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual employed in violation of the clause set forth in Paragraph (1) in the sum of \$10.00 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in Paragraph (1).

(3) Withholding for Liquidated Damages:

The County shall withhold or cause to be withheld from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may be administratively determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for liquidated damages as provided in the clause set forth in paragraph (2).

(4) Subcontracts:

The Contractor shall insert in any subcontracts the clauses set forth in Paragraphs (1), (2), and (3) of this Section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

E. Employment of Apprentices/Trainees:

(1) Apprentices:

Apprentices will be permitted to work at less than the pre-determined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his 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 in a craft classification shall not be greater than the ration permitted to the contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate who is not a trainee as defined in subdivision (2) of this subparagraph or is not registered or otherwise employed as stated above, shall be paid the wage determined by the Secretary of Labor for the classification of work he actually performed. The Contractor or subcontractor will be required to furnish to the contracting officer or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the registration of his program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman hourly rates) for the area of construction prior to using any apprentices on the contract work. The wage rate paid apprentices shall be not less than the appropriate percentage of the journeyman's rate contained in the applicable wage determination.

(2) Trainees:

Except as provided in 29 CFR 5.15, trainees will not be permitted to work at less than the predetermined rate for 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, Manpower Administration, and the Bureau of Apprenticeship and Training. The ratio of trainees to journeymen shall not be greater than permitted under the plan approved by the Bureau of

Apprenticeship and Training. Every Trainee must be paid at not less than the rate specified in the approved program for his level of progress. Any trainee listed on the payroll at a trainee rate who is not registered and participating in a training program approved by the Bureau of Apprenticeship and Training, shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Contractor or subcontractor will be required to furnish the contracting officer or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training 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.

(3) Equal Employment Opportunity:

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

(4) Employment of Certain Persons Prohibited:

No person under the age of sixteen years and no person who, at the time, is serving sentence in a penal or correctional institution shall be employed on the work covered by this contract.

F. Regulations Pursuant to Copeland "Anti-Kickback" Act

The Contractor shall comply with the applicable regulations of the Secretary of Labor, United States Department of Labor, made pursuant to the Copland Act of June 13, 1934 (48 Stat. 948; 62 Stat. 862; Title U.S.C., Section 874; and Title U.S.C., Section 276c) and any amendments or modifications thereof, shall cause appropriate provisions to be inserted in subcontracts to insure compliance by all subcontractors subject thereto, and shall be responsible for submission of affidavits required by subcontractors thereunder, except as the Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances, and exemptions from the requirements thereof.

G. Employment of Laborers or Mechanics not listed in Wage Determination Decision:

Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract will be classified or reclassified in conformance with the wage determination by the County, and a report of the action taken shall be submitted by the County, through the Secretary of Housing and Urban Development to the Secretary of Labor, U.S. Department of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics to be used, the question, accompanied by the recommendation of the County, shall be referred through the Secretary of Housing and Urban Development to the Secretary of Labor for final determination.

H. Fringe Benefits Not Expressed as Hourly Wage Rates:

Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the Contractor is obligated to pay cash equivalent of such a fringe benefit, the County shall require an hourly cash equivalent be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the County, shall be referred through the Secretary of Housing and Urban Development to the Department of Labor for determination.

I. Posting Wage Determination Decisions and Authorized Wage Deductions:

The applicable wage poster of the Secretary of Labor, U.S. Department of Labor and the applicable wage determination decisions of said Secretary of Labor with respect to the various classifications of laborers and mechanics employed and to be employed upon the work covered by this contract, and a statement showing all deductions, if any, in accordance with the provisions of this contract, to be made from wages actually earned by persons so employed or to be employed in such classifications, shall be posted at appropriate conspicuous points at the site of the work.

J. Complaints, Proceedings, or Testimony by Employees:

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

K. Claims and Disputes Pertaining to Wage Rates:

Claims and disputes pertaining to wage rates or to classifications of laborers and mechanics employed upon the work covered by this contract shall be promptly reported by the Contractor in writing to the County for referral by the latter through the Secretary of Housing and Urban Development to the Secretary of Labor, U.S. Department of Labor, whose decision shall be final with respect thereto.

L. Questions Concerning Certain Federal Statutes and Regulations:

All questions arising under this contract which relate to the application or interpretation of (a) the aforesaid Copeland Act; (b) the Contract Work Hours and Safety Standards Act; (c) the Davis-Bacon Act; (d) the regulations issued by the Secretary of Labor, U.S. Department of Labor pursuant to said Acts; or (e) the labor standards provisions of any other pertinent Federal statute, shall be referred through the County and the Secretary of Housing and Urban Development, to the Secretary of Labor, U.S. Department of Labor for the Secretary's appropriate ruling or interpretation which shall be authoritative and may be relied upon for the purposes of this contract.

M. Payrolls and Basic Payroll Records of Contractor and Subcontractors:

The Contractor and each subcontractor shall prepare his payrolls on forms satisfactory to and in accordance with instructions to be furnished by the County. The Contractor shall submit weekly to the County two certified copies of all payrolls of the Contractor and of the subcontractors, it being understood that the Contractor shall be responsible for submission of copies of payrolls of all subcontractors. Each such payroll shall contain the "Weekly Statement of Compliance" set forth in section 3.3 of Title 29, Code of Federal Regulations. The payrolls and basic payroll records of the Contractor and each subcontractor covering all laborers and mechanics employed upon the work covered by this Contract shall be maintained during the course of the work and preserved for a period of 5 years thereafter. Such payrolls and basic payroll records shall contain the name and address of each employee, his correct classification, rate of pay (including rates of contributions or costs anticipated of the types described in Section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. In addition, whenever the Secretary of Labor has found under Section 5.5 (a)(1)(iv) of Title 29, Code of Federal Regulations, 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 or subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. The Contractor and each subcontractor shall make his employment records with respect to persons employed by him upon the work covered by this contract available for inspection by authorized representatives of the Secretary of Housing and Urban Development, the County, and the U.S. Department of Labor. Such representatives shall be permitted to interview employees of the Contractor or of any subcontractor during working hours on the job.

N. Specific Coverage of Certain Types of Work by Employees:

The transporting of materials and supplies to or from the site of the project or program to which this contract pertains by the employees of the Contractor or of any subcontractor, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the project or program to which this contract pertains by persons employed by the Contractor or by any subcontractor, shall for the purposes of this contract, and without limiting the generality of the foregoing provisions of this contract, be deemed to be work to which these Federal Labor Standards Provisions are applicable.

O. Ineligible Subcontractors:

The Contractor shall not subcontract any part of the work covered by this contract or permit subcontracted work to be further subcontracted without the County's prior written consent. The County will not approve any subcontractor for work covered by this contract who is at the time ineligible to receive an award of such subcontract under the

provisions of any applicable regulations issued by the Secretary of Labor, U.S. Department of Labor or the Secretary of Housing and Urban Development.

P. Provisions to be Included in Certain Subcontracts:

The Contractor shall include, or cause to be included, in each subcontract covering any of the work covered by this contract, provisions which are consistent with these federal labor standards provisions and also a clause requiring the subcontractors to include such provisions in any lower tier subcontracts which they may enter into, together with a clause requiring such insertion in any further subcontracts that may in turn be made.

Q. Breach of Foregoing Federal Labor Standards Provisions:

In addition to the causes for termination of this contract as herein set forth, the County reserves the right to terminate this contract if the Contractor or any subcontractor whose subcontract covers any of the work covered by this contract shall breach any of these Federal Labor Standards Provisions. A breach of these Federal Labor Standards Provisions may also be grounds for debarment as provided by the applicable regulations issued by the Secretary of Labor, U.S. Department of Labor.

**26. Compliance with Clean Air and Water Acts (applicable to all contracts over \$100,000):**

In carrying out this agreement, the contractor agrees to comply with the requirements of Section 306 of the Federal Clean Air Act (42 USC 1857(h)), section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and the Environmental Protection Agency regulations (40 CFR 15) respective to all contracts in excess of \$100,000 awarded by the county. Such statutes and regulations prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the Environmental Protection Agency's List of Violating Facilities. The provision shall require reporting of violations to the County and to the US Environmental Protection Agency.

**27. Conservation:**

In carrying out this agreement, the contractor agrees to comply with the requirements of mandatory standards and policies relating to energy efficiency, which are contained in the State of South Carolina's energy conservation plan issued in compliance with the Federal Energy Policy and Conservation Act (PL 94-163, 89 Statutes 871).