BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: January 19, 2012 Division: Public Works/Engineering

Bulk Item: Yes X No ___ Department: Engineering Services

Staff Contact Person/Phone #: Judy Clarke X4329

AGENDA ITEM WORDING: Approval to execute an amendment and Consent to Assignment to the existing On Call Professional Engineering Services Contract between Monroe County and MACTEC Engineering Consulting, Inc. to reflect a name change to AMEC E&I, Inc. effective July 6, 2011 and to assign the contract to a restructured corporation named AMEC Environment & Infrastructure, Inc.

ITEM BACKGROUND: Effective July 6, 2011 MACTEC Engineering Consulting, Inc. changed its name to AMEC E&I; Effective January 1, 2012 AMEC E&I, Inc. will begin doing business as AMEC Environment & Infrastructure, Inc.; the amendment and consent to assignment reflects these changes.

PREVIOUS RELEVANT BOCC ACTION: BOCC approved the On Call Professional Engineering Services Contract with MACTEC Engineering Consulting, Inc. at the February 2010 meeting.

CONTRACT/AGREEMENT CHANGES: MACTEC Engineering Consulting, Inc. will be amended to AMEC E&I, Inc. effective retroactively to July 6, 2011; contract will be assigned to AMEC Environment & Infrastructure, Inc. effective retroactively to January 1, 2012.

STAFF RECOMMENDATIONS: Approval as requested above.

TOTAL COST: 0 **INDIRECT COST:** ___ **BUDGETED:** Yes ___ No ___

DIFFERENTIAL OF LOCAL PREFERENCE: ___

COST TO COUNTY: 0 **SOURCE OF FUNDS:** ___

REVENUE PRODUCING: Yes ___ No ___ **AMOUNT PER MONTH** ___ **Year** ___

APPROVED BY: County Atty ___ OMB/Purchasing ___ Risk Management MS

DOCUMENTATION: Included X Not Required ___

DISPOSITION: ___ **AGENDA ITEM #** ___

Revised 7/09

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: AMEC Environment and Infrastructure, Inc.

Contract #____

Effective Date: February 17, 2010

Expiration Date: February 17, 2015

Contract Purpose/Description:

Amendment to existing contract to change MACTEC Engineering Consulting, Inc. to AMEC E&I, Inc. effective July 6, 2011 and Consent to Assignment to assign contract to AMEC Environment and Infrastructure, Inc. effective January 1, 2012.

Contract Manager: Judy Clarke (Name) 4329 (Ext.) Engineering/#1 (Department/Stop #)

for BOCC meeting on 1/19/2012 Agenda Deadline: 1/3/2012

CONTRACT COSTS

Total Dollar Value of Contract: $_____ Current Year Portion: $_____

Budgeted? Yes ☐ No ☐ Account Codes: _____-_____-_____-_____-_____

Grant: $_____ _____-_____-_____-_____-_____

County Match: $_____ _____-_____-_____-_____-_____

_____-_____-_____-_____-_____

ADDITIONAL COSTS

Estimated Ongoing Costs: $_____/yr For: _____

(Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	1/3/2012	Yes ☐ No ☑	Judith D. Clarke	1/3/2012
Risk Management	1-3-12	Yes ☐ No ☑		1/3/12
O.M.B./Purchasing	1-3-12	Yes ☐ No ☑	Penny Lupo	1-3-12
County Attorney	12/29/11	Yes ☐ No ☒	Christine Gilcrest-Barrales	12/29/11

Comments: _____

OMB Form Revised 2/27/01 MCP #2

AMENDMENT TO ON CALL PROFESSIONAL ENGINEERING SERVICES CONTRACT
AND
CONSENT TO ASSIGNMENT

This Amendment to the On Call Professional Engineering Services Contract and Consent to Assignment is entered into this ____ day of January 2012, by and between Monroe County, a political subdivision of the State of Florida, hereafter COUNTY, and MACTEC ENGINEERING AND CONSULTING, Inc., and AMEC F&I, Inc., hereafter ASSIGNOR, and AMEC Environment & Infrastructure, Inc., hereafter ASSIGNEE.

WHEREAS, on February 17, 2010, the COUNTY and MACTEC Engineering and Consulting, Inc, entered into a contract for On Call Professional Engineering Services; and

WHEREAS, on July 6, 2011, MACTEC ENGINEERING AND CONSULTING changed its name to AMEC E&I, Inc. (ASSIGNOR); and

WHEREAS, the COUNTY received notice that effective January 1, 2012 five (5) of AMEC subsidiaries, including ASSIGNOR will combine into one AMEC company, known as ASSIGNEE and will assume all of ASSIGNOR rights, duties and obligations under the contract with the COUNTY;

Now therefore, in consideration of the mutual promises of the original agreement as amended herein, the parties agree as follows:

1. Effective retroactively on July 6, 2011 the On Call Professional Engineering Services Contract between MACTEC ENGINEERING AND CONSULTING, Inc. and the COUNTY is amended to reflect name change from MACTEC ENGINEERING AND CONSULTING Inc. to AMEC E&I (ASSIGNOR)

2. Upon completion of the change in legal entity effective January 1, 2012, the Assignor assigns to Assignee all the Assignor's rights, title and interest in the original agreement.

3. In consideration for such consent, the Assignee agrees to be bound by all the terms and conditions of the original agreement, as amended above.

4. The remaining provisions of the agreement dated February 17, 2010, as amended, not inconsistent herewith, remain in full force and effect.

5. This Consent to Assignment is retroactively effective January 1, 2012.

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

By _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By:_____
Mayor/Chairman

MACTEC ENGINEERING and CONSULTING, Inc.

Witnesses:

By Yesika P. Sanchez
Yesika Sanchez

By: Ricardo Fraxedas
Signature

RICARDO FRAXEDAS
Printed Name
Date: 12/21/11

Witnesses:

By Yesika P. Sanchez
Yesika Sanchez

AMEC E&I, Inc. (ASSIGNOR)

By: Ricardo Fraxedas
Signature

RICARDO FRAXEDAS
Printed Name
Date: 12/21/11

AMEC Environment & Infrastructure, Inc. (ASSIGNEE)

Witnesses:

By Yesika P Sanchez
Yesika Sanchez

By: Ricardo Fraxedas
Signature

RICARDO FRAXEDAS
Printed Name
Date: 12/21/11

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Christine Limbert Barrows
CHRISTINE M. LIMBERT-BARROWS
ASSISTANT COUNTY ATTORNEY
Date 1/3/11

Contract for On Call Professional Engineering Services

THIS Contract (The AGREEMENT) made and entered into this 17 day of February 2010, by and between Monroe County, a political subdivision of the State of Florida, whose address is 1100 Simonton Street, Key West Florida, 33040, its successors and assigns hereinafter referred to as the "COUNTY," through the Monroe County Board of County Commissioners (BOCC), the Owner

And

MACTEC Engineering Consulting, Inc., a Corporation of the State of Florida, whose address is 3100 Overseas Highway Marathon, Florida 33050, its successors and assigns, hereinafter referred to as "CONSULTANT",

WITNESSETH:

WHEREAS, COUNTY desires to employ the professional engineering services of CONSULTANT for various County Projects located in Monroe County, Florida and

WHEREAS, CONSULTANT has agreed to provide professional services for miscellaneous projects in which construction costs do not exceed $2,000,000.00

The professional services required by this Contract will be for services in the form of a continuing contract, commencing the effective date of this agreement and ending four years thereafter, with options for the County to renew on an annual basis two consecutive times.

Specific services will be performed pursuant to individual task orders issued by the COUNTY and agreed to by the CONSULTANT. Task Orders will contain specific scope of work, time schedule, charges and payment conditions, and additional terms and conditions that are applicable to such Task Orders.

Execution of a Task Order by the COUNTY and the CONSULTANT constitutes the COUNTY's written authorization to CONSULTANT to proceed with the services described in the Task Order.

The terms and conditions of this Agreement shall apply to each Task Order, except to the extent expressly modified. When a Task Order is to modify a provision of this Agreement, the Article of this Agreement to be modified will be specifically referenced in the Task Order and the modification shall be precisely described.

NOW, THEREFORE, in consideration of mutual promises, covenants and agreements stated herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, COUNTY and CONSULTANT agree as follows:

FORM OF AGREEMENT

ARTICLE I

1.1 REPRESENTATIONS AND WARRANTIES

By executing this Agreement, the CONSULTANT makes the following express representations and warranties to the COUNTY:

1.1.1 The CONSULTANT shall maintain all necessary licenses, permits or other authorizations necessary to act as CONSULTANT for the Project until the CONSULTANT'S duties hereunder have been satisfied;

1.1.2 The CONSULTANT has become familiar with the Project site and the local conditions under which the Project is to be designed, constructed, and operated;

1.1.3 The CONSULTANT shall prepare all documents required by this Agreement including, but not limited to, all contract plans and specifications, in such a manner that they shall be in conformity and comply with all applicable law, codes and regulations. The CONSULTANT warrants that the documents prepared as a part of this Contract will be adequate and sufficient to accomplish the purposes of the Project, therefore, eliminating any additional construction cost due to missing or incorrect design elements in the contract documents;

1.1.4 The CONSULTANT assumes full responsibility to the extent allowed by law with regards to his performance and those directly under his employ.

1.1.5 The CONSULTANT'S services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. In providing all services pursuant to this agreement, the CONSULTANT shall abide by all statutes, ordinances, rules and regulations pertaining to, or regulating such services, including those now in effect and hereinafter adopted. Any violation of said statutes, ordinances, rules and regulations shall constitute a material breach of this agreement and shall entitle the COUNTY to terminate this agreement immediately upon delivery of written notice of termination to the CONSULTANT.

1.1.6 At all times and for purposes under this agreement the CONSULTANT is an independent contractor and not an employee of the Board of County Commissioners for Monroe County. No statement contained in this agreement shall be construed so as to find the CONSULTANT or any other of his/her employees, contractors, servants, or agents to be employees of the Board of County Commissioners for Monroe County.

1.1.7 The CONSULTANT shall not discriminate against any person based on race, creed, color, national origin, sex, age or any other characteristic or aspect which is not related, in its recruiting, hiring, promoting, terminating, or other area affecting employment under this agreement or with the provision of services or goods under this agreement.

ARTICLE II

SCOPE OF BASIC SERVICES

2.1.1 The CONSULTANT will perform for the COUNTY services as described in individual Task Orders in accordance with the requirements outlined in the Agreement and the specific Task Order. These services will include, but not be limited to:

A. Provide comprehensive transportation engineering design services for road and bridge construction and rehabilitation projects, including design, surveying, drafting, preparing specifications and contract documents, traffic studies, lighting and signalization, geotechnical investigations, permitting, assisting with review of contractor bids, comprehensive project management services, and construction engineering and inspection services.

B. Provide comprehensive stormwater and drainage engineering services including design, surveying, feasibility studies, geotechnical investigations, permit preparation, preparing construction plans, specifications and contract documents, assisting with review of contractor bids, comprehensive project management services and construction engineering and inspection services.

C. Provide comprehensive environmental engineering services including design, surveying, geotechnical investigations, environmental assessments, water quality studies, sampling analysis and monitoring, permit preparation, preparing construction plans, specifications and contract documents, assisting with review of contractor bids, comprehensive project management services and construction engineering and inspection services.

D. Provide comprehensive structural engineering services including design, surveying, facility inspections and assessments, preparing construction plans, specifications and contract documents, permitting, construction administration related to new construction, construction improvements, rehabilitation and/or retrofit of County facilities and buildings.

E. Provide general engineering services including but not limited to surveying, drafting, studies and assessments, engineering design, preparation of bid and proposal documents, permitting, assistance with technical review of contractor documents, construction engineering and inspection services for miscellaneous County projects.

2.1.2 The CONSULTANT shall be responsible for performing in accordance with all applicable Florida Department of Transportation (FDOT) manuals, procedures, specifications and guidance for all Local Agency Program (LAP) projects. When a Project is funded through the America Recovery and Reinvestment Act of 2009 (ARRA) and will be administered under the Florida Department of Transportations' Local Agency Program (LAP), the CONSULTANT must be familiar with and must comply with all applicable federal, state and local requirements of these programs. The CONSULTANT shall exercise their independent professional judgment in performing their obligations and responsibilities under this Agreement. Pursuant to Section 4.1.4 of the Florida Department of Transportation's, Construction Project Administration Manual (CPAM), the authority of the Consultant's lead person, such as the Senior Project Engineer, and the Consultant's Project Administrator shall be identical to the Department's Resident Engineer and Project Administrator respectively and shall be interpreted as such.

2.2 CORRECTIONS OF ERRORS, OMMISSIONS, DEFICIENCIES

2.2.1 The CONSULTANT shall, without additional compensation, promptly correct errors, omissions, deficiencies, or conflicts in the work product of the CONSULTANT or its subconsultants, or both.

2.3 NOTICE REQUIREMENTS

2.3.1 All written correspondence to the COUNTY shall be dated and signed by an authorized representative of the CONSULTANT. Any notice required or permitted under this agreement shall be in writing and hand delivered or mailed, postage prepaid, to the COUNTY by certified mail, return receipt requested, to the following:

Ms. Judith Clarke, P.E.
Monroe County Engineering Services
1100 Simonton St. Rm 2-216
Key West, FL 33040

And:Mr. Roman Gastesi, Jr.
County Administrator
1100 Simonton Street
Key West, FL 33040

For the Consultant:

Dana Pollitt
MACTEC Engineering Consulting, Inc.
3100 Overseas Highway
Marathon, Florida 33050

ARTICLE III

ADDITIONAL SERVICES

3.1 The services described in this Article III are not included in Basic Services. They shall be paid for by the COUNTY as provided in this agreement as an addition to the compensation paid for the Basic Services but only if approved by the COUNTY before commencement, and as follows:

A. Providing services of CONSULTANT for other than the previously listed consulting scope of Project provided as a part of Basic Services.

B. Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted consulting practice.

C. Providing representation before public bodies in connection with the Project, upon approval by the COUNTY.

3.2 If Additional Services are required, such as those listed above, the COUNTY shall issue a letter requesting and describing the requested services to the CONSULTANT. The CONSULTANT shall respond with fee proposal to perform the requested services. Only after receiving an amendment to the Agreement and a notice to proceed from the COUNTY, shall the CONSULTANT proceed with the Additional Services.

ARTICLE IV
COUNTY'S RESPONSIBILITIES

4.1 The COUNTY shall provide full information regarding requirements for the project including physical location of work, county maintained roads and maps.

4.2 The COUNTY shall designate Monroe County Engineering Services Department to act on the COUNTY'S behalf with respects to the Project. The COUNTY or Monroe County Engineering Services Department shall render decisions in a timely manner pertaining to documents submitted by the CONSULTANT in order to avoid unreasonable delay in the orderly and sequential progress of the CONSULTANTS services.

4.3 Prompt written notice shall be given by the COUNTY and its representative to the CONSULTANT if they become aware of any fault or defect in the Project or

nonconformance with the Agreement Documents. Written notice shall be deemed to have been duly served if sent pursuant to paragraph 2.3.

4.4 The COUNTY shall furnish the required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Consultants services and work of the contractors.

4.5 The COUNTY'S review of any documents prepared by the CONSULTANT or its subconsultants shall be solely for the purpose of determining whether such documents are generally consistent with the COUNTY'S criteria, as, and if, modified. No review of such documents shall relieve the CONSULTANT of responsibility for the accuracy, adequacy, fitness, suitability or coordination of its work product.

4.6 The COUNTY shall provide copies of necessary documents required to complete the work.

4.7 Any information that may be of assistance to the CONSULTANT that the COUNTY has immediate access to will be provided as requested.

ARTICLE V

INDEMNIFICATION AND HOLD HARMLESS

5.1.1 The CONSULTANT covenants and agrees to indemnify and hold harmless COUNTY/Monroe County and Monroe County Board of County Commissioners from any and all claims for bodily injury, including death, personal injury, and property damage, including property owned by Monroe County, and any other losses, damages, and expenses, including attorney's fees, court costs and expenses, which arise out of, in connection with, or by reason of services provided by the CONSULTANT or Subcontractor(s) in any tier, occasioned by the negligence, errors, or other wrongful act or omission of the CONSULTANT in any tier, their employees, or agents.

5.1.2 The first ten dollars ($10.00) of remuneration paid to the CONSULTANT is for the indemnification provided for above. The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this agreement. Should any claims be asserted against the COUNTY by virtue of any deficiency or ambiguity in the plans and specifications provided by the CONSULTANT, the CONSULTANT agrees and warrants that he shall hold the COUNTY harmless and shall indemnify him from all losses occurring thereby and shall further defend any claim or action on the COUNTY'S behalf.

5.1.3 In the event the completion of the project (to include the work of others) is delayed or suspended as a result of the CONSULTANT'S failure to purchase or maintain the required insurance, the CONSULTANT shall indemnify COUNTY

from any and all increased expenses resulting from such delays. Should any claims be asserted against COUNTY by virtue of any deficiencies or ambiguity in the plans and specifications provide by the CONSULTANT the CONSULTANT agrees and warrants that CONSULTANT hold the COUNTY harmless and shall indemnify it from all losses occurring thereby and shall further defend any claims or action on the COUNTY'S behalf.

5.1.4 The extent of liability is in no way limited to, reduced or lessened by the insurance requirements contained elsewhere within the Agreement.

5.1.5 This indemnification shall survive the expiration or early termination of the Agreement.

ARTICLE VI
PERSONNEL

6.1 PERSONNEL

The CONSULTANT shall assign only qualified personnel to perform any service concerning the project. At the time of execution of this Agreement, the parties anticipate that the following named individuals will perform those functions as indicated:

NAME	FUNCTION
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

So long as the individuals named above remain actively employed or retained by the CONSULTANT, they shall perform the functions indicated next to their names. If they are replaced the CONSULTANT shall notify the COUNTY of the change immediately.

ARTICLE VII
PAYMENTS

7.1 PAYMENT SUM

7.1.1 The COUNTY shall pay the CONSULTANT in current funds for the CONSULTANT'S performance of this Agreement based on rates negotiated and agreed upon and shown in Exhibit B.

7.2 PAYMENTS

7.2.1 For its assumption and performances of the duties, obligations and responsibilities set forth herein, the CONSULTANT shall be paid monthly.

(A) If the CONSULTANT'S duties, obligations and responsibilities are materially changed by amendment to this agreement after execution of this Agreement, compensation due to the CONSULTANT shall be equitably adjusted, either upward or downward;

(B) As a condition precedent for any payment due under this Agreement, the CONSULTANT shall submit monthly, unless otherwise agreed in writing by the COUNTY, an invoice to the COUNTY requesting payment for services properly rendered and reimbursable expenses due hereunder. The CONSULTANT'S invoice shall describe with reasonable particularity the service rendered. The CONSULTANT'S invoice shall be accompanied by such documentation or data in support of expenses for which payment is sought that the COUNTY may require.

(C) For the performance of the optional additional services and contingent additional services described in Article III of this contract, provided same are first authorized in writing by the COUNTY, the CONSULTANT shall be paid hourly at the rates identified in Exhibit B, or as negotiated.

7.3 REIMBURSABLE EXPENSES

7.3.1 Reimbursable expenses include expenses incurred by the CONSULTANT in the interest of the Project:

a. Expenses of transportation submitted by CONSULTANT, in writing, and living expenses in connection with travel authorized by the COUNTY, in writing, but only to the extent and in the amounts authorized by Section 112.061, Florida Statutes;

b. Cost of reproducing maps or drawings or other materials used in performing the scope of services;

c. Postage and handling of reports;

7.4 BUDGET

7.4.1 The CONSULANT may not be entitled to receive, and the COUNTY is not obligated to pay, any fees or expenses in excess of the amount budgeted for this Agreement in each fiscal year (October 1- September 30) by COUNTY'S Board of County Commissioners. The budgeted amount may only be modified by an affirmative act of the COUNTY'S Board of County Commissioners.

7.4.2 AVAILABILITY OF FUNDS. If funding cannot be obtained or cannot be continued at a level sufficient to allow for continued reimbursement of expenditures for services specified in the Task Order, the agreement may be terminated immediately at the option of the COUNTY by written notice of termination delivered to the CONSULTANT. The COUNTY shall not be obligated to pay for any services provided by the CONSULTANT after the CONSULTANT has received written notice of termination, unless otherwise required by law.

7.4.3 The COUNTY does not guarantee CONSULTANT any specific amount of work or task orders under this agreement.

ARTICLE VIII

8.1 INSURANCE

8.1.1 The CONSULTANT shall obtain insurance as specified and maintain the required insurance at all times that this Agreement is in effect. In the event the completion of the project (to include the work of others) is delayed or suspended as a result of the CONSULTANT'S failure to purchase or maintain the required insurance, the CONSULTANT shall indemnify the COUNTY from any and all increased expenses resulting from such delay.

8.1.2 The coverage provided herein shall be provided by an insurer with an A.M. Best Rating of VI or better, that is licensed to do business in the State of Florida and that has an agent for service of process within the State of Florida. The insurance certificate shall contain an endorsement providing sixty (60) days notice to the COUNTY prior to any cancellation of said coverage. Said coverage shall be written by an insurer acceptable to the COUNTY and shall be in a form acceptable to the COUNTY.

8.1.3 CONSULTANT shall obtain and maintain the following policies:

A. Workers' Compensation insurance as required by the State of Florida, sufficient to respond to Chapter 440, Florida Statutes.

B. Employers Liability Insurance with limits of $1,000,000 per Accident, $1,000,000 Disease, policy limits, $1,000,000 Disease each employee.

C. Comprehensive business automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, hired or non-owned vehicles, with One Million Dollars ($1,000,000.00) combined single limit and One Million Dollars ($1,000,000.00) annual aggregate.

D. Commercial general liability, including Personal Injury Liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any covered act or omission of the CONSULTANT or any of its employees, agents or subcontractors or subconsultants, including Premises and/or Operations, Products and Completed Operations, Independent Contractors; Broad Form Property Damage and a Contractual Liability Endorsement with One Million Dollars ($1,000,000) per occurrence and annual aggregate.

   An Occurrence Form policy is preferred. If coverage is changed to or provided on a Claims Made policy, its provisions should include coverage for claims filed on or after the effective date of this Agreement. In addition, the period for which they may be reported must extend for a minimum of 48 months following the termination or expiration of this Agreement.

E. Professional liability insurance of One Million Dollars ($1,000,000.00) per claim and Two Million Dollars ($2,000,000.00) annual aggregate. If the policy is a "claims made" policy, CONSULTANT shall maintain coverage or purchase a "tail" to cover claims made after completion of the project to cover the statutory time limits in Chapter 95 of the Florida Statutes.

F. COUNTY shall be named as an additional insured with respect to CONSULTANTS liabilities hereunder in insurance coverage identified in Paragraphs C and D.

G. CONSULTANT shall require its subconsultants to be adequately insured at least to the limits prescribed above, and to any increased limits of CONSULTANT if so required by COUNTY during the term of this Agreement. COUNTY will not pay for increased limits of insurance for subconsultants.

H. CONSULTANT shall provide to the COUNTY certificates of insurance or a copy of all insurance policies including those naming the COUNTY as an additional insured by including any subsection hereunder. The COUNTY reserves the right to require a certified copy of such policies upon request.

I. If the CONSULTANT participates in a self-insurance fund, a Certificate of Insurance will be required. In addition, the CONSULTANT may be required to submit updated financial statements from the fund upon request from the COUNTY.

8.2 APPLICABLE LAW

This contract is governed by the laws of the State of Florida. Venue for any litigation arising under this contract must be in Monroe County, Florida.

ARTICLE IX
MISCELLANEOUS

9.1 SECTION HEADINGS

Section headings have been inserted in this Agreement as a matter of convenience of reference only, and that it is agreed that such section headings are not a part of this Agreement and will not be use in the interpretation of any provisions of this Agreement.

9.2 OWNERSHIP OF THE PROJECT DOCUMENTS

The documents prepared by the CONSULTANT for this Project belong to the COUNTY and may be reproduced and copied without acknowledgement or permission of the CONSULTANT.

9.3 SUCCESSORS AND ASSIGNS

The CONSULTANT shall not assign or subcontract its obligations under this Agreement except in writing and with the prior written approval of the Board of County Commissioners for Monroe County and the CONSULTANT, which approval shall be subject to such conditions and provisions as the Board may deem necessary. This paragraph shall be incorporated by reference into any assignment or subcontract and any assignee or subcontractor shall comply with all of the provisions of this Agreement. Subject to the provisions of the immediately proceeding sentence, each party hereto binds itself, its successors, assignees and legal representatives to the other and to the successors, assigns and legal representatives of such other party. The CONSULTANT shall not assign its right hereunder, excepting its right to payment, nor shall it delegate any of its duties hereunder without the written consent of the COUNTY.

9.4 NO THIRD PARTY BENEFICIARIES

Nothing contained herein shall create any relationship, contractual or otherwise, with or any rights in favor of, any third party.

9.5 TERMINATION

A. In the event the CONSULTANT shall be found to be negligent in any aspect of service, the COUNTY shall have the right to terminate this Agreement after five days written notification to the CONSULTANT.

B. The County may terminate this Agreement without cause by giving the other party sixty (60) days written notice of its intention to do so.

9.6 CONTRACT DOCUMENTS

The contract documents consist of the Request for Qualifications (RFQ), any addenda, the Form of Agreement (Articles I-XV), the CONSULTANTS response to the RFQ, the

documents referred to in the Form of Agreement as a part of this Agreement, and the attachments A and Exhibit B and modifications made after execution by written amendment. In the event any conflict between any of those Agreement documents, the one imposing the greater burden on the CONSULTANT will control.

9.7 PUBLIC ENTITIES CRIMES

A person or affiliate who has been place on the convicted vendor list following a conviction for public entity crime may not submit a bid on contracts to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

By signing this Agreement, CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), Violation of this section shall result in termination of this Agreement and recovery of all moneys paid hereto, and may result in debarment from COUNTY'S competitive procurement activities.

In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit that it or any subconsultant has committed an act defined by Section 287.133, as "public entity crime", and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

CONSULTANT will promptly notify the COUNTY if it or any subcontractor or subconsultant is formally charged with an act defined as a "public entity crime" or has been placed on the convicted vendor list.

9.8 MAINTENANCE OF RECORDS

CONSULTANT shall maintain all books, records, and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. Records shall be retained for a period of five years from the termination of this Agreement. Each party to this Agreement or their authorized representatives shall have reasonable and timely access to such records of each other party to this Agreement for public records purposes during the term of the Agreement and for four years following the termination of this Agreement. If an auditor employed by the County or Clerk determines that monies paid to CONSULTANT pursuant to this Agreement were spent for purposes not authorized by this Agreement, the

CONSULTANT shall repay the monies together with interest calculated pursuant to Sec. 55.03, FS, running from the date the monies were paid to County.

9.9 GOVERNING LAW, VENUE, INTERPERTATION, COST AND FEES

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida applicable to contracts made and to be performed entirely in the State. In the event that any cause of action or administrative proceeding is instituted for the enforcement or interpretation of this Agreement, COUNTY and CONSULTANT agree that venue will lie in the 16^{TH} Judicial Circuit, Monroe County, Florida, in the appropriate court or before the appropriate administrative body in Monroe County, Florida. This Agreement shall not be subject to arbitration. The County and CONSULTANT agree that, in the event of conflicting interpretations of the terms or a term of this Agreement by or between any of them the issue shall be submitted to mediation prior to the institution of any other administrative or legal proceeding.

9.10 SEVERABILITY

If any term, covenant, condition or provision of this Agreement (or the application thereof to any circumstance or person) shall be declared invalid or unenforceable to any extent by a court of competent jurisdiction, the remaining terms, covenants, conditions and provisions of this Agreement, shall not be affected thereby; and each remaining term, covenant, condition and provision of this Agreement shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms, covenants, conditions and provisions of this Agreement would prevent the accomplishment of the original intent of this Agreement. The County and CONSULTANT agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

9.11 ATTORNEY'S FEES AND COSTS

The COUNTY and CONSULTANT agree that in the event any cause of action or administrative proceeding is initiated or defended by any party relative to the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs expenses, as an award against the non-prevailing party, and shall include attorney's fees and courts costs expenses in appellate proceedings, as an award against the non-prevailing party. Mediation proceedings initiated and conducted pursuant to this Agreement shall be in accordance with the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit court of Monroe County.

9.12 BINDING EFFECT

The terms, covenants, conditions, and provisions of this Agreement shall bind and inure to the benefit of the COUNTY and CONSULTANT and their respective legal representatives, successors, and assigns.

9.13 AUTHORITY

Each party represents and warrants to the other that the execution, delivery and performance of this Agreement have been duly authorized by all necessary COUNTY and corporate action, as required by law.

9.14 CLAIMS FOR FEDERAL OR STATE AID

CONSULTANT and COUNTY agree that each shall be, and is, empowered to apply for, seek, and obtain federal and state funds to further the purpose of this Agreement; provided that all applications, requests, grant proposals, and funding solicitations shall be approved by each party prior to submission.

9.15 ADJUDICATION OF DISPUTES OR DISAGREEMENTS

COUNTY and CONSULTANT agree that all disputes and disagreements shall be attempted to be resolved by meet and confer sessions between representatives of each of the parties. If no resolution can be agreed upon within 30 days after the first meet and confer session, the issue or issues shall be discussed at a public meeting of the Board of County Commissioners. If the issue or issues are still not resolved to the satisfaction of the parties, then any party shall have the right to seek such relief or remedy as may be provided by this Agreement or by Florida law. This provision does not negate or waive the provisions of paragraph 9.5 concerning termination or cancellation.

9.16 COOPERATION

In the event any administrative or legal proceeding is instituted against either party relating to the formation, execution, performance, or breach of this Agreement, COUNTY and CONSULTANT agree to participate, to the extent required by the other party, in all proceedings, hearings, processes, meetings, and other activities related to the substance of this Agreement or provision of the services under this Agreement. COUNTY and CONSULTANT specifically agree that no party to this Agreement shall be required to enter into any arbitration proceedings related to this Agreement.

9.17 NON DISCRIMINATION

CONSULTANT and COUNTY agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this Agreement automatically terminates without any further action on the part of any party, effective the date of the court order. CONSULTANT and COUNTY agree to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC ss. 1681-1683, and 1685-1686),

which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC s. 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101-6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patent records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC s. et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 1201 Note), as maybe amended from time to time, relating to nondiscrimination on the basis of disability; 10) Any other nondiscrimination provisions in any Federal or state statutes which may apply to the parties to, or the subject matter of, this Agreement.

9.18 COVENANT OF NO INTEREST

CONSULTANT and COUNTY covenant that neither presently has any interest, and shall not acquire any interest, which would conflict in any manner or degree with its performance under this Agreement, and that only interest of each is to perform and receive benefits as recited in this Agreement.

9.19 CODE OF ETHICS

COUNTY agrees that officers and employees of the COUNTY recognize and will be required to comply with the standards of conduct for public officers and employees as delineated in Section 112.313, Florida Statutes, regarding, but not limited to, solicitation or acceptance of gifts; doing business with one's agency; unauthorized compensation; misuse of public position, conflicting employment or contractual relationship; and disclosure or use of certain information.

9.20 NO SOLICITATION/PAYMENT

The CONSULTANT and COUNTY warrant that, in respect to itself, it has neither employed nor retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of the provision, the CONSULTANT agrees that the COUNTY shall have

the right to terminate this Agreement without liability and, at its discretion, to offset from monies owed, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

9.21 PUBLIC ACCESS

The CONSULTANT and COUNTY shall allow and permit reasonable access to, and inspection of, all documents, papers, letters or other materials in its possession or under its control subject to the provisions of Chapter 119, Florida Statutes, and made or received by the CONSULTANT and COUNTY in conjunction with this Agreement; and the COUNTY shall have the right to unilaterally cancel this Agreement upon violation of this provision by CONSULTANT.

9.22 NON-WAIVER OF IMMUNITY

Notwithstanding the provisions of Sec. 768.28, Florida Statutes, the participation of the CONSULTANT and the COUNTY in this Agreement and the acquisition of any commercial liability insurance coverage, self-insurance coverage, or local government liability insurance pool coverage shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered into by the COUNTY be required to contain any provision for waiver.

9.23 PRIVILEGES AND IMMUNITY

All of the privileges and immunities from liability, exemptions from laws, ordinances, and rules and pensions and relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents, or employees of any public agents or employees of the COUNTY, when performing their respective functions under this Agreement within the territorial limits of the COUNTY shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, volunteers, or employees outside the territorial limits of the COUNTY.

9.24 LEGAL OBLIGATIONS AND RESPONSIBILITIES

Non-Delegation of Constitutional or Statutory Duties. This Agreement is not intended to, nor shall it be construed as, relieving any participating entity from any obligation or responsibility imposed upon the entity by law except to the extent of actual and timely performance thereof by any participating entity, in which case the performance may be offered in satisfaction of the obligation or responsibility. Further, this Agreement is not intended to, nor shall it be construed as, authorizing the delegation of the constitutional or statutory duties of the COUNTY, except to the extent permitted by the Florida constitution, state statute, and case law.

9.25 NON-RELIANCE BY NON-PARTIES

No person or entity shall be entitled to rely upon the terms, or any of them, of this Agreement to enforce or attempt to enforce any third-party claim or entitlement to or benefit of any service or program contemplated hereunder, and the CONSULTANT and the COUNTY agree that neither the CONSULTANT nor the COUNTY or any agent, officer, or employee of either shall have the authority to inform, counsel, or otherwise indicate that any particular individual or group of individuals, entity or entities, have entitlements or benefits under this Agreement separate and apart, inferior to, or superior to the community in general or for the purposes contemplated in this Agreement.

9.26 ATTESTATIONS AND TRUTH IN NEGOTATION

CONSULTANT agrees to execute such documents as the COUNTY may reasonably require including a Public Entity Crime Statement, an Ethics Statement, and a Drug-Free Workplace Statement. Signature of this Agreement by CONSULTANT shall act as the execution of a truth in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation pursuant to the Agreement are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude significant sums by which the agency determines the contract price was increased due to inaccurate, incomplete, or concurrent wage rates and other factual unit costs. All such adjustments must be made within one year following the end of the Agreement.

9.27 NO PERSONAL LIABILITY

No covenant or agreement contained herein shall be deemed to be a covenant or agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

9.28 EXECUTION IN COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by singing any such counterpart.

9.29 FEDERAL HIGHWAY ADMINISTRATION REQUIREMENTS

Following forms and provisions are incorporated in and made part of this Agreement.

9.29.1 Davis-Bacon Act – In accordance with the Davis-Bacon Act the Consultant or their subcontractors shall pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. The current wage rates can be found at: WWW.access.gpo.gov/davisbacon/fl.html under Monroe County.

9.29.2 Americans with Disabilities Act of 1990 (ADA) The CONSULTANT will comply with all the requirements as imposed by the ADA, the regulations of the Federal government issued thereunder, and the assurance by the CONSULTANT pursuant thereto.

9.29.3 DISADVANTAGED BUSINESS ENTERPRISE (DBE)POLICY AND OBLIGATION

It is the policy of the COUNTY that DBE's, as defined in C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with COUNTY funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The COUNTY and its CONSULTANT agree to ensure that DBE's have the opportunity to participate in the performance of the Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that DBE's have the opportunity to compete and perform contracts. The COUNTY and the CONSULTANT and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

9.29.4 CONVICT LABOR

The convict labor prohibition in 23 U.S.C. 114 applies to Federal Aid construction projects. Convict labor cannot be used for Federal Aid construction projects.

9.29.5 FHWA Form 1273 is attached hereto as Attachment **A** and made a part of this Agreement.

IN WITNESS WHEREOF, each party caused this Agreement to be executed by its duly authorized representative on the day and year first above written.

(SEAL)
Attest: DANNY L. KOLHAGE, Clerk

By: _____
Deputy Clerk

Date: FEB 17 2010

BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA

By: _____
Mayor/Chairman

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
_____
CHRISTINE M. LIMBERT-BARROWS
ASSISTANT COUNTY ATTORNEY
Date 11/9/09

(Seal)**CONSULTANT**

Attest:

By: Ricardo Fraxedas PE

Title: Chief Engineer

By: Yerika Sanchez
WITNESS

By: _____
WITNESS

END OF AGREEMENT

ATTACHMENT A

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

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ATTACHMENTS

A. Employment Preference for Appalachian Contracts (included in Appalachian contracts only)

I. GENERAL

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:

Section I, paragraph 2;
Section IV, paragraphs 1, 2, 3, 4, and 7;
Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the DOL, or the contractor's employees or their representatives.

6. **Selection of Labor:** During the performance of this contract, the contractor shall not:

a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or

b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

II. NONDISCRIMINATION

(Applicable to all Federal-aid construction contracts and to all related subcontracts of $10,000 or more.)

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

b. The contractor will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed

in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

6. **Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

7. **Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the SHA and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.

8. **Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.

b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.

9. **Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and

(4) The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

b. The contractors will submit an annual report to the SHA

each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. If on-the job training is being required by special provision, the contractor will be required to collect and report training data.

III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of $10,000 or more.)

a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of $10,000 or more and that it will retain such certifications in its files.

IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

(Applicable to all Federal-aid construction contracts exceeding $2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

1. **General:**

a. All mechanics and laborers 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 (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) 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. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.

b. 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.

c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

2. **Classification:**

a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

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

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

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

(4) with respect to helpers, when such a classification prevails in the area in which the work is performed.

c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification 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 DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour 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.

d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional 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 Wage and Hour Administrator for determination. Said 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

e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

3. **Payment of Fringe Benefits:**

a. 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 or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.

b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a 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.

4. **Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:**

a. Apprentices:

(1) 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 DOL, 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/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.

(2) The allowable ratio of apprentices to journeyman-level employees on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate listed in the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor or subcontractor 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-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

(3) 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-level 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 for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(4) 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 or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

(1) 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 DOL, Employment and Training Administration.

(2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the 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 on the wage determination for the work actually performed.

(3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

(4) In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor 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. Helpers:

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under a approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

5. **Apprentices and Trainees (Programs of the U.S. DOT):**

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

6. **Withholding:**

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor 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, as 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 SHA 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.

7. **Overtime Requirements:**

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

8. **Violation:**

Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of $10 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 7.

9. **Withholding for Unpaid Wages and Liquidated Damages:**

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies 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 clause set forth in paragraph 8 above.

V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding $2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

1. **Compliance with Copeland Regulations (29 CFR 3):**

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

2. **Payrolls and Payroll Records:**

a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.

b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof 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. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found 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 and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

(1) that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

(2) that such 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 3;

(3) that each laborer or mechanic has been paid not less that the applicable wage rate and fringe benefits or cash equivalent for the classification of worked performed, as specified in the applicable wage determination incorporated into the contract.

e. 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 paragraph 2d of this Section V.

f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than $1,000,000 (23 CFR 635) the contractor shall:

a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.

b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

VII. SUBLETTING OR ASSIGNING THE CONTRACT

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635).

a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of

a subcontractor, assignee, or agent of the prime contractor.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

VIII. SAFETY: ACCIDENT PREVENTION

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined not more that $10,000 or imprisoned not more than 5 years or both."

X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

(Applicable to all Federal-aid construction contracts and to all related subcontracts of $100,000 or more.)

By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

1. **Instructions for Certification - Primary Covered Transactions:**

(Applicable to all Federal-aid contracts - 49 CFR 29)

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

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

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

transaction for cause of default.

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

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

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

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

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

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

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions

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

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

b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

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

d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

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

* * * * *

2. **Instructions for Certification - Lower Tier Covered Transactions:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions of $25,000 or more - 49 CFR 29)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

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

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

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

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and

frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

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

* * * * *

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

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

* * * * *

XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

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

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

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

3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT PREFERENCE FOR APPALACHIAN CONTRACTS
(Applicable to Appalachian contracts only.)

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph 1c shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph 4 below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which he estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, he shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within 1 week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph 1c above.

5. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT B

MACTEC Engineering and Consulting
2010 Schedule of Fees
(Standard A – except California)

Effective: February 17, 2010

I. Personnel

Charges will be made at the following rates for time spent in project management, consultation or meetings related to the project, conducting field inspections, sampling, evaluations, review and analysis of field and laboratory data, report preparation and review, design, travel time, etc.

Time spent on projects in litigation, in depositions and providing expert testimony will be charged at the standard rate times 2.0. Technician and Support Personnel time for work over 8 hours per day and on holidays, Saturday and Sunday will be charged at the standard rate times 1.5.

A. Professional (Engineer, Geologist, Scientist and Project Management)

Staff I	$71.00/hour
Staff II	$77.00/hour
Project	$86.00/hour
Senior	$109.00/hour
Principal/Project Manager	$155.00/hour
Senior Principal/Senior Project Manager	$159.00/hour
Chief Engineer/Scientist	$194.00/hour
Special Rate Personnel*	Separate Schedule

* Special Rate Personnel identified by name (such as certain Senior Principals with specialized expertise) will be billed at a special rate identified for individual projects.

B. Technical Services (Engineering and Science)

Technician I	$45.00/hour
Technician II	$55.00/hour
Senior Technician I	$60.00/hour
Senior Technician II	$70.00/hour
Principal Technicians and Specialty Technicians (i.e., persons holding specialized certifications)	Separate Schedule
Project Administrator/Project Coordinator/Subcontract Administrator/Project Accountant	$75.00/hour
Technical Writer/Document Processor	$78.00/hour
CADD/Draftsperson (includes PC/CAD) I	$66.00/hour
CADD/Draftsperson (includes PC/CAD) II	$101.00/hour
Admin I	$40.00/hour
Admin II	$52.00/hour

C. Surveying Services

Field Surveyor I	$43.00/hour
Field Surveyor II	$47.00/hour
Survey Technician I	$67.00/hour
Survey Technician II	$72.00/hour
Survey Party Chief	$75.00/hour

D. Information Management

Software Engineer	$92.00/hour
Data Technician	$132.00/hour
Senior Software Engineer	$162.00/hour
Business Analyst	$132.00/hour

E. Contract Labor

From time to time, MACTEC retains outside Professional and Technical labor on a temporary basis to meet peak workload demands. Such contract labor will be charged at regular Schedule of Charges rates.

Note: Personnel rates shown in the above fee schedule apply to project charges through January 20, 2011. On January 21st of each subsequent year, labor rates invoiced on projects will be increased by 3.5% to reflect annual cost of labor increases.

II. Expenses

A. Travel Expenses

1. Transportation: Company pickup truck/personal vehicle, per mile - $0.445
   a. Company pickup truck per day - $75
   b. Common carrier or car rental multiplied by (as covered in 7.3.1 of the Contract to the amounts authorized by Section 112.061, Florida Statutes)

2. Per Diem expenses: direct expenses in accordance with Florida State Statutes.

B. Disposal of Hazardous Waste Samples

Samples of waste will be disposed by permitted methods after a determination is made that the waste is defined by RCRA to be hazardous. Due to the requirements for some hazardous assessments, disposal and invoicing of incurred expenses may take place after invoicing of the originally contracted work.

C. Equipment / Other Expenses

Digital Field Documentation Equipment (cameras, water level & measuring tapes, GPS units, etc.)	Separate Schedule
Geophysical Equipment	Separate Schedule
Geotechnical & Environmental Monitoring & Sampling Equipment	Separate Schedule
Special equipment or supplies, permits, shipping charges, special printing or other items not customarily provided by MACTEC will be charged at cost multiplied by 1.15	

D. Communications

In-house costs for long-distance phone, telex, telecopier, postage - project labor charges x 5%.

III. Subcontracts

Subcontract services will be invoiced at cost multiplied by 1.15.

MACTEC Engineering and Consulting
2010 Schedule of Fees
(Standard A – except California)

Effective: February 17, 2010

I. Specialized Personnel

Charges will be made at the following rates for Specialty Engineering time spent in consultation or meetings related to the project, conducting field inspections, evaluations, review and analysis, litigation, travel time, etc. These specialty engineers will be identified prior to work being performed and only when specialty work is requested.

A. Specialized Professional Personnel (Registered Engineers (PE), or other professional registration as may be required for the specialty.)

Senior Metallurgist (Professional Engineer, CWI)	$194.00/hour
Registered Engineer for Litigation, Depositions, Testimony	$295.00/hour
Senior Structural Engineer (PE)	$194.00/hour
Senior Materials Engineer (PE)	$194.00/hour
Senior Forensic Engineer for Failure Analysis (PE)	$194.00/hour
Senior Environmental Engineer Specialist (PE)	$194.00/hour

* Special Rate Personnel will be identified by name at the time of request (such as certain Senior Principals with specialized expertise)

B. Equipment / Other Expenses

(Does not include personnel)

Digital Field Documentation Equipment (cameras, water level & measuring tapes, GPS units, etc.)	$75/day (min 2 days)
Geophysical Equipment (GPR equipment)	$1,100/day (min 2 days)
Underwater Camera Equipment/Video up to 50 feet depth and low turbidity.	$1,900/day
Environmental Monitoring & Sampling Equipment (Dust, OVA, Air Monitoring, Noise Meter, Light meter)	$100 to $450/day Depending on the equipment and scale required.
Special equipment or supplies, permits, shipping charges, special printing or other items not customarily provided by MACTEC	Actual cost x 1.15

MACTEC

STANDARD FEE SCHEDULE - FIELD SERVICES AND TESTING

Consultant	Description	Units	Unit Price
MACTEC	Double Ring Infiltrometer	EA	$450.00
MACTEC	Absorption Test - Drilled Core	EA	$85.00
MACTEC	Agg< 0.075MM (-200)	EA	$40.00
MACTEC	Part. Size Analy. Of soil	EA	$30.00
MACTEC	Asphalt Cores (Interstate)	EA	$40.00
MACTEC	Atterberg Limit	EA	$80.00
MACTEC	ATV-STD. Tires	EA	$600.00
MACTEC	Auger borings/soundings	FT	$9.00
MACTEC	Bulk Spec. Gravity	EA	$55.00
MACTEC	Chloride Ion in Soils	EA	$45.00
MACTEC	Comp Strength conc. Cyl.	PER CYL	$15.00
MACTEC	Conc 3x6 spec comp strength	PER CYL	$15.00
MACTEC	Consolidation	EA	$675.00
MACTEC	Corrosion Classification	SAMPLE	$175.00
MACTEC	CPT 0-50'	PER FT	$9.50
MACTEC	CPT 100-150'	PER FT	$12.00
MACTEC	CPT 150-200'	PER FT	$15.00
MACTEC	CPT 50-100'	PER FT	$10.50
MACTEC	Crosshole Sonic Logger (CSL)	EA	$350.00
MACTEC	Cure concrete Specimen (only)	EA	$10.00
MACTEC	D50 Determination	EA	$50.00
MACTEC	Drilled Conc. Cores w/wo rebar	EA	$110.00
MACTEC	Elect. Cond & resist of water	EA	$50.00
MACTEC	Extra SPT - Land 0-50'	PER SAMPLE	$28.00
MACTEC	Extra SPT - Land 100-150'	PER SAMPLE	$40.00
MACTEC	Extra SPT - Land 50-100'	PER SAMPLE	$31.00
MACTEC	Extra SPT - Water 0-50'	PER SAMPLE	$37.50
MACTEC	Extra SPT - Water 50-100'	PER SAMPLE	$48.00
MACTEC	Extra SPT - Water 100-150'	PER SAMPLE	$44.00
MACTEC	Field Permeability		$425.00
MACTEC	Field vane test		$300.00
MACTEC	Grain-size analysis		$50.00
MACTEC	Ground Penetrating Radar (GPR)	HR	$260.00
MACTEC	Grouting	FT	$6.00
MACTEC	Gyratory Compaction Asphalt Specimen (1 Pill)		$80.00
MACTEC	Install Monitor well T-11		$38.00
MACTEC	Install Peizonmeters		$25.00

Consultant	Description	Units	Unit Price
MACTEC	Install Slope indicator casing		$25.00
MACTEC	LA Abrasion		$185.00
MACTEC	LBR		$300.00
MACTEC	Liquid Limit of Soil		$65.00
MACTEC	LMRK Carbonates & organic - lmrk		$110.00
MACTEC	Max Spec. Gravity		$110.00
MACTEC	Mobilization - Truck Mount Drill Rig		$450.00
MACTEC	Moblization - Cone Truck		$450.00
MACTEC	Modified Proctor Moist-Den. 10lb - 18" Drop		$235.00
MACTEC	Moisture Content		$45.00
MACTEC	MOT Cones/Flags (50 each)	DAY	$50.00
MACTEC	MOT Flagger	HR	PER SALARY/MULTIPLIER
MACTEC	MOT Mobilization		$180.00
MACTEC	MOT Supervisor	HR	PER SALARY/MULTIPLIER
MACTEC	Organic Content Ign Oven		$40.00
MACTEC	Part. Size Analy. Of soil		$100.00
MACTEC	PDA Rental	DAY	$600.00
MACTEC	PDA-Wave Equation		$375.00
MACTEC	Percolation	TEST	$400.00
MACTEC	Perm. (Constant Head)	TEST	$400.00
MACTEC	Perm. (falling head)	TEST	$400.00
MACTEC	Petrograhic exam of hard'd concrete	EA	$1,900.00
MACTEC	PH of water	EA	$20.00
MACTEC	Pile Integrity Tester (PIT)		$300.00
MACTEC	Plastic limit / index of soil	EA	$50.00
MACTEC	Quant extract. Bit. Pav. Mxt.	EA	$125.00
MACTEC	Rk Core 0-50' 4"	FT	$50.00
MACTEC	Rk Core 100-150' 4"	FT	$60.00
MACTEC	Rk Core 150-200' 4"	FT	$65.00
MACTEC	Rk Core 50-100' 4"	FT	$55.00
MACTEC	Soundness Test (5 cyc)		$225.00
MACTEC	Sp Grav & absp test - coarse	EA	$95.00
MACTEC	Sp grav & Absp Test - fine agg	EA	$95.00
MACTEC	Specific Gravity	EA	$75.00
MACTEC	SPT > 100' Land	FT	$19.00
MACTEC	SPT > 100' Water	FT	$35.00
MACTEC	SPT 0-50' Water	FT	$21.00
MACTEC	SPT 50-100' Land	FT	$15.00
MACTEC	SPT 50-100' Water	FT	$25.00
MACTEC	SPT 0-50' Land	FT	$12.50
MACTEC	Standard Proctor Mosit.-dens. 5.5lb-12" drop	EA	$180.00
MACTEC	Sulphate content in soils	EA	$75.00

Consultant	Description	Units	Unit Price
MACTEC	Temp Casing 3"	FT	$10.00
MACTEC	Temp Casing 4"	FT	$12.00
MACTEC	Temp Casing 6"	FT	$14.00
MACTEC	Test Drilled cores / comp strength	EA	$27.00
MACTEC	Triaxial CD, per point	PER POINT	$245.00
MACTEC	Triaxial CU, per point	PER POINT	$180.00
MACTEC	Triaxial UU, per point	PER POINT	$180.00
MACTEC	Unconfined Compression Test	EA	$125.00
MACTEC	Undisturbed samples	EA	$50.00
MACTEC	Unit Wt. & voids-agg. Test	EA	$50.00
MACTEC	Work boat	DAY	$1,500.00

By: _____ 13-Jan-10

Jacqueline Hart, Manager Construction Services — Date

NOTES:

1. These are MACTEC's Standard Fees whether performed by private or governmental clients unless otherwise negotiated.

MACTINC1

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 12/28/2009

PRODUCER
Commercial Lines ... (770) 850-0050
Wells Fargo Insurance Services USA, Inc.
4401 Northside Parkway, Suite 400
Atlanta, GA 30327

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED
MACTEC Engineering and Consulting, Inc. & MACTEC, Inc.
5845 N.W. 158th Street
Miami Lakes, FL 33014

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Zurich American Insurance Co	16535
INSURER B: Steadfast Insurance Company	26387
INSURER C: Lloyd's, London	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		GENERAL LIABILITY [X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC	GLO225862812	09/01/09	09/01/10	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 1,000,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
A		AUTOMOBILE LIABILITY [X] ANY AUTO [ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS [X] HIRED AUTOS [X] NON-OWNED AUTOS	BAP225862912	09/01/09	09/01/10	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
		GARAGE LIABILITY [ ] ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG	$ $ $
B		EXCESS/UMBRELLA LIABILITY [X] OCCUR [ ] CLAIMS MADE [ ] DEDUCTIBLE [ ] RETENTION $	SEO655238600	09/01/09	09/01/10	EACH OCCURRENCE AGGREGATE	$ 4,000,000 $ 4,000,000
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	WC225863012 (AOS) WC283354012 (WI&MI) WC943289901 (Guam)	09/01/09 09/01/09 09/01/09	09/01/10 09/01/10 09/01/10	[X] WC STATU-TORY LIMITS [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
C		OTHER Professional Liability	QF054509	09/01/09	09/01/10	$1,000,000 Each Claim $2,000,000 Aggregate	

M. Sluss 1-29-10

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

RE:PROP09MIAM T. 129 - Monroe County On Call Engineering Services Contract Evidence of Insurance

CERTIFICATE HOLDER

Monroe County
Attn: Clark Briggs
1100 Simonton St., Room 216
Key West, FL 33040

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

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POLICY NUMBER: 57CESOF1487

COMMERCIAL GENERAL LIABILITY
CG 20 37 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organziation(s):	Location And Description Of Completed Operations
Monroe County Board of County Commissioners 1100 Simonton Street Key West, FL 33040	Re: All Operations of the Named Insured.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

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