

CITY OF LAKE WALES

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BID PACKAGE

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***CDBG Disaster Recovery Project***

***Project Description***

***Fiber Optic Cable Installation***

***Bid# 07-146***

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**City of Lake Wales**  
**Bid Notice Date: August 27, 2007**  
**DCA Grant Number: 06DB-3C-07-63-02-W 16**

Notice is hereby given that the City of Lake Wales, Florida, will accept sealed bids until **2:00 p.m. (local time), September 25, 2007** for the following project:

<b>Fiber Optic Cable Installation</b>
<b>BID FILE #07-146</b>

At **2:00 p.m. (local time), Tuesday, September 25, 2007**, the bids will be opened and read aloud at the City Commission Chambers in the City of Lake Wales City Administration Building Hall located at

201 West Central Avenue Lake Wales, Florida
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**Mandatory Pre-Bid Conference**

A mandatory Pre-Bid Conference will be held on **Tuesday, September 11, 2007, at 11:00 a.m.** in the City Commission Chambers at the City Administration Building. Only attendees of this meeting will be considered.

Please submit **one (1) original and three (3) copies** of your bid in a sealed envelope reflecting on the outside thereof the bidder's name and "**Fiber Optic Cable Installation**", **Bid #07-146**. The City will consider all bids properly submitted at its scheduled Bid Opening.

The City of Lake Wales shall be the sole judge of the bid and the resulting agreement that is in its best interest and its decision shall be final. All bidding and award procedures undertaken by the City in regard to this project shall be consistent with the City's adopted procurement procedures and with the rules and regulations of the Florida Small Cities Community Development Block Grant Program. Bid prices shall remain in effect for 90 days after bid opening.

All bids should be addressed as follows:

City of Lake Wales Attention: Bonnie Hodge, Purchasing Agent 201 West Central Avenue Lake Wales, FL 33853
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City of Lake Wales  
City Council  
Anthony G. Otte, City Manager

## **INFORMATION FOR BIDDERS**

1. **Receipt and Opening of Bids:** City of Lake Wales (herein called the "Owner"), invites bids on the form attached hereto, all blanks of which must be appropriately completed. Bids will be received by the Owner until **2:00 p.m. Tuesday, September 25, 2007** and then at said office at **2:30 p.m.**, publicly opened and read aloud.

The Owner may consider informal any bid not prepared and submitted in accordance with the provisions thereof and may waive any informalities or reject any and all bids. Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered.

2. **Preparation of Bid:** Each bid must be submitted on the prescribed forms (contained herein). All blank spaces for bid prices must be completed in ink or typewritten, in both words and figures, and all required Certifications must be fully completed and executed when submitted. Bid prices shall be good for 120 days after the bids are opened.
3. **Subcontracts:** The bidder is specifically advised that any person, or other party to whom it is proposed to award a subcontract under this contract must: be acceptable to the owner; and
  - a. submit all certifications that are also required of the Prime Contractor, as contained herein. Approval of the proposed subcontract award cannot be given by the Owner unless and until the proposed subcontractor has submitted the Certifications and/or other evidence showing that it has fully complied with any reporting requirements to which it is or was subject.
4. **Telegraphic Modifications(FAX):** Any bidder may modify his/her bid by telegraphic communication at any time prior to the scheduled closing time for receipt of bids, provided such telegraphic communication is received by the Owner prior to the closing time, and, provided further, the Owner is satisfied that a written confirmation of the telegraphic modification over the signature of the bidder was mailed prior to the closing time. The telegraphic communication should not reveal the bid price but should provide the addition or subtraction or other modification so that the final prices or terms will not be known by the Owner until the sealed bid is opened. If written confirmation is not received within two days from the closing time, no consideration will be given to the telegraphic modification.
5. **Project Description:** The Owner is requesting bids for the following City of Lake Wales CDBG Disaster Recovery Project:

Fiber Optic Cable Installation – Contractor shall provide a fully-tested and operational fiber optic communications link as indicated in the scope of work.
6. **Qualifications of Bidder:** The Owner may make such investigations as necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the Owner prior experience of similar projects and at least three (3) references. All bidders must be properly licensed. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the Owner that such bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional bids will not be accepted.
7. **Time of Completion and Liquidated Damages:** Bidder must agree to commence work on date to be specified in a written "Notice to Proceed" of the work and fully complete the project within the agreed upon consecutive calendar days thereafter. Bidder must agree to also have the project substantially complete within the agreed upon consecutive calendar days from date of "Notice to Proceed." Bidder must agree also to pay as liquidated damages, the sum of \$250 for each

consecutive calendar day thereafter as hereinafter provided by this bid package and Contract. Bids will be awarded based on the lowest bid as shown on the bid form (Attachment 2).

10. Conditions of Work: Each bidder must inform himself/herself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of this contract. Insofar as possible the Contractor, in carrying out the work, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor.
11. Addenda and Interpretations: No interpretation of the meaning of the plans, specification or other pre-bid documents will be made to any bidder orally. Every request for such interpretation should be **made in writing**, addressed to:

City of Lake Wales  
Bonnie Hodge, Purchasing Agent  
PO Box 1320  
Lake Wales, FL 33859-1320  
or  
[hodgeb@cityoflakewales.com](mailto:hodgeb@cityoflakewales.com)

and, to be given consideration, must be received at least **five (5)** days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be faxed or mailed to all prospective bidders (at the respective addresses furnished for such purposes), not later than 72 hours prior to the date fixed for the opening of bids. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under the bid as submitted. All addenda so issued shall become part of the contract documents.

12. Payment Method: Payment will be made upon completion of the demolition of the structure after inspection and approval by Owner. For bids over \$500,000, progress payments can be arranged if bidder provides the bonds and assurances described herein, however, no bids over this amount are expected for this project.

## **SCOPE OF WORK/SPECIFICATIONS**

### **Fiber Optic Cable Installation**

Fiber Optic cables, associated equipment and devices shall be installed in accordance with industry standards and manufacturer's written instructions.

The contractor will supply all materials and labor necessary to install fiber optic cable between the Lake Wales Fire Department, 253 W. Central Avenue and the Lake Wales Police Department, 133 E. Tillman Avenue, a distance of approximately 3000 feet.

The contractor will supply all materials and labor necessary to perform a directional bore and hand trench 2- inch conduit. The contractor will supply the City with a copy of as-built drawings with directional bore depths.

All fiber optic cable placement shall be accomplished by using pull, push or push-pull method. Fiber optic cable tension shall be monitored at all times with the use of an approved tension gauge and a recorder. Fiber optic cable subjected to tensions and/or stresses greater than those allowed by the manufacturer shall be removed and replaced at no cost.

The use of pulling lubricants shall be in accordance with the cable manufacturer's recommendation

Fiber optic cable pulled in innerduct or in conduit shall be installed in continuous lengths between pullboxes and/or splice/pullboxes. Splicing of fiber optic cable except at designated splice-points shall not be permitted. At fiber optic splicing locations, a minimum of twenty five (25) feet of slack shall be left at each end of the cable, or as shown on the plans. At splice/pullboxes used as pulling points, a minimum of twenty five (25) feet of fiber optic cable shall be coiled and left available in the box, or as shown on the plans.

The fiber optic cable shall be installed without damage for fibers, cladding, or jacket. Wheels, pulling sheaves and cable guides shall be used to maintain the fiber optic bending radius as specified by the manufacturer. No bends smaller than those recommended by the manufacturer shall be permitted. All bends of the fiber optic cable shall be made without kinking or flattening. The minimum bending radius shall be greater than ten times the diameter of the cable itself.

Fiber optic cable end caps shall be kept sealed at all times during installation, using approved end sealing caps. Tape shall not be used to seal the cable end. The cable shall remain properly sealed until the ends are prepared and terminated.

### **FIBER OPTIC CABLE TESTING REQUIREMENTS**

1. The test plan shall include tests for continuity, length, anomalies and attenuation.
2. Documentation:

The Contractor shall submit sample forms for documenting cable, splice and connector losses, OTDR traces and anomalies. The form shall include manufacturer, model/type number, serial number and date of calibration test equipment. The sample forms shall be submitted for approval within 60 working days after the Contract award date.

OTDR traces shall be submitted on paper and as data to be displayed on a personal computer as part of a finished software package (for waveform analysis).

After successful completion of each required test the Contractor shall submit, within three (3) working days, two (2) paper copies of the test results to the City.

3. Required Testing:
  - a. Cable-on Reel Test: Single-directional OTDR at 1310 nm, test all fiber in the cable. This shall be done on-site prior to installation.
  - b. Segment Testing: After installation of a segment of cable, a single-direction OTDR test at 1320 nm of any two fibers in each buffer tube.
  - c. Splice Testing: After all splices have been installed, a single-direction OTDR test at 1310 nm of all spliced fibers in all buffer tubes.
  - d. System Acceptance Test: End-to-end testing if the completed system shall consist of a bi-directional OTDR test of all fibers in all buffer tubes at 1310 nm. Using a laser source and power meter, measure loss and power level at 1310 nm.

Minimum acceptance criteria:

- Attenuation: maximum allowable value = 1.0 dB/km

- Anomalies: no event shall exceed 0.3 dB
- Splice Loss: 0.10 dB or less per splice

PROJECT MATERIALS\*

12-conductor Single mode fiber optic cable 5000ft  
Wall mount fiber terminal housing  
Rack mount fiber terminal housing  
Loaded bulk heads 6-port  
ST-SM fiber optic connectors  
ST-LC duplex SM fiber optic patch cables  
Fan Out Kits 12 strand  
Exterior conduit  
Firestops  
2" Conduit Approximately 3000ft  
Pull Vault  
Locate Wire  
Pull Rope

\*Aside from the linear feet of fiber optic cable and conduit, it is up to each individual contractor to determine the amount of each material required to fulfill the scope of work as described in this bid package. As noted in the bid form (Attachment 2), this is a lump sum contract for the installation of fiber optic cable. Also, there is a mandatory pre-bid meeting that will be held to answer any questions contractors may have before submitting a bid. The date of the pre-bid meeting is listed in the bid notice (bid advertisement).

END OF SECTION

**Certification Regarding  
Debarment, Suspension,  
And Other Responsibility Matters  
Primary Covered Transactions  
And Lower Tier Transactions**

- (1) The prospective primary participant (or lower tier 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 three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant (or 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.

\_\_\_\_\_  
Name (Firm's Authorized Representative)

\_\_\_\_\_  
Project Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Firm

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip  
24 CFR 24.510 & 24 CFR, Part 24, Appendix A

**TABLE A**

**PROPOSED SUBCONTRACTS BREAKDOWN**

FOR THE PERIOD COVERING \_\_\_\_\_ 20 \_\_\_\_ THROUGH \_\_\_\_\_ 20\_\_

COLUMN 1	COLUMN 2	COLUMN 4
Name of Sub Contractor	Type of Contract (business or profession)	Total Approximate Dollar Amount

\_\_\_\_\_  
Company

\_\_\_\_\_  
Project Name

\_\_\_\_\_  
Project Number

\_\_\_\_\_  
Company Officer (Signature)

\_\_\_\_\_  
Date

**PRECONSTRUCTION REPORT FORMAT**

Project Name: \_\_\_\_\_ Project #: \_\_\_\_\_

Location \_\_\_\_\_  
\_\_\_\_\_

Description of Work to be Performed: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contractor: \_\_\_\_\_ Contract Amount \$ \_\_\_\_\_

Conference Date \_\_\_\_/\_\_\_\_/\_\_\_\_ Place: \_\_\_\_\_

Participants: Names                      Titles  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Items Covered:  
Labor Standards (NA for DEMOLITION PROJECTS)  
Owner's Role and Responsibilities  
Housing & Urban Development  
Contractor's Role and Act of 1968, Section 3 Responsibilities  
Equal Opportunity Reporting Requirements and

Other: \_\_\_\_\_  
\_\_\_\_\_

**NOTICE TO PROCEED**

TO: \_\_\_\_\_  
(Official Name of Contractor)

\_\_\_\_\_  
(Address of Contractor)

FROM: \_\_\_\_\_

(Name of Locality)

\_\_\_\_\_  
(Address of Locality)

DATE: \_\_\_\_\_

SUBJ: \_\_\_\_\_  
(Project Contract Number)

\_\_\_\_\_, herein called the Contractor, is  
(Name of Contractor)  
authorized to begin work on \_\_\_\_\_ located at  
(Project Identified)

\_\_\_\_\_  
(Location of Project)  
All work will be done as specified in Contract \_\_\_\_\_  
(Project Contract Number)

and the attachments thereto. Work will proceed on this job within \_\_\_\_ days from the date of this notification as provided in Section \_\_\_\_\_ of said Contract, unless otherwise specified. Work on this job is scheduled for completion on \_\_\_\_\_.  
(Date)

Prior to beginning construction, all permits and licenses required by Local, State, and Federal law shall be obtained by the Contractor, unless otherwise specified. The method of assessing liquidated damages for noncompliance with the project of said Contract is contained in Section(s) 4 and 6 of said Contract.

\_\_\_\_\_  
(Authorized Local Official's Signature) (Date of Signature)

\_\_\_\_\_  
(Type Name of Authorized Local Official)

**NOTICE OF AWARD**

TO: \_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_

Project: \_\_\_\_\_

The Owner has considered the Bid Proposal submitted by you for the above described project in response to its Advertisement for Bids dated \_\_\_\_\_ and Instructions to Bidders.

You are hereby notified that your bid has been accepted for items in the amount of

\$ \_\_\_\_\_.

You are required by the "Instructions to Bidders" to execute the Agreement and furnish the required Contractor's Performance Bond (if applicable), Payment Bond (if applicable), and certificates of insurance within 7 calendar days from the date of this Notice of Award to you.

If you fail to execute said Agreement and to furnish said Bonds (if applicable) within 7 calendar days from the date of this Notice of Award, said Owner will be entitled to consider all your rights arising out of the Owner's acceptance of your Bid Proposal as abandoned and as a forfeiture of your Bid Bond (if applicable). The Owner will be entitled to such other rights as may be granted by law.

Your are required to return five duplicate originals acknowledged copies of this Notice of Award to the Owner.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_, Florida, Owner

By \_\_\_\_\_ Title \_\_\_\_\_

**SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

**CHANGE ORDER NO. \_\_\_\_\_**

Project No. \_\_\_\_\_ Date \_\_\_\_\_

Owner \_\_\_\_\_

Project Address \_\_\_\_\_

Contractor \_\_\_\_\_

Change Ordered: \_\_\_\_\_

Reason for Change Order: \_\_\_\_\_

**CONTRACT AMOUNT**

Original Contract Amount \$ \_\_\_\_\_

Previous Change Orders \$ \_\_\_\_\_

Change Order Addition \$ \_\_\_\_\_

Change order Deduction \$ \_\_\_\_\_

Revised Contract Amount \$ \_\_\_\_\_

\_\_\_\_\_  
This document shall become an amendment to the Contract and all stipulations and covenants of the Contract shall apply hereto.

\_\_\_\_\_  
Contractor Date \_\_\_\_\_

\_\_\_\_\_  
Owner (City/County) Date \_\_\_\_\_

\_\_\_\_\_  
Engineer \_\_\_\_\_

\_\_\_\_\_  
Grant Administrator Date \_\_\_\_\_

**Attachment 1**  
**CONTRACT FOR**  
**FIBER OPTIC CABLE INSTALLATION**

**THIS CONTRACT**, entered into this \_\_\_\_ day of \_\_\_\_\_, 2007, by and between \_\_\_\_\_ the City of Lake Wales, hereinafter called the "Owner", and Foreman's Construction and Excavation, Inc., hereinafter called the "Contractor".

**WITNESSETH:**

**WHEREAS**, the Owner proposes to finance in whole or in part the cost of **FIBER OPTIC CABLE INSTALLATION** provided for in this Contract using federal Community Development Block Grant (CDBG) funds through the Florida Department of Community Affairs; and

**WHEREAS**, the Owner has accepted the Contractor's bid for the performance of such, of **FIBER OPTIC CABLE INSTALLATION** and the Owner desires to engage the Contractor to perform such of **FIBER OPTIC CABLE INSTALLATION** in accordance with the provisions of this Contract and applicable requirements of the CDBG program.

**NOW, THEREFORE**, for the considerations stated hereinafter, the Owner and the Contractor do hereby mutually agree as follows:

**GENERAL CONDITIONS**

Section 1. Location

The location to receive the of **FIBER OPTIC CABLE INSTALLATION** pursuant to this Contract are located in the City of Lake Wales in Polk County, State of Florida, and are more particularly described in Attachment 2 (Bid Form).

Section 2. Contract Documents

The Contract Documents which comprise this Contract for of **FIBER OPTIC CABLE INSTALLATION** consists of the following documents:

- a) Instructions to bidders (this bid package)
- b) This Contract (Attachment #1)
- c) Bid Form (Attachment#2)

Section 3. Contract Price

Upon satisfactory completion of the **of FIBER OPTIC CABLE INSTALLATION** as provided for in this Contract and related documents, the Contractor shall be paid the amount of \$3135.00 hereinafter called the "Contract Price", unless the Contract price has increased or decreased as per a written change order.

Section 4. Time of Completion and Liquidated Damages

Time of Completion and Liquidated Damages: Contractor agrees to commence work on date to be specified in a written "Notice to Proceed" of the work and fully complete the project within the agreed upon consecutive calendar days thereafter. Contractor agrees to also have the project substantially complete within the agreed upon consecutive calendar days from date of "Notice to Proceed." Contractor agrees also to pay as liquidated damages, the sum of \$250 for each consecutive calendar day thereafter as hereinafter provided by this bid package and Contract. The Bidder will be expected to complete **of FIBER OPTIC CABLE INSTALLATION** for the site identified in the bid form shown by Attachment 2 within 90 days from the date to be specified in a written "Notice to Proceed", or within a time frame that is agreed to by Owner and Bidder.

The Contractor shall be responsible for scheduling the **of FIBER OPTIC CABLE INSTALLATION**, and for coordinating the operations of all trades, subcontractors, and suppliers engaged by the Contractor in connection with the work, in such manner as to assure the expeditious completion of the work.

Section 5. Scope of Work (Also see Attachment 3)

The Contractor shall furnish all necessary materials, equipment, tools, labor and supervision necessary to perform in a competent and workmanlike manner, all of the **of FIBER OPTIC CABLE INSTALLATION** provided for in this Contract relating to the described structures. No work will be provided beyond that which is included in the Bid Form (Attachment 2), unless a Change Order is approved by the Owner.

The Contractor shall report at once in writing to the Owner any error, omission, or inconsistency in the documents. Any necessary changes shall be adjusted by appropriate Change Order. However, if the Contractor fails to report any error, omission or inconsistency and installs work according to the error, omission or inconsistency, the Contractor shall bear all liabilities and costs attributable to such work.

Section 6. Reserved

This Section is reserved.

Section 7. Permits and Codes

The Contractor shall, at his own expense, secure all necessary permits and licenses required in connection with the performance of the **of FIBER OPTIC CABLE INSTALLATION** provided for in this Contract, and shall perform all such work in full compliance with the requirements of applicable codes, ordinances and regulations of the local government.

Section 8. Insurance

The Contractor shall maintain in force, between the time that the Contractor commences the Demolition Work provided for in this Contract and the time that such work is completed, comprehensive

public liability insurance protecting the Owner for not less than \$100,000/\$300,000 in the event of bodily injury, including death, and \$100,000 in the event of property damage arising out of the Contractor's operations under this Contract, whether such operations be by the Contractor, any subcontractors or suppliers engaged by the Contractor in connection with such operations, or anyone directly or indirectly employed by either the Contractor or such subcontractors or suppliers, and such insurance or other coverage as is required by Florida law governing Workman's Compensation. Before commencing the Demolition Work provided for in this Contract, the Contractor shall furnish the Agency with certificates showing that the required insurance is in force. The Contractor's insurance policies shall also be submitted to the Agency for approval, and shall be endorsed to provide that the policies will not expire or be cancelled or changed until ten (10) days after written notice of expiration, cancellation or change has been delivered to the Agency.

The Owner shall also maintain in force during the same period a property and/or builder's risk insurance policy adequate to cover the existing property and the Demolition Work against damage or loss for which the Contractor is not responsible. Coverage shall provide for perils of fire and extended coverage of other forms of damage and/or loss, to the full insurable value of the property.

Section 9. Accident Prevention

The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for damages to person or property, either on or off the site, which occur as a result of his execution of the work. The safety provisions of applicable laws and building and construction codes shall be observed and the Contractor shall take or cause to be taken such additional safety and health measures as the Owner may determine to be reasonable and necessary.

Section 10. Care of Work

The Contractor shall keep the premises clean and orderly during the course of the installation and shall be responsible for the proper care and protection of all materials delivered and work performed until completion of the work. Materials and equipment that have been removed as part of the work shall belong to the Contractor, unless otherwise specified herein.

Section 11. Supervision of Work

The Contractor shall be responsible to the Owner for the acts and omissions of all his employees, and all subcontractors, their agents and employees, and all other persons performing any of the work under the Contract with the Contractor.

The Contractor shall at all times enforce strict and good order among his employees and shall not employ on the work any unfit persons or anyone not skilled in the task assigned to him.

The Contractor shall act as or employ a competent superintendent who shall regularly visit the project site during the progress of the work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. Important communications will be confirmed in writing. Other communications will be so confirmed upon request in each case.

Section 12. Utilities

The Contractor will be responsible for providing any utilities that are required for his performance of the work.

Section 13. Contract Changes

No modifications of this Contract shall be made after its execution by the Contractor and the Owner except by written instrument signed by the Contractor, accepted by the Owner.

Section 14. Inspection

The Contractor shall permit inspection by the Owner and other appropriate officials in order to confirm that work is conducted in accordance with the terms and conditions of this contract, and that work is satisfactorily completed.

The Contractor shall also permit inspection by the Owner, the Florida Department of Community Affairs, and the United States Government of all contracts, materials, and payrolls and conditions of employment pertaining to the **of FIBER OPTIC CABLE INSTALLATION** being performed under this Contract.

Section 15. Payment of Contract Price

Full payment will be issued by Owner to Contractor upon completion of all work. Progress payments shall only be made for contracts over \$500,000 (and if Contractor has appropriate bonds and other assurances in place as specified by the bid package).

Section 16. Liens

At no time shall payment be due to the Contractor if there are outstanding liens or claims of liens on the job. Payment shall not be due until the Contractor provides all waivers or releases or liens, and satisfaction of any recorded lien, to the Owner, in care of the Agency.

The Contractor shall protect, defend and indemnify the Owner from any claims for unpaid work, labor or materials provided in performance of the Contract.

Section 17. Hold Harmless Clause

The Contractor shall indemnify, and hold harmless the Owner and Owner's officials and employees from all liability and claims for damages because of bodily injury, death, property damage, sickness, disease, or loss and expense suffered or alleged to have been suffered by any person as a result of, or arising from, the Contractor's operations under this Contract, whether such operations be by the Contractor, any subcontractors or suppliers engaged by the Contractor in connection with such operations, or anyone directly or indirectly employed by either the Contractor or such subcontractors and suppliers.

Section 18. General Guaranty

No provision in the Contract Documents shall constitute an acceptance of work not done in accordance with Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility for workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting there from, which shall appear within a period of one year from the date of final acceptance. The Owner will give notice of observed defects with reasonable promptness.

Section 19. Assignment of Contract

The Contractor shall not assign this Contract without the prior written consent of the Owner.

Section 20. Owner's Right to Stop the Work

If the Contractor provides or fails to correct defective work, or fails to supply materials or equipment in accordance with the Contract Documents, the Owner may order the Contractor to stop the work, or any portion thereof, until the cause for such order has been eliminated.

Section 21. Disputes

All disputes arising under this Contract or its interpretation, whether involving law or fact or both, or extra work, and all claims for alleged breach of Contract shall be presented in writing by the Contractor to the Owner within five (5) days of commencement of the dispute. Such claim shall state the facts surrounding the claim in sufficient detail to identify the claim, together with its character and scope. The Owner will provide a written decision within five (5) days. Any appeals of the Owner's decision shall be presented in writing within five (5) days to the chief executive officer of the local government. The decision on the appeal will be provided in writing within five (5) days, and will be the final authority in dispute.

Section 22. Termination by Owner

See termination provisions as discussed in Attachment "A", CDBG Special Conditions.

Section 23. Termination by Contractor

See termination provisions as discussed in Attachment "A", CDBG Special Conditions.

Section 24. Interest of Federal, State, and Local Officials

No member of or Delegate to the Congress of the United States, or Resident Commissioner, and no elected state official or state employee shall share in any proceeds of the CDBG program referred to in this Contract, or in any benefit to arise from the same.

No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Contract, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any Contract or subcontract, or the proceeds, thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

Section 25. Disclaimer

The Contractor and Owner hereby acknowledge that this Contract is solely between the Contractor and Owner and that the Florida Department of Community Affairs or other agencies that may provide funding for this project are not parties to this Contract; have no interest in this Contract; and are acting solely as conduit(s) through which public funds are made available to the Owner for demolition of property. Any causes or actions, suits, dues, sum of money, accounts, variances, damages and liabilities whatsoever both in law and equity which may arise as a result of this project will be between the Owner and Contractor.

Section 25. Compliance with Contract, Bid Documents and Bid Form

This agreement for **of FIBER OPTIC CABLE INSTALLATION** consists of:

- Instructions to bidders (bid package)
- This Contract (Attachment #1)
- Bid Form (Attachment #2)

Contractor and Owner agree to comply with the provisions and requirements of these documents which in their entirety are considered the contract documents for **of FIBER OPTIC CABLE INSTALLATION**.

Section 26. Compliance with CDBG Special Conditions

The Contractor and Owner agree to comply with the CDBG Special Conditions attached hereto as Exhibit A. Any conflicts between the provisions of this contract and the provisions of Exhibit A shall be resolved in favor of the provisions in Exhibit A.

**IN WITNESS WHEREOF**, the Contractor has executed this Contract as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and the Owner has executed this Contract as of the date above first written.

Attest: \_\_\_\_\_ City of Lake Wales

\_\_\_\_\_  
City Clerk, City of Lake Wales

\_\_\_\_\_  
City Manager, City of Lake Wales

\_\_\_\_\_  
Date

Witness:

CONTRACTOR:

\_\_\_\_\_  
BY:

\_\_\_\_\_  
BY:

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

Approved by the Lake Wales City Commission on \_\_\_\_\_, \_\_\_\_ 2007.

Exhibit A

**CDBG SUPPLEMENTAL CONDITIONS**  
(Construction Contracts)

The supplemental conditions contained in this section are intended to cooperate with, to supplement, and to modify the general conditions and other specifications. In case of disagreement with any other section of this contract, the Supplemental Conditions shall govern.

1. Termination (Cause and Convenience)
2. Access to Records
3. Retention of Records
4. Remedies
5. Environmental Compliance (Clean Air Act and Clean Water Act)
6. Energy Efficiency
7. Special Equal Opportunity Provisions
8. Conflict of Interest
9. Utilization of Minority and Women's Businesses
10. Federal Labor Standards Provisions (Davis-Bacon, Copeland, and Contract Work Hours Act)  
Guidance to Contractor for Compliance with Labor Standards Provisions

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**1. Termination (Cause and/or Convenience)**

(a) This contract may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this contract through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

- (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate;
- (2) an opportunity for consultation with the terminating party prior to termination.

(b) This contract may be terminated in whole or in part in writing by the local government for its convenience, provided that the other party is afforded the same notice and consultation opportunity specified in 1(a) above.

(c) If termination for default is effected by the local government, an equitable adjustment in the price for this contract shall be made, but

- (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and
- (2) any payment due to the contractor at the time of termination may be adjusted to cover any additional costs to the local government because of the contractor's default.

If termination for convenience is effected by the local government, the equitable adjustment shall include a reasonable profit for services or other work performed for which profit has not already been included in an invoice.

For any termination, the equitable adjustment shall provide for payment to the contractor for services rendered and expenses incurred prior to receipt of the notice of intent to terminate, in addition to termination settlement costs reasonably incurred by the contractor relating to commitments (e.g., suppliers, subcontractors) which had become firm prior to receipt of the notice of intent to terminate.

(d) Upon receipt of a termination action under paragraphs (a) or (b) above, the contractor shall (1) promptly discontinue all affected work (unless the notice directs otherwise) and (2) deliver or otherwise make available to the local government all data, drawings, reports specifications, summaries and other such information, as may have been accumulated by the contractor in performing this contract, whether completed or in process.

(e) Upon termination, the local government may take over the work and may award another party a contract to complete the work described in this contract.

(f) If, after termination for failure of the contractor to fulfill contractual obligations, it is determined that the contractor had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the local government. In such event, adjustment of the contract price shall be made as provided in paragraph (c) above.

## **2. Access to Records**

The local government, the Florida Department of Community Affairs, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

## **3. Retention of Records**

The contractor shall retain all records relating to this contract for five years after the local government makes final payment and all other pending matters are closed.

## **4. Remedies**

Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the local government and the contractor, arising out of or relating to this contract, or the breach of it, will be decided by arbitration, if the parties mutually agree, or in a Florida court of competent jurisdiction.

## **5. Environmental Compliance**

If this contract exceeds \$100,000, the contractor shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and U.S. Environmental Protection Agency regulations (40 C.F.R. Part 15). The contractor shall include this clause in any subcontracts over \$100,000.

## **6. Energy Efficiency**

The contractor shall comply with any mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

## **7. SPECIAL EQUAL OPPORTUNITY PROVISIONS**

### **A. Activities and Contracts Not Subject to Executive Order 11246, as Amended**

(Applicable to Federally assisted construction contracts and related subcontracts \$10,000 and under.)

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

- (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- (2) The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer seeking forth the provisions of this nondiscrimination clause. The Contractor shall state that all qualified applicants be considered without regard to race, color, religion, sex or national origin.
- (3) Contractors shall incorporate foregoing requirements in all subcontracts.

B. Executive Order 11246 (contracts/subcontracts above \$10,000)

(1) Section 202 Equal Opportunity Clause

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

- (a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in a conspicuous place, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.
- (c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided by the Contract Compliance Officer advising the said labor union or worker's representatives of the Contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (d) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the Rules, Regulations, and Relevant Orders of the Secretary of Labor.
- (e) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and others.
- (f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of

September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the Provisions of the sentence immediately preceding Paragraph (a) and the provisions of Paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sections of noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

(2) Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246). (Applicable to contracts/subcontracts exceeding \$10,000.)

(a) The Offerer's or Bidder's attention is called to the Equal Opportunity Clause and the Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth herein.

(b) The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Female participation: 6.9% (statewide)

Minority participation (See Appendix at CDBG-25 for goals for each county)

These goals are applicable to all Contractor's construction work (whether or not it is federally-assisted) performed in the covered area. If the Contractor performs construction work in a geographic area located outside of the covered area, it shall apply the goals established for such geographic area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its Federally involved and non-Federally involved construction.

The Contractor's compliance with Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3 (a), and its efforts to meet the goals established or the geographic area where the contract resulting from his solicitation is to be performed. The hours of minority and female employment or training must be substantially uniform throughout the length of the contract and in each trade the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

(c) The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

(d) As used in this Notice, and in the contract resulting from the solicitation, the covered area is the county in which the contract work is being undertaken.

(3) Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246).

(a) As used in these specifications:

1. Covered area means the geographical area described in the solicitation from which this contract resulted;
2. Director means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
3. Employer identification number means the Federal Social Security number used on the Employer's quarterly Federal Tax Return, U. S. Treasury Department Form 941.
4. Minority includes:
  - (I) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (II) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
  - (III) Asian and Pacific Islander (all persons having origins in any of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Island); and
  - (IV) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

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

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

(4) The Contractor shall implement the specific affirmative action standards provided in paragraphs (7) 1. through 16. of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing contracts in geographical areas where they do not have a Federal or Federally-assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

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

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

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

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

other programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

6. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
7. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
8. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
9. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
10. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
11. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR 60-3.
12. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
13. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
14. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
15. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

16. Conduct a review, at least annually, of all supervisors adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

(8) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations ((7) 1. through 16.). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under (7) 1. through 16. of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation shall not be a defense for the Contractor's noncompliance.

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

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

(11) The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

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

(13) The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensively as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its effort to ensure equal employment opportunity. If the Contractor fails to comply with the requirement of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

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

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

C. Certification of Non-segregated Facilities (over \$10,000)

By the submission of this bid, the bidder, offeror, applicant or subcontractor certifies that he/she does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and that he/she does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. He/She certifies further that he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is violation of the Equal Opportunity Clause of this contract. As used in this certification, the term segregated facilities means any waiting rooms, work eating areas, time clocks, locker rooms, and other storage or dressing areas, transportation and housing facilities provided for employees which are in fact segregated on the basis of race, color, religion, or otherwise. He/She further agrees that (except where he/she has obtained identical certifications from proposed subcontractors prior to the award of subcontractors have submitted identical certifications for specific time periods).

D. Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

E. Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

F. Section 3 Compliance in the Provision of Training, Employment and Business Opportunities

(1) The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U. S. C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

(2) The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 134, and all applicable rules and orders of the Department issued there under prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

(3) The Contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

(4) The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Contractor will not subcontract with any subcontractor where it has notice of knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

(5) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors or subcontractors, its successors and assigned to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

G. Section 503 Handicapped (Contracts \$2,500 or Over)

(1) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(2) The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

(3) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(4) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(5) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or their contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(6) The Contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

#### H. Age Discrimination Act of 1975

No person in the United States shall, on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program, or activity receiving Federal Financial assistance.

#### **8. CONFLICT OF INTEREST OF OFFICERS OR EMPLOYEES OF THE LOCAL JURISDICTION, MEMBERS OF THE LOCAL GOVERNING BODY, OR OTHER PUBLIC OFFICIALS**

No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this contract, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

#### **9. UTILIZATION OF MINORITY AND WOMEN FIRMS (M/WBE)**

The contractor shall take all necessary affirmative steps to assure that M/WBE firms are utilized when possible as suppliers and/or subcontractors, as applicable. Prior to contract award, the contractor shall document efforts to utilize M/WBE firms, including identifying what firms were solicited as suppliers and/or subcontractors, as applicable. Information regarding certified M/WBE firms can be obtained from:

- \* the State of Florida at 904-487-4698 (all goods and services)
- \* the State of Florida at 904-921-7370 (construction services, particularly highway)
- \* Minority Business Development Center in most major cities
- \* local government M/WBE programs in many large counties and cities

A firm recognized as an M/WBE by any of the above agencies is acceptable for the CDBG program.

#### **10. FEDERAL LABOR STANDARDS PROVISIONS (Davis-Bacon Act, Copeland Act, and Contract Works Hours & Safety Standards Act)**

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

**A.1.(I) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

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

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

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

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

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

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

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

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

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



(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD, or its designee may, after written notice to the contractor, sponsor, applicant, or owners, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3.(i) Payrolls and Basic Records** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017).

(ii)(a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owners, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(I). 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 029-005-00014-1), U. S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the

submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149).

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

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5 (a)(3)(I) and that such information is correct and complete;

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

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

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

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

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

#### **4.(i) Apprentices and Trainees**

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

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

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

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

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

**6. Subcontracts** The contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contract shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

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

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

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

**10.(i) Certification of Eligibility.** By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

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

(iii) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U. S. C. 1001. Additionally, U. S. Criminal Code, Section 1010, Title 18, U. S. C., Federal Housing Administration transactions, provides in part Whoever, for the purpose of . . .influencing in any way the action of such Administration. . .makes, utters or publishes any statement, knowing the same to be false. . .shall be fined not more than \$5,000 or imprisoned not more than two years, or both.

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

**B. Contract Work Hours and Safety Standards Act.** As used in the paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard

workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

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

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

### **C. Health and Safety**

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

(2) The contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54.83 State 96).

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

## **11. Guidance to Contractor for Compliance with Labor Standards Provisions**

### **a) Contracts with Two Wage Decisions**

If the contract includes two wage decisions, the contractor, and each subcontractor who works on the site, must submit either two separate payrolls (one for each wage decision) or one payroll which identifies each worker twice and the hours worked under each wage decision. One single payroll, reflecting each worker once, may be submitted provided the Contractor uses the higher rate in the wage decisions for each identical job classification. However, where a job classification is not listed in a wage decision and is needed for that portion of the work, the classification **must** be added to the wage decision. A worker may not be paid at the rate for a classification using the hourly rate for that same classification in another wage decision. After the additional classification is approved, the contractor may pay the higher of the two rates and submit one payroll, if desired.

### **b) Complying with Minimum Hourly Amounts**

1) The minimum hourly amount due to a worker in each classification is the total of the amounts in the Rates and Fringe Benefits (if any) columns of the applicable wage decision.

2) The contractor may satisfy this minimum hourly amount by any combination of cash and bona fide fringe benefits, regardless of the individual amounts reflected in the Rates and Fringe Benefits columns.

3) A contractor payment for a worker which is required by law is not a fringe benefit in meeting the minimum hourly amount due under the applicable wage decision. For example, contractor payments for FICA or unemployment insurance are not a fringe benefit; however, contractor payments for health insurance or retirement are a fringe benefit. Generally, a fringe benefit is bona fide if (a) it is available to most workers and (b) involves payments to a third party.

4) The hourly value of the fringe benefit is calculated by dividing the contractor's annual cost (excluding any amount contributed by the worker) for the fringe benefit by 2080. Therefore, for workers with overtime, an additional payment may be required to meet the minimum hourly wages since generally fringe benefits have no value for any time worked over 40 hours weekly. (If a worker is paid more than the minimum rates required by the wage decision, this should not be a problem. As long as the total wages received by a worker for straight time equals the hours worked times the minimum hourly rate in the wage decision, the requirement of the Davis-Bacon and Related Acts has been satisfied.)

#### c) Overtime

For any project work over 40 hours weekly, a worker generally must be paid 150% of the actual hourly cash rate received, not the minimum required by the wage decision. (The Davis-Bacon and Related Acts only establishes minimum rates and does not address overtime; the Contract Work Hours Act contains the overtime requirement and uses basic rate of pay as the base for calculation, not the minimum rates established by the Davis-Bacon and Related Acts.)

#### d) Deductions

Workers who have deductions, not required by law, from their pay must authorize these deductions in writing. The authorization must identify the purpose of each deduction and the amount, which may be a specific dollar amount or a percentage. A copy of the authorization must be submitted with the first payroll containing the deduction. If deducted amounts increase, another authorization must be submitted. If deducted amounts decrease, no revision to the original authorization is needed. Court-ordered deductions, such as child support, may be identified by the responsible payroll person in a separate document. This document should identify the worker, the amount deducted and the purpose. A copy of the court order should be submitted.

#### e) Classifications Not Included in the Wage Decision

If a classification not in the wage decision is required, please advise the owner's representative in writing and identify the job classification(s) required. In some instances, the State agency may allow the use of a similar classification in the wage decision.

Otherwise, the contractor and affected workers must agree on a minimum rate, which cannot be lower than the lowest rate for any trade in the wage decision. Laborers (including any subcategory of the laborer classification) and truck drivers are not considered a trade for this purpose. If the classification involves a power equipment operator, the minimum cannot be lower than the lowest rate for any power equipment operator in the wage decision. The owner will provide forms to document agreement on the minimum rate by the affected workers and contractor.

The U.S. Department of Labor (USDOL) must approve the proposed classification and rate. The contractor may pay the proposed rate until the USDOL makes a determination. Should the USDOL require a higher rate, the contractor must make wage restitution to the affected worker(s) for all hours worked under the proposed rate.

#### f) Supervisory Personnel

Foremen and other supervisory personnel who spend at least 80% of their time supervising workers are not covered by the Davis-Bacon and Related Acts. Therefore, a wage decision will not include such supervisory classifications and their wages are not subject to any minimums under the Davis-Bacon and Related Act or overtime payments under the Contract Work Hours and Safety Standards Act. However, foremen and other supervisory personnel who spend less than 80% of their time engaged in supervisory activities are considered workers/mechanics for the time spent engaged in manual labor and must be paid at least the minimum in the wage decision for the appropriate classification(s) based on the work performed.

#### g) Sole Proprietorships / Independent Contractors / Leased Workers

The nature of the relationship between a prime contractor and a worker does not affect the requirement to comply with the labor standards provisions of this contract. The applicability of the labor standards provisions is based on the nature of the work performed.

If the work performed is primarily manual in nature, the worker is subject to the labor standards provisions in this contract. For example, if John Smith is the owner of ABC Plumbing and performs all plumbing work himself, then Mr. Smith is subject to the labor standards provisions, including minimum wages and overtime. His status as owner is irrelevant for labor standards purposes.

If a worker meets the IRS standards for being an independent contractor, and is employed as such, this means that the worker must submit a separate payroll as a subcontractor rather than be included on some other payroll. The worker is still subject to the labor standards provisions in this contract, including minimum wages and overtime.

If a contractor or subcontractor leases its workers, they are subject to the labor standards provisions in this contract, including minimum wages and overtime. The leasing firm must submit payrolls and these payrolls must reflect information required to determine compliance with the labor standards provisions of this contract, including a classification for each worker based on the nature of the work performed, number of regular hours worked, and number of overtime hours worked.

#### h) Apprentices / Helpers

A worker may be classified as an apprentice **only if participating in a federal or state program**. Documentation of participation must be submitted. Generally, the apprentice program specifies that the apprentice will be compensated at a percentage of journeyman rate. For Davis-Bacon Act purposes, the hourly rate cannot be lower than the percentage of the hourly rate for the classification in the applicable wage decision.

If the worker does not participate in a federal or state apprentice program, then the worker must be classified according to duties performed. This procedure may require classification in the trade depending on tools used, or as a laborer if specialized tools of the trade are not used. The contractor may want to consult with the Wage and Hour Division of the U.S. Department of Labor located in most large cities regarding the appropriate classification.

Presently, no worker may be classified as a helper. As with apprentices not participating in a formal apprentice program, the worker must be classified according to duties performed and tools used.

### Appendix Minority Participation Goals

These are the goals, by county, for meeting the minority participation portion of Section 7-B (2)(b) of the CDBG Supplemental Conditions. These are contractor workforce goals, not goals for subcontracting to minority and women firms. Solicitation of minority and women firms as subcontractors is a separate federal requirement which the contractor must document compliance with.

<u>Tampa-St. Petersburg Area</u>	<u>Percentage</u>
Hillsborough, Pinellas, Pasco	17.9
Charlotte, Citrus, Collier, DeSoto Hardee, Hernando, Highlands	17.1 (all seven)
Lee	15.3
Manatee	15.9
Polk	18.0

Sarasota	10.5
<u>Tallahassee Area</u>	
Leon, Wakulla	24.3
Calhoun, Franklin, Gadsden, Jackson Jefferson, Liberty, Madison, Taylor	29.5 (all eight)
<u>Pensacola - Panama City Area</u>	
Bay	14.1
Escambia, Santa Rosa	18.3
Gulf, Holmes, Okaloosa Walton, Washington	15.4 (all five)
<u>Jacksonville Area</u>	
Alachua	20.6
Baker, Clay, Duval, Nassau, St. Johns	21.8
Bradford, Columbia, Dixie, Gilchrist Hamilton, Lafayette, Levy, Marion, Putnam, Suwannee, Union	22.2 (all 11)
<u>Orlando - Daytona Beach Area</u>	
Volusia	15.7
Brevard	10.7
Orange, Osceola, Seminole	15.5
Flagler, Lake, Sumter	14.9
<u>Miami - Fort Lauderdale Area</u>	
Dade	39.5
Broward	15.5
Palm Beach	22.4
Glades, Hendry, Indian River Martin, Monroe, Okeechobee St. Lucie	30.4 (all seven)

**CONFLICT OF INTEREST DISCLOSURE FORM**

For purposes of determining any possible conflict of interest, all bidders/proposers, must disclose if any City of Lake Wales employee(s), elected official(s), of if any of its agencies is also an owner, corporate officer, agency, employee, etc., of their business.

Indicate either "yes" (a city employee, elected official, or agency is also associated with your business), or "no". If yes, give person(s) name(s) and position(s) with your business.

YES \_\_\_\_\_ NO \_\_\_\_\_

**NAME(S)**

**POSITION(S)**

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FIRM NAME: \_\_\_\_\_

BY (PRINTED): \_\_\_\_\_

BY (SIGNATURE): \_\_\_\_\_

TITLE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

PHONE NO. \_\_\_\_\_

**Attachment 2**

**BID FORM**

**Bid #07-146**

**Please indicate your bid for this project by filling in the following Bid Form.  
All prices shall include installation of equipment and materials as needed to accomplish the  
installation of the fiber optic cable as specified in this bid package.**

<b>ITEM</b>	<b>UNIT COST</b>	<b>AMOUNT</b>	<b>EXTENDED PRICE</b>
12-conductor Single Mode fiber optic cable	\$_____	5,000 LF	\$_____
<b>Address where installation of Fiber Optic Cable will take place:</b>  Lake Wales Fire Department  253 W. Central Ave.  to  Lake Wales Police Department  133 E. Tillman Ave.			

**The City recognizes that the installation of the fiber optic cable as specified herein can be accomplished in several ways. Therefore, this is a lump sum contract that allows each bidder to use the materials and techniques they are familiar with in order to meet the fiber optic installation accomplishment as specified in this bid package. The unit cost shall be the extended price divided by 5,000 LF. Also, in the event that the City requires other miscellaneous services that may be beyond the scope of this bid package, each bidder is requested to submit a list of their standard hourly rates and other related unit rates for the services they provide. Please note that a pre-bid conference will be held to review the proposed project and to revise the bid package, if needed, based on the results of the meeting to ensure that each bidder is fully aware of the bid specifications.**

## **GENERAL**

This Project consists of the following:

Fiber Optic Cable Installation

### **REGULATORY REQUIREMENTS**

The work shall comply with all applicable Federal, State and local laws, ordinances and regulatory requirements, including, but not limited to, the following:

- United States Environmental Protection Agency (EPA), 40 CFR Part 61, Subpart M, National Emission Standards for Hazardous Air Pollutants.
- United States Occupational Safety and Health Administration (OSHA), 29 CFR Part 1926.1101, Asbestos in Construction.
- United States Occupational Safety and Health Administration (OSHA), 29 CFR Part 1910.134, Respiratory Protection.
- Chapter 469, Florida Statutes, The Asbestos Practice Act.

### **SUBMITTALS**

The Contractor shall submit three (3) copies of the following with the bid:

- Statements verifying intent to comply with applicable Federal, State and local laws, ordinances and regulations, and applicable industry standards.
- Original certificates of insurance in accordance with the Contract Documents and Florida Statutes.
- A list of all violations or citations issued by any Federal, State or local regulatory agency within the preceding 2 years.

### **QUALITY ASSURANCE**

Qualifications – Bids will be accepted only from firms that have successful experience in fiber optic cable work similar in materials and extent included in this bid package.

### **PROJECT CONDITIONS**

Conditions existing at time of inspection for bidding purposes will be maintained by Owner as far as practical.

Storage of sale of removed items or materials on-site is not permitted.

Inventory and record the condition of items removed and salvaged

When unanticipated conditions are encountered on the site that would affect the project scope, schedule or accomplishments, promptly inform the Owner.

## **PREPARATION**

Existing Utilities – Locate, identify, disconnect and seal/cap off utilities serving structures to be demolished.

Underground utilities are to be removed/capped/sealed as specified by Owner to a depth of 24 inches below grade.

Existing Utilities – Do not start fiber optic work until utility disconnecting and sealing/capping have been completed and verified by Owner.

## **PROTECTION**

Existing Facilities – Protect adjacent buildings and facilities.

Existing Utilities – Do not disrupt existing utilities serving adjacent structures unless authorized to do so by Owner.

Temporary Protection – Erect temporary protection such as walks, fences, wall, railings were required by Owner and authorizes having jurisdiction.

## **SITE ACCESS AND TEMPORARY CONTROLS**

Conduct operations to ensure minimum interference with roads, streets, walkways and adjacent occupied facilities.

## **SITE RESTORATION**

Sites shall be cleaned and restored to their original condition.

General Decision Number: FL070030 07/20/2007 FL30

Superseded General Decision Number: FL20030030

State: Florida Construction Type: Heavy

Counties: Brevard, Hernando, Hillsborough, Manatee, Orange, Osceola, Pasco, Pinellas, Polk, Sarasota and Seminole Counties in Florida.

HEAVY CONSTRUCTION PROJECTS (Does not include Sewer and Water Line Construction Projects)

Modification Number	Publication Date
0 1	02/09/2007
	07/20/2007

\* SUFL1990-036 01/26/1990

	Rates	Fringes
Carpenter .....	\$ 10.08	
Cement Mason .....	\$ 11.00	1.42
Electrician .....	\$ 16.40	2.40+4%
Ironworkers:		
Reinforcing .....	\$ 11.20	3.11
Laborer		
Landscape .....	\$ 5.85	1.58
Pipelayers .....	\$ 7.97	
Unskilled .....	\$ 6.05	
Millwright .....	\$10.43	1.14
Pipefitter .....	\$ 9.73	
Plumber .....	\$ 8.97	
Power equipment operators:		
Backhoes .....	\$10.35	2.00
Bulldozers .....	\$ 9.61	2.00
Crane .....	\$ 10.94	2.00
Graders .....	\$10.35	2.00
Loaders .....	\$10.35	2.00
Mechanic .....	\$10.71	2.00
Roller .....	\$ 10.35	2.00
Scraper .....	\$ 10.35	2.00
Truck Driver .....	\$ 7.52	

WELDERS - Receive rate prescribed for craft performing  
 npeTation to which welding is

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii) ) .

In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

#### WAGE DETERMINATION APPEALS PROCESS

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

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

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

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

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

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

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

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

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

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

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

END OF GENERAL DECISION