Buckman Direct Diversion Project

A joint regional project of the City of Santa Fe and Santa Fe County to build a reliable and sustainable water supply.

MEMORANDUM

Date: February 27, 2013

To: Buckman Direct Diversion Board

Via: Brian Snyder, Water Division and Public Utility Director

Via: Rick Carpenter, Water Resources and Conservation Group Manager

From: Dale Lyons, Water Resource Coordinator DL

Subject: Request to approve a Construction Contract with Bradbury Stamm Construction (teamed with Positive Energy) for installation of a 2.016 megawatt solar facility as part of the Buckman Direct Diversion Booster Station 2A Solar Project (RFP #13/08/P).

BACKGROUND

The City of Santa Fe, as Fiscal Agent for the Buckman Direct Diversion, has concluded its design-build procurement for BDD Booster Station 2A Solar Project and recommends to the Buckman Direct Diversion Board that the project development contract be awarded to Bradbury Stamm Construction (teamed with Positive Energy) in the amount of $4,420,210.00.

Project Funding

On March 14th of 2011, Water Division staff submitted a project interest form to the New Mexico Finance Authority (NMFA) requesting up to $5 million in Drinking Water Revolving Fund (DSRF) funding to build a large solar photovoltaic (PV) project within the BDD system at the Booster Station 2A facility, which relays water from the Rio Grande diversion site to the BDD water treatment plant. After analysis of the current energy consumption at this facility, it has been determined that constructing a net-metered 1-2mW solar plant at this site would provide a significant benefit to the BDD by reducing energy costs, generating REC revenue and reducing reliance on conventional, carbon intensive energy sources. On February 24th, 2012, the NMFA Board approved the City's funding request, contingent providing necessary documentation and funding requirements.

Design-Build Procurement

Following approval of the design-build procurement approach by the City's Purchasing Director, the City Manager, the City's Governing Body and the BDD Board, the Step One Request for Proposals (RFP) was advertised on October 9th, 2012. The Evaluation Committee ranked the Step One Proposals based on Experience/Qualifications (20%), Technical Competence (20%), Capability of Perform (20%), Past Performance (20%), and Preliminary Project Plan (20%). Of the 12 proposals received on October 29th, 2012, the Evaluation Committee invited the qualifying top five ranked proponents to respond to the Step Two RFP.

The Step Two RFP was issued to the five qualifying top ranked proponents on December 5th, 2012, and Step Two Proposals were received on January 9th, 2013. The Evaluation Committee ranked the Step Two proposals based on Cost (60%), Quality of Design (10%), Quality of Development Approach and Management Plan (10%), Responsiveness to Project Requirements (10%) and Schedule (10%).

Based on evaluation of the Step Two proposals, the Evaluation Committee conducted interviews of the three top ranked proponents. Following interview evaluations, the two top ranked proponents were then asked to submit Best and Final Offers, upon which the final top ranked proponent, Bradbury Stamm Construction (teamed with Positive Energy), was selected.

Contract Negotiations

On February 6th, 2013, the City's Purchasing Director approved the recommendation of award of the project development contract to Bradbury Stamm Construction (teamed with Positive Energy). Since that time, City staff has been engaged with Bradbury Stamm Construction and Positive Energy in the process of refining the project scope of work and optimum system sizing analysis. As part of this process, the City, BDD operational staff, and Bradbury Stamm Construction and Positive Energy have also discussed the PV system interconnection approach with PNM.

The PV system sizing analysis and scope of work negotiation is now complete, resulting in the recommended PV system:

At a total development cost of $4,286,085.00 excluding applicable GRT (price of $2.11 per installed watt), Bradbury Stamm Construction and Positive Energy will design, permit, construct, test and interconnect a 2.016 megawatt AC PV solar system with an output of 88,644,253 kWhr over 30 years consisting of:

- PV modules with minimum efficiency of 15%; material and workmanship

warranty of 10 years or greater; output after 20 years of 80% or greater;

- Schletter FS fixed, ground mounted racking system;
- Array oriented due South with 27 degree fixed tilt;
- Eight (8) Advanced Energy 250 kW AE250TX inverters; and
- Integrated power and security monitoring equipment and security fencing.

In addition, Bradbury Stamm Construction and Positive Energy will provide to the City a 10-year extended inverter warranty for a one-time cost of $134,125.00.

This solar PV system will generate positive cash flow upon interconnection with PNM's grid and will provide the BDD a financial benefit of $4,589,886 over 30 years, accounting for all O&M costs, loan financing costs, Renewable Energy Credit revenue, energy bill savings an BLM lease costs.

RECOMMENDATION

Based on the results of the competitive design-build procurement and successful contract negotiations, Staff recommends award of the project to the top ranked proponent: Bradbury Stamm Construction (teamed with Positive Energy). The total development cost of this project is $4,420,210.00. According to New Mexico Solar Gross Receipts Tax (GRT) Deduction (7-9-112 NMSA 1978), which became effective July 1, 2007, the project is eligible for a state gross receipts tax deduction in the amount equal to the solar system cost. The NMFA subsidized loan agreement (DW-2696) for the project is also before the City's Public Utility and Finance Committees and the City's Governing Body for review and approval.

BUCKMAN DIRECT DIVERSION BOARD

AGREEMENT BETWEEN
OWNER AND CONTRACTOR

This Agreement is entered into this ____ day of _____ 20__, by and between the Buckman Direct Diversion Board, herein known as the Owner, and Bradbury Stamm Construction, herein known as the Contractor.

For the following:

PROJECT: BDD Booster 2A Solar Project

PROJECT NO.: RFP 13/08/P

ENGINEER OF RECORD:

CONSTRUCTION MANAGER:

DISTRIBUTION:

OWNER _____
CONTRACTOR _____
USER AGENCY _____
OTHER _____

RECITALS

WHEREAS, the Owner, through its Governing Board, is authorized to enter into a construction Contract for the project; and

WHEREAS, the Owner has let this Contract according to the established State and Local Purchasing procedures for contracts of the type and amount let; and

WHEREAS, construction of this Project was approved by the Buckman Direct Diversion Board.

The OWNER and the CONTRACTOR agree:

ARTICLE 1
THE CONTRACT DOCUMENTS

The Contract Documents consist of: this Agreement, the Conditions of the Contract (General, Supplementary, and other Conditions), the Drawings, the Specifications, all Addenda issued prior to and all Modifications issued after execution of this Agreement. These documents form the Contract, and all are as fully a part of the Contract as if attached to this Agreement or repeated herein.

ARTICLE 2
THE WORK

The Contractor shall perform all the work required by the RFP 13/08/P (RFP).

The work is designated as development of a 2.016 megawatt solar photovoltaic facility located at the Buckman Direct Diversion Booster Station 2A, as described in the Contract Documents.

Contractor shall be responsible for verifications of all conditions, measurements and dimensions for bidding.

Contractor shall be responsible for all permits, fees, and State inspections associated with the construction, including PNM interconnection.

ARTICLE 3
TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

The work to be performed under this Contract shall be commenced not later than ten (10) consecutive calendar days after the date of written Notice to Proceed. Substantial Completion, as defined in the Notice to Contractors, shall be achieved no later than November 30th, 2013, except as hereafter extended by valid written Change Order by the Owner.

ARTICLE 4
CONTRACT SUM

The Owner shall pay the Contractor in current funds for the performance of the work, subject to additions and deductions by Change Order as provided in the Contract Documents, the Contract Sum of Four Million Four Hundred Twenty Thousand Two Hundred Ten dollars ($4,420,210.00) (plus an applicable gross receipts tax). Any change to the system design as a result of the PNM interconnection review that has cost implications shall be documented by a Change Order (see section 3 of Attachment A).

The Contract Sum is determined as follows:

Base Bid	$4,286,085.00
10-Year Extended Inverter Warranty	$134,125.00

Should gross receipts tax be due on the Contract Sum (or any part of it) the Contractor agrees to timely pay in full this gross receipts tax to the NM Taxation and Revenue Department. If the Contractor, at any time, receives refund of any part of the gross receipts tax paid, the Contractor agrees to immediately transmit the entire refund it received to the Owner.

ARTICLE 5
PROGRESS PAYMENTS

Based upon Application for Payment submitted to the Owner by the Contractor and Certificates for Payment issued by the Owner, the Owner, through the City of Santa Fe as the fiscal agent, shall make progress payments on account of the Contract sum to the Contractor as provided in the Contract documents for the period ending the last day of the month as follows:

Not later than forty-five (45) days following the end of the period covered by the Application for Payment, one hundred percent (100%) of the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the work and one hundred percent (100%) of the portion of the Contract sum properly allocable to materials and equipment suitably stored at the site or some other location agreed upon in writing for the period covered by the Application for Payment, less the aggregate of previous payments made by the Owner; and upon substantial completion of the entire

work, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract sum, less such amounts as the Owner shall determine for all incomplete work and unsettled claims as provided in the Contract documents.

ARTICLE 6
LIQUIDATED DAMAGES

Should the Contractor neglect, refuse, or otherwise fail to complete the work within the Contract Time or any extension in the Contract thereof, the Contractor agrees to pay to the Owner the amount specified in section 108.8 of the New Mexico Department of Transportation Standard Specifications until the work is completed and accepted or until voided pursuant to the provisions of the General Conditions of the Contract, not as a penalty, but as liquidated damages for such breach of the Contract.

ARTICLE 7
FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract sum, shall be paid by the Owner to the Contractor within twenty-one (21) calendar days after all deficiencies to the Contract document that were noted during the Substantial Completion Inspection and listed on the attachment to the Certificate of Substantial Completion have been corrected, and provided the Contract has been fully performed and a final Certificate for Payment has been issued by the Owner. A Final Certificate for Payment shall not be issued until acceptance by the Owner of the Performance Test (see section 13 of Attachment A). In addition, the Contractor shall provide to the Owner a certified statement of Release of Lien (AIA Document G706A or approved form), Consent of Surety, Warranty from Prime Contractor, Warranties from Suppliers and Manufacturers, training sessions, equipment/operating manuals, and as-built drawings.

ARTICLE 8
SCHEDULE

The Contractor shall, within five (5) days after the effective date of Notice to Proceed, prepare and submit five (5) copies of a progress schedule covering project operations for the (120) day Contract period. This progress schedule shall be of the type generally referred to as a Critical Path Method (CPM), Critical Path Schedule (CPS), and Critical Path Analysis (CPA), and other similar designations. The CPM shall be used to control the timing and sequences of the project. All work shall be done in accordance with the CPM Planning and Scheduling. A written statement of explanation shall be submitted with the progress schedule. All costs incurred by the contractor to implement the CPM shall be borne by the Contractor, and are part of their Contract.

ARTICLE 9
GENERAL AND SPECIAL PROVISIONS

9.1 This Agreement shall be governed exclusively by the provisions hereof and by the laws of the State of New Mexico as the same from time to time exist.

9.2 Terms used in this Agreement which are defined in the Conditions of the Contract shall have the meanings designated in those Conditions.

9.3 The Contractor shall defend, indemnify, and hold harmless the Owner against any and all injury, loss, or damage, including, without limitation, costs of defense, court costs and attorney's fees, arising out of the acts, errors, or omissions of the Contractor.

9.4 An enumeration of the Contractor's General Comprehensive Liability Insurance requirements appears in the General Conditions of the Contract for construction. Insurance requirements are also described in the Instructions to the Bidder section of the Project Manual. Contractor shall provide proof of such insurance coverage to the City. In addition, it is the sole responsibility of the Contractor to be in compliance with all legal requirements for insurance.

9.5 This Agreement shall not become effective until signed by all parties required to sign this Agreement.

9.6 The Contractor and the Contractor's agents and employees are independent contractors performing professional and technical services for the Owner and are not employees of the Owner. The Contractor and the Contractor's agents and employees shall not accrue leave, retirement, insurance, bonding, use of Owner's vehicles, or any other benefits afforded to employees of the Owner as a result of this Agreement.

9.7 The Contractor shall not subcontract any portion of the services to be performed under this Agreement without prior written approval of the Owner. Positive Energy, Inc., Santa Fe, New Mexico is hereby granted approval to be a subcontractor of the Contractor.

9.8 The Contractor shall maintain detailed time records which indicate the date, time and nature of services rendered. These records shall be subject to inspection by the Owner, the City of Santa Fe, the Department of Finance and Administration and the State Auditor. The Owner shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Owner to recover excessive illegal payments.

9.9 The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Owner for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Owner, this Agreement shall terminate upon written notice being given by the Owner to the Contractor. The

Owner's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

9.10 The Contractor warrants that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Agreement.

9.11 The Contractor hereby warrants that the Contractor is in compliance with the Americans with Disabilities Act, 29 CFR 1630.

9.12 The Contractor, upon final payment of the amounts due under this Agreement, releases the Owner, the Owner's Board Members and employees, and the City of Santa Fe and Santa Fe County from all liabilities and obligations arising from or under this Agreement, including, without limitation, all damages, losses, costs, liability, and expenses, including, without limitation, attorney's fees and costs of litigation that the Contractor may have.

9.13 The Contractor agrees not to purport to bind the Owner to any obligation not assumed herein by the Owner, unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

9.14 Notices. Any and all notices provided for hereunder shall be in writing and shall be deemed delivered, given and received when (i) personally delivered, or (ii) 5 days after the same are deposited in the United States mail, postage prepaid, registered or certified mail return receipt requested, addressed to the applicable party at the address indicated below for such party or at such other address as may be designated by either party in a written note to the other party.

OWNER	Buckman Direct Diversion Board 341 Caja del Rio Rd. Santa Fe, New Mexico 87506
CONTRACTOR	Bradbury Stamm Construction 7110 2nd Street NW Albuquerque, NM 87107 New Mexico License # 2313

9.15 Gender, Singular/Plural. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

9.16 Captions and Section Headings. The captions and section headings contained in this Agreement are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope and conditions of this Agreement.

9.17 This document shall be executed in no less than five (5) counterparts, each of which shall be deemed an original.

9.18 Certificates and Documents Incorporated. All certificates and documentation required by the provisions of the Agreement shall be attached to this Agreement at the time of execution, and are hereby incorporated by reference as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

9.19 Separability. If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby.

9.20 Waiver. No provision of this Agreement shall be deemed to have been waived by either party unless such waiver be in writing signed by the party making the waiver and addressed to the other party; nor shall any custom or practice which may evolve between the parties in the administration of the terms hereof be construed to waive or lessen the right of either party to insist upon the performance by the other party in strict accordance with the terms hereof. Further, the waiver by any party of breach by the other party of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition thereof.

9.21 Entire Agreement. This Agreement represents the entire Contract between the parties and except as otherwise provided herein, may not be amended, changed, modified, or altered without the written consent of the parties hereto. This Agreement incorporates all of the conditions, agreements, and understandings between the parties concerning the subject matter of this Contract, and all such conditions, understandings, and agreements have been merged into this written Agreement. No prior conditions, agreement, or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this written Agreement.

9.22 Interchangeable Terms. For purposes of all provisions within this Agreement and all attachments hereto, the terms "Agreement" and "Contract" shall have the same meaning and shall be interchangeable.

9.23 Words and Phrases. Words, phrases, and abbreviations which have well-known technical or trade meanings used in the Contract documents shall be used according to such recognized meaning. In the event of a conflict, the more stringent meaning shall govern.

9.24 Relationship of Contract Documents. The Contract Documents are complementary, and any requirement of one Contract Document shall be as binding as if required by all.

9.25 Pursuant to Section 13-1-191, NMSA 1978, reference is hereby made to the Criminal Laws of New Mexico (including Sections 30-14-1, 30-24-2, and 30-41-1 through 30-41-3, NMSA 1978) which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code (Sections 13-1-28 through 13-1-199, NMSA 1978) imposes civil and criminal penalties for its violation.

9.26 By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the Owner and the Contractor. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

9.27 Pursuant to Section 13-4-11. NMSA 1978, reference is hereby made to the Minimum Wage on Public Works; weekly payments; posting wage scale; withholding funds.

9.28 Compliance with the City's minimum wage rate ordinance (Living Wage Ordinance). A copy of the City of Santa Fe Ordinance No. 2003-8, passed by the Santa Fe City Council on February 26, 2003 is attached. The Contractor shall comply with the ordinance to the extent applicable, as well as any subsequent changes to the Ordinance throughout the term of the contract. The ordinance is attached.

9.29 Minimum Wage Requirements. This project is contingent on funding from the New Mexico Finance Authority Drinking Water State Revolving Loan Fund, and as such, the construction component of this project is subject to federal Davis-Bacon minimum wage rates in addition to New Mexico Wage Rate requirements and the City's minimum wage requirements. For all construction labor categories, the highest of the three requirements (Federal, State, and City) shall be utilized and shall apply to contact. See attachments for federal and state wage decisions.

9.30 Funding Agency Requirements/Supplemental Conditions. Because this project is contingent on funding from the New Mexico Finance Authority (NMFA) Drinking Water State Revolving Loan Fund Program, the attached Supplemental Conditions apply to this Agreement. The attached federal and NMFA forms are required to be completed by the Contractor prior to execution of this Agreement. See attachments containing the federal and NMFA supplemental conditions.

9.31 Project Payment and Performance Bonding Requirements. The Contractor shall maintain Payment and Performance Bonds in the amount of 100% of the contract value for the duration of the project. The Contractor shall provide to the Owner documentation for these bonds simultaneous with execution of this Agreement.

9.32 Extended Inverter Warranty and other product warranties. All product warranties received by the Contractor and its subcontractors, including but not limited to the 10-year Extended Inverter Warranty, as described in the attached AE Solar Energy, Inc. Warranty Statement, are hereby assigned to the Owner and the Contractor shall provide sufficient documentation of such assignment to the Owner.

ARTICLE 10
NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the Buckman Direct Diversion Board, the City of Santa Fe, or Santa Fe County in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. These entities and their "public employees" as defined in the New Mexico Tort Claims Act, do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

This Agreement is entered into as of the day and year first written above.

OWNER:
BUCKMAN DIRECT DIVERSION BOARD

_____
KATHY HOLIAN, CHAIR

DATE:_____

ATTEST:

_____
YOLANDA Y. VIGIL
CITY CLERK

ATTEST:

_____
GERALDINE SALAZAR
COUNTY CLERK

APPROVED AS TO FORM:

Nancy R Long

NANCY R. LONG, BDDB COUNSEL

APPROVED:

_____

DR. MELVILLE MORGAN, DIRECTOR
FINANCE DEPARTMENT

_____

Business Unit/Line Item

CONTRACTOR:

BRADBURY STAMM CONSTRUCTION

By:_____
Name of Signer, Title

Date:_____

NM Taxation & Revenue CRS No.

_____

City of Santa Fe Business Reg. No.

_____

Attachment A

BDD Booster Station 2A Solar PV Project
Contractor's Scope of Work

Contractor agrees to coordinate and work collaboratively with the Construction Manager, who will serve as the Owner's Agent for the duration of project development. The Construction Manager will be the primary point of contact for the Contractor, as well as the principal interface between the Contractor and Owner.

The Contractor shall be responsible for all aspects of the BDD Solar Booster Station 2A Solar PV Project development. This Scope of Work summarizes system requirements established in the Contractor's proposals (Step One, Step Two, and Best and Final Offer). In addition, this Scope of Work defines other tasks that the Contractor shall complete as part of project development:

1) Optimum system size analysis:
    a. Contractor shall conduct a meetings with BDD staff responsible for facility operations to establish BDD operational constraints and projected electrical loads, including analysis of 5-minute electrical load data form BDD Booster Station 2A as well as monthly electrical usage data form other BDD facilities;
    b. Contractor shall provide to the City and BDD staff a Technical Memorandum summarizing recommendations for solar PV system design and BDD facility on-peak and off-peak load shifting for optimal financial benefit of solar PV system.
2) PV system design:
    a. At a price of $2.11 per installed watt, the Contractor shall design and specify all necessary equipment and components of a 2.016 megawatt AC PV solar system, consisting of:
        i. PV array to provide an output of 88,644,253 kWhr over 30 years consisting of;
            1. PV modules with minimum efficiency of 15%; material and workmanship warranty of 10 years or greater; output after 20 years of 80% or greater;
            2. Schletter FS fixed, ground mounted racking system;
            3. Array oriented due South with 27 degree fixed tilt;
            4. Eight (8) Advanced Energy 250 kW AE250TX inverters;
            5. All necessary disconnect switches and DC combiner panels;
            6. Medium voltage switchgear, transformers, and all other necessary equipment/components for PV solar system interconnection with BDD Booster Station 2A in compliance with PNM's interconnection manual;
            7. Obvious Acqui Suite for power production and data monitoring interface and all other necessary equipment/components for integration with BDD's existing data telemetry and monitoring system;

8. All necessary hardware, software and enclosures required to accommodate REC meters, in compliance with PNM's interconnection manual.

b. The Contractor shall submit to the Owner for review and approval the following design elements:
   i. Detailed engineering design and specifications for the PV system, including modules/inverters/combiner boxes and layout plan;
   ii. Detailed plan for PNM interconnection, including any modifications necessary to existing Booster Station 2A infrastructure;

c. The Contractor shall submit to the Owner for review and approval the following design elements:
   i. Project grading & drainage plans;
   ii. Design drawings showing the location of staging areas and pre- and post-construction access routes;

d. The Contractor shall submit to the Owner for review and approval the following design elements:
   i. Design and specification of permanent site security measures, including those employed during construction;
   ii. Design and specification of PV system power monitoring;
   iii. Design and specification of BDD SCADA/telemetry integration;

3) Prepare PNM Interconnection Application and submit to PNM;
   a. The Contractor shall prepare the Interconnection Agreement according to PNM interconnection manual and submit the Interconnection Application to the Owner for their review and approval prior to submittal to PNM;
   b. If necessary, the Contractor shall make all necessary revisions to the Interconnection Application for ultimate PNM acceptance;
   c. Contractor shall pay PNM required interconnection application fees associated with application, including those PNM fees for Supplemental Review.
   d. If the PNM interconnection application review results in required changes to the PV system, then all changes to scope and cost will be documented through a change order to the contract.

4) BLM Right-of-Way Permitting:
   a. The Contractor shall attend a meeting coordinated by the Owner with BLM staff to establish the remaining requirements to complete the Right-of-Way agreement and final agency authorization;
   b. The Contractor shall conduct a site survey and provide the meets-and-bounds drawing and legal description to BLM.
   c. The Contractor shall prepare a Storm Water Pollution Prevention Plan (SWPPP) for the project.
   d. The Contractor shall prepare a Plan of Development for the project, summarizing the system design layout drawings, narrative of development process, description of post-construction site restoration, and development schedule.

5) Project Funding Agency (NMFA) Compliance
   a. According to NMFA guidance, the Contractor shall prepare the Preliminary Engineering Report (PER).

6) Project development schedule:
   a. The Contractor shall prepare a detailed project development schedule. The project development schedule shall describe the development timeframes for all significant project elements, including:
      i. All permitting an agency compliance dates/deadlines
      ii. All construction dates/deadlines
      iii. All security dates/deadlines
      iv. All software monitoring dates/deadlines
      v. All regularly scheduled meetings with Construction Manager and other personnel
      vi. Identification of project critical path
      vii. Identification of assumptions and risks
7) Site security measures shall consist of:
   a. An 8-foot high, 9 gauge chain link security fence, topped with 6 strands of barbed wire and 24 inch razor wire;
      i. North and West sections of the chain link fence will contain aluminum slats to obscure view of PV array from adjacent lands;
      ii. Access to the site will be developed adjacent to the NE corner of the existing fence around Booster Station 2A. A 24 foot wide driveway topped with 6" compacted base course over 8" prepared subgrade will lead to a 24 foot wide double swing chain-link gate;
   b. The Contractor shall install an enhanced security system that will be an extension of the existing Perimeter Volumetric Microwave Detection System manufactured by Southwest Microwave Inc. presently in use at Booster Station 2A. The solar PV project perimeter security will incorporate post mounted microwave receivers and transmitters placed at required intervals inside the PV array fence. The receivers and transmitters will be interconnected with power and signal conductors via an underground conduit system extending from the existing security equipment panel located in the existing Booster Station Electrical Room. Additional zone modules will be provided if necessary in the existing control panel for a complete functioning system. All final connections, alignment, programming, testing and commissioning will be performed by the original installing contractor, Integrated Controls Inc.
8) Following Owner approval, the Contractor shall construct the designed & specified solar PV system according to the agreed upon development schedule. The following tasks will be accomplished during construction:
   a. Removal and disposal of obstructions in PV field;
   b. Racking pile driving;
   c. Trenching
   d. Underground AC & DC Wiring;
   e. Erect security fence;
   f. Install solar racking;
   g. Install above Ground AC & DC Wiring;
   h. Module Setting;
   i. Electrical final terminations;
   j. All required inspections;

k. Testing and Commissioning;
l. Installation of site security measures;
m. Installation of erosion control measures, as per SWPPP; and
n. Implementation of site restoration measures, as per BLM Right-of-Way requirements.

9) The Contractor shall meet with BDD staff responsible for facility operations to establish approach for integration of project security monitoring and power production monitoring with existing BDD facility monitoring. The Contractor shall provide the Owner for their review and approval a detailed plan to integrate proposed security measures and power monitoring with existing BDD security.
   a. The system integration will consist of a wired or wireless uplink to the existing network infrastructure using a compatible protocol with the BDD systems, as per the direction of BDD staff responsible for facility operations..
   b. The proposed Advanced Energy 250 kW inverters for this solar system will include integrated data logging capability. Using the SCADA protocol, the destination of the information can be integrated with the existing data system at the Booster Station. The data logging capability is stored in 15 minute intervals. It includes voltage +/- 0.1 V and current +/- 0.01A (AC & DC); irradiance +/- 0.5W/m^2; ambient temperature +/-0.1 C; PV cell temperature +/-0.1 C; and relative humidity +/- 0.5%. Site irradiance and cell temperature will be specified at 4 locations so that array performance can be correlated with environmental conditions;
10) The Contractor shall list, secure and pay fees for all necessary construction, electrical, and environmental permitting for the project;
11) The Contractor shall comply with Federal, State, NEPA, NMFA, BLM permit, and all safety requirements and regulations;
12) The Contractor shall facilitate PNM interconnection of the PV system and REC meter installation:
   a. Accompany PNM for their anti-islanding test.
13) The Contractor shall performance test and commission the PV system:
   a. String level voltage testing, I-V curve trace test on sample strings;
   b. System output verification in full sun conditions (>500Watts/m^2);
   c. Measure resistance to ground;
   d. Visual inspection of all system components for proper installation; and
   e. Sample test torque of racking attachments according to specifications;
   f. Coordinate PNM's interconnection testing, including the anti-islanding test; and
   g. The Contractor shall develop, and the Owner approve, a Performance Test with specific criteria, which Deliverable shall be due with the Project Delivery Schedule. The Performance Test shall be conducted prior to PNM interconnection and installation of PNM's REC meter.
14) The Contactor shall prepare and provide to BDD O&M documentation for the facility;
15) The Contractor shall train City of Santa Fe and BDDB staff for operation and maintenance of the solar facility:
   a. Training will be done both in a classroom setting as well as hands on
   b. Manuals and DVDs of the training will be provided;
   c. Training will be coordinated with Construction Manager, and will include:

i. Review of solar module technology, inverters, racking
ii. Review of all warranties, manuals, and other documents related to the project
iii. Review of power production and monitoring software program and interface with BDD existing SCADA
iv. Review of basic Operations & Maintenance (O&M) items, including:
    1. Module cleaning
    2. Vegetation growth
    3. Inspection of modules and wiring
    4. Trash buildup
    5. Power production & monitoring software
    6. Alarm response time
    7. Storm water/drainage
    8. Fire prevention
    9. Fence and security system

d. Training will result in City and BDDB staff being proficient in:
    i. Knowledge of basic solar operations
    ii. Analyzing solar system performance
    iii. Performing regular O&M inspections listed above
    iv. Troubleshooting/isolating problems

16) Schedule of Deliverables – the following table summarizes the required deliverables and the number of weeks following execution of this agreement within which they shall be provided by the Contractor to the Owner for their review and approval:

Deliverable	Timeframe
Technical Memorandum summarizing recommendations for solar PV system design and BDD facility on-peak and off-peak load shifting for optimal financial benefit of solar PV system	1 week
Detailed engineering design and specifications for the PV system, including modules/inverters/combiner boxes and layout plan	2 weeks
Detailed plan for PNM interconnection, including any modifications necessary to existing Booster Station 2A infrastructure	2 weeks
PNM Interconnection Application	2 weeks
Project grading & drainage plans	3 weeks
Design drawings showing the location of staging areas and pre- and post-construction access routes	3 weeks
Detailed project development schedule and performance test	3 weeks
Design and specification of permanent site security measures	4 weeks
Design and specification of PV system power monitoring	4 weeks
Design and specification of BDD SCADA/telemetry integration	4 weeks
Storm Water Pollution Prevention Plan (SWPPP)	4 weeks
Plan of Development for BLM Right-of-Way	4 weeks
Preliminary Engineering Report (PER) for NMFA	4 weeks

17) During construction, the Owner will be responsible for maintaining the Old Buckman Road to the extent that it will kept passible to all construction traffic. In the event of a roadway washout at a drainage crossing, the Owner will make all reasonable efforts to make the roadway passable as soon as practicable.

(9-12)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6

Supplemental conditions
for
Federally Assisted Drinking Water
Infrastructures under the
Drinking Water State Revolving Loan Fund
Revised September 2012

REPRODUCTION OF THIS GUIDANCE
SHOULD BE ON COLORED PAPER,
PREFERABLY PINK

REQUIRED FEDERAL FORMS

Forms that must be submitted within bidder's proposal:

1. XP-211 Certifications Regarding Contract under Equal Opportunity Clause & Non-Segregated Facilities
2. XP-215 MBW/WBE/SBRA Utilization Form along with proof of solicitation (i.e. newspaper advertisement, letters of solicitation)
3. XP-315 Davis Bacon Certification
4. 5700-49 Certification Regarding Debarment, Suspension & Other Responsibility Matters
5. 6100-2
6. 6100-3
7. 6100-4

Form to be provided with every construction pay application:

8. XP-214 Labor Standards Certification

REFERENCES

- Copeland Anti-Kickback, 29 CFR Part 3
  http://www.dol.gov/compliance/laws/comp-copeland.htm

- Suspension and Debarment, Subpart C of 2 CFR 180 and 1532
  http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title02/2cfr180_main_02.tpl
  http://edocket.access.gpo.gov/cfr_2009/janqtr/pdf/2cfr1532.332.pdf

- Disadvantaged Business Enterprise, 40 CFR Part 33
  http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div5&view=text&node=40:1.0.1.2.30&idno=40

- Equal Employment Opportunity, 41 CFR Part 60
  http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div5&view=text&node=41:1.2.3.1.1&idno=41

- Labor Standards, 29 CFR Parts 4 & 6
  http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title29/29cfr4_main_02.tpl
  http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=99c9a20e960f56be66f17ae91b52c888&rgn=div5&view=text&node=29:1.1.1.1.7&idno=29

- Nondiscrimination, 40 CFR Part 7
  http://www.epa.gov/ocr/docs/40p0007.pdf

- OMB Circular A-133
  http://www.whitehouse.gov/omb/assets/a133_compliance/app_7.pdf

- Reissuance of NPDES General Permits for Storm Water Discharges from Construction Sites in Region 6- Federal Register
  http://www.epa.gov/region6/6en/w/sw/swcon98.pdf

Model Contract Clauses—Attached

NPDES Bypass Policy—Attached

Federal Cross-Cutters—Attached

XP-211

BIDDER'S CERTIFICATION*

In Compliance with Equal Employment Opportunity and Nonsegregated Facilities

Project Name Project Number
Contract For _____ _____

_____

The following certifications must be completed by the bidder for each contract.

A. EQUAL EMPLOYMENT OPPORTUNITY:

( ) I have developed and have on file at my each establishment affirmative action programs pursuant to 41 CFR Part 60-2.

( ) I have participated in previous contract(s) or subcontract(s) subject to the equal opportunity clause under **Executive Orders 11246 and 11375.** I have filed all reports due under the requirements contained in 41 CFR 60-1.7.

( ) I have not participated in previous contract(s) subject to the equal opportunity clause under **Executive Orders 11246 and 11375.**

( ) I will obtain a similar certification from any proposed subcontractor(s), when appropriate.

B. NONSEGREGATED FACILITIES

( ) I certify that I do not and will not maintain any facilities provided for my employees in a segregated manner, or permit my employees to perform their services at any location under my control where segregated facilities are maintained; and that I will obtain a similar certification prior to the award of any federally assisted subcontract exceeding $10,000 which is not exempt from the equal opportunity clause as required by 41 CFR 60-1.8.

I understand that a false statement on this certification may be grounds for rejection of this bid proposal or termination of the contract award.

Typed Name & Title of Bidder's Authorized Representative _____

Signature of Bidder's Authorized Representative _____ Date _____

_____

_____
Name & Address of Bidder

XP-214

CERTIFICATION BY CONTRACTOR
STATEMENT OF COMPLIANCE
WITH LABOR STANDARDS

In accordance with Title 29, Subtitle A, Part 5, Section 5.6(a)(1), each monthly pay application must be accompanied by the following certification executed by each prime contractor employing mechanics and laborers at the site on work in which the New Mexico Finance Authority Drinking Water State Revolving Loan makes funds available to participate:

Pay Application No. _____ for period _____ to _____

_____ _____
Name of Project Location

_____ _____
Contract No. Date Contract Awarded

Project No._____

I hereby certify that all of the contract requirements as specified under the applicable labor standards as set forth in the Davis-Bacon Act, the Copeland "Anti-Kickback" Act and the Contract Work Hours and Safety Standards Act, have been complied with by _____ _____ as principal contractor and by each _____
(Name of Contractor)
subcontractor employing mechanics or laborers at the site of the work, or there is a substantial dispute with the respect to the required provisions. I also certify that I have submitted all weekly payroll to _____(Name of grantee).

_____
Typed Name & Title of Contractor's Authorized Representative

_____
Signature of Contractor's Authorized Representative Date

Owner/Grantee Certification

I hereby certify that the above is true to the best of my knowledge and that I have reviewed all certified payroll supplied by the prime contractor and certify that it meets all labor standards as set forth in the Davis Bacon Act.

_____
Signature of Grantee Authorized Representative Date

I understand that 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.

XP-215 **MBE/WBE/SBRA UTILIZATION INFORMATION SHEET**

NOTE: The bidder shall complete the following Minority/Women's/Small Business in Rural Area (MBE/WBE/SBRA) utilization information whenever they solicit sub contract construction work and/or services and purchase of equipment and supplies for the project in order to provide the fair share of the total dollar amount of the contract for

MBE: Construction 41.03 %, Equipment 36.69 %, Supplies 25.51 %, Services 38.78 %
WBE: Construction 6.47 %, Equipment 30.65 %, Supplies 35.30 %, Services 40.00 %
SBRA: Construction _____, Equipment _____, Supplies _____, Services _____

1. Do you maintain and update qualified MBE, WBE, and SBRA on your solicitation lists for supplies, equipment, construction and/or service? Yes___ No___

   If yes, when did you update your MBE/WBE/SBRA solicitation lists? _____

2. Do you maintain a list of minority, women and rural small business-focused publications that may be utilized to solicit MBEs or WBEs or SBRAs? Yes___ No___

   If yes, name the publications: _____

3. Do you use the services of outreach programs sponsored by the Minority Business Development Agency and/or the Small Business Administration to recruit bona fide MBE/WBE/SBRA firms for placement on your solicitation lists? Yes___ No___

4. Do you seek out Minority Business Development Centers to assist you in identifying MBEs/WBEs/SBRAs for potential work opportunities on your proposed bid for this project? Yes___ No___

5. Do you analyze the bid package or contract documents to identify portions of work that can be divided and performed by qualified MBEs, WBEs, and SBRAs including the bonding range? Yes___ No___

   If yes, please attach a brief description of portions of work you have identified for subcontracting.

6. Do you develop realistic delivery schedules which may provide for greater MBE/WBE/SBRA participation? Yes___ No___

7. Do you send a letter of solicitation to MBE/WBE/SBRA for this project? Yes___ No___

   If yes, please attach a sample copy of each different solicitation letter and the name and address of each MBE/WBE/SBRA.

8. Do you advertise in general circulation, trade journals, State agency publications of identified MBEs/WBEs/SBRAs, minority or women or rural small business focused media, etc., concerning the subcontracting opportunities on your proposed bid for this project? Yes___ No___

If yes, please list the name of publication and dates of advertisement and attach a copy of each advertisement from each publication.

9. Do you conduct pre-bid, pre-solicitation, and post award conferences, meetings and follow-ups with interested MBE, WBE, and SBRA? Yes___ No___

   If yes, please list person who attended conference as representative of MBE/WBE/SBRA

   Name & Title of Person: _____

   Name of MBE/WBE/SBRA: _____

   Address: _____ Phone: _____

   Date and Place of Conference: _____

_____

   Name & Title of Person: _____

   Name of MBE/WBE/SBRA: _____

   Address: _____ Phone: _____

   Date and Place of Conference: _____

_____

   Name & Title of Person: _____

   Name of MBE/WBE/SBRA: _____

   Address: _____ Phone: _____

   Date and Place of Conference: _____

10. Total dollar amount of the contract:

    $

11. Total dollar amount and percentage of MBE/WBE/SBRA participation:

MBE:	Construction ($)	____%, Equipment ($)	____%, Supplies ($)	____%, Services ($)	____%
WBE:	Construction ($)	____%, Equipment ($)	____%, Supplies ($)	____%, Services ($)	____%
SBRA:	Construction ($)	____%, Equipment ($)	____%, Supplies ($)	____%, Services ($)	____%

12. Name, address, phone number, contact person, type of construction subcontract, and dollar amount of subcontract.

MBE Subcontractor:	**WBE Subcontractor:**	**SBRA Subcontractor:**
Address:	Address:	Address:
Phone:	Phone:	Phone:
Contact Person:	Contact Person:	Contact Person:
Type of Work:	Type of Work:	Type of Work:
Amount: $	Amount: $	Amount: $

MBE Subcontractor:	**WBE Subcontractor:**	**SBRA Subcontractor:**
Address:	Address:	Address:
Phone:	Phone:	Phone:
Contact Person:	Contact Person:	Contact Person:
Type of Work:	Type of Work:	Type of Work:
Amount: $	Amount: $	Amount: $

MBE Subcontractor:	**WBE Subcontractor:**	**SBRA Subcontractor:**
Address:	Address:	Address:
Phone:	Phone:	Phone:
Contact Person:	Contact Person:	Contact Person:
Type of Work:	Type of Work:	Type of Work:
Amount: $	Amount: $	Amount: $

MBE Subcontractor:	**WBE Subcontractor:**	**SBRA Subcontractor:**
Address:	Address:	Address:
Phone:	Phone:	Phone:
Contact Person:	Contact Person:	Contact Person:

Type of Work:	Type of Work:	Type of Work:
Amount: $	Amount: $	Amount: $
MBE Subcontractor:	**WBE Subcontractor:**	**SBRA Subcontractor:**
Address:	Address:	Address:
Phone:	Phone:	Phone:
Contact Person:	Contact Person:	Contact Person:
Type of Work:	Type of Work:	Type of Work:
Amount: $	Amount: $	Amount: $

I understand that a false statement on the above information may be grounds for rejection of this bid proposal or termination of the contract award.

_____

Typed Name & Title of Authorized Representative

_____

Signature of Bidder's Authorized Representative Date

XP-315

Davis-Bacon Act Certification

The Contractor acknowledges to and for the benefit of the Owner _____ ("Purchaser") and the State of New Mexico (the "State") that it understands the goods and services under this Agreement are being funded with monies made available by the New Mexico Finance Authority Drinking Water State Revolving Loan Fund and such law contains provisions commonly known as the Davis-Bacon Act that requires all contractors and subcontractors performing work on federal construction contracts or federally assisted contracts in excess of $2,000 to pay their laborers and mechanics not less than the federal prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area as determined by the Secretary of Labor.

The Contractor hereby represents and warrants to and for the benefit of the Purchaser and the State that (a) the Contractor has reviewed and understands the Davis-Bacon Act, (b) as such has compensated all contractors and sub-contractors performing work on this project not less than the prevailing wage rate and fringe benefits for corresponding classes as determined by the Secretary of Labor, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, as may be requested by the Purchaser or the State. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Purchaser or State to recover as damages against the Contractor any loss, expense or cost (including without limitation attorney's fees) incurred by the Purchaser or State resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the State or any damages owed to the State by the Purchaser). While the Contractor has no direct contractual privity with the State, as a lender to the Purchaser for the funding of its project, the Purchaser and the Contractor agree that the State is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the State.

_____ _____

(Contractor Signature & Date) **(Owner Signature & Date)**

United States
Environmental Protection Agency

United States Environmental Protection Agency
Washington, DC 20460

Certification Regarding
Debarment, Suspension, and Other Responsibility Matters

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

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded fro m covered transactions b y any Federal department or agency;

(b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment t rendered against them for com mission o f 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 record s, making false statements, or receiving stolen property;

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

(d) Have not within a three-year period preceding this application/proposal had one or more public transaction s (Federal, State, or local) terminated or cause o r default.

I understand that a false statement on this certification may be ground for rejection of this proposal or termination of the award. In addition, under 18 U SC Sec. 10 01, a false statement ma y result in a fine of up to $10,000 or imprisonment for up to 5 years, or both.

_____
Typed Name & Title of Authorized Representative

_____
Signature of Bidder's Authorized Representative Date

☐ I am unable to certify to the above statements. My explanation is attached.

EPA Form 5700-49

FORM 6100-2
Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Participation Form

A Financial Assistance Agreement Recipient must require its prime contractors to provide this form to its DBE subcontractors. This form gives a DBE[1] subcontractor[2] the opportunity to describe work received and/or report any concerns regarding the EPA-funded project (e.g., in areas such as termination by prime contractor, late payments, etc.). The DBE subcontractor can, as an option, complete and submit this form to the EPA DBE Coordinator at any time during the project period of performance.

Subcontractor Name		Project Name
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact
Address		
Telephone No.		Email Address
Prime Contractor Name		Issuing/Funding Entity:

Contract Item Number	Description of Work Received from the Prime Contractor Involving Construction, Services, Equipment or Supplies	Amount Received by Prime Contractor

Please use the space below to report any concerns regarding the above EPA-funded project:

_____

_____

_____

_____

Subcontractor Signature	Title/ date

[1] A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202. [2] Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

FORM 6100-3
Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Performance Form

This form is intended to capture the DBE[1] subcontractor's[2] description of work to be performed and the price of the work submitted to the prime contractor. A Financial Assistance Agreement Recipient must require its prime contractor to have its DBE subcontractors complete this form and include all completed forms in the prime contractors bid or proposal package.

Subcontractor Name	Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact
Address		
Telephone No.	Email Address	
Prime Contractor Name	Issuing/Funding Entity:	

Contract Item Number	Description of Work Submitted to the Prime Contractor Involving Construction, Services , Equipment or Supplies	Price of Work Submitted to the Prime Contractor
DBE Certified By: ___DOT ___SBA ___Other: _____ ___Not certified	Meets/ exceeds EPA certification standards? ___ YES ___ NO ___ Unknown	

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

Prime Contractor Signature	Title/ date
Subcontractor Signature	**Title/ date**

[1] A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202. [2] Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

FORM 6100-4
Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Utilization Form

This form is intended to capture the prime contractor's actual and/or anticipated use of identified certified DBE[1] subcontractors[2] and the estimated dollar amount of each subcontract. A Financial Assistance Agreement Recipient must require its prime contractors to complete this form and include it in the bid or proposal package. Prime contractors should also maintain a copy of this form on file.

Subcontractor Name		Project Name
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact
Address		
Telephone No.		Email Address
Prime Contractor Name		Issuing/Funding Entity:

I have identified potential DBE certified subcontractors	__ YES	__ NO
If yes, please complete the table below. If no, please explain:		

Company Name	**Company Address/ Phone/ Email**	**Est. Dollar Amt**	**Currently DBE Certified?**

Continue on back if needed

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

Prime Contractor Signature	**Title/ date**

[1] A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202. [2] Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

Wage Rate Requirements

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; 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 § 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 paragraph (a)(1)(ii) of this section) 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.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The

State award official shall approve a request for 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 the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, 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.

(2) Withholding. The subrecipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) 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 until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 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.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social

security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA , the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(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 provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, 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 Regulations, 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 Optional 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 the State, EPA 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, the Federal agency or State 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 or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) 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, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, 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 Office of Apprenticeship Training, Employer and Labor Services 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 that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, 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 classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(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 shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 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 reference 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 Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) 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).

(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).

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

4. Contract Provision for Contracts in Excess of $100,000.

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this 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 paragraph (a)(1) of this section 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 paragraph (a)(1) of this section, 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 paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for

unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section 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 paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing hat the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the subrecipient should conduct interviews with a representative group of covered employees within two weeks of each contractor or subcontractor's submission of its initial weekly payroll data and two weeks prior to the estimated completion date for the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB . Subrecipients shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates.

The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract . Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at http://www.dol.gov/esa/contacts/whd/america2.htm.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 6

MODEL CONTRACT CLAUSE

Recipients must ensure that, when appropriate, the following clauses or their equivalent are included in each contract.

1. PRIVITY OF CONTRACT

This contract is expected to be funded in part with funds from the U.S. Environmental Protection Agency. Neither the United States nor any of its departments, agencies or employees is, or will be, a party to this contract or any lower tier contract. This contract is subject to the applicable EPA procurement regulations in effect on the date of the assistance award for this project.

2. CHANGES

(a) The following clause applies only to contracts for construction.

1. The recipient may at any time, without notice to any surety, by written order, make any change in the work within the general scope of the contract, including but not limited to changes:

(i) In the specifications (including drawings and designs);

(ii) In the time, method or manner of performance of the work;

(iii) In the recipient-furnished facilities, equipment, materials, services or site, or

(iv) Directing acceleration in the performance of the work.

2. A change order shall also be any other written order (including direction, instruction, interpretation or determination) from the recipient which causes any change, provided the contractor gives the recipient written notice stating the date, circumstances and source of the order and that the contractor regards the order as a change order.

3. Except as provided in this clause, no order, statement or conduct of the recipient shall be treated as a change under this clause or entitle the contractor to an equitable adjustment.

4. If any change under this clause causes an increase or decrease in the contractor's cost or the time required to perform any part of the work under this contract, whether or not changed by any order, the recipient shall make an equitable adjustment and modify the contract in writing. Except for claims based on defective specifications, no claim for any change under paragraph (a)(2) above shall be allowed for any costs incurred more than 20 days before the contractor gives written notice as required in paragraph (a)(2). In the case of defective specifications for which the recipient is responsible, the equitable adjustment shall include any increased cost the contractor reasonably incurred in attempting to comply with those defective specifications.

5. If the contractor intends to assert a claim for an equitable adjustment under this clause, the contractor must, within 30 days after receipt of a written change order under paragraph (a)(1) or the furnishing of a written notice under paragraph (a)(2), submit a written statement to the recipient setting forth the general nature and monetary extent of such claim. The recipient may extend the 30-day period. The contractor may include the statement of claim in the notice under paragraph (2) of this changes clause.

6. No claim by the contractor for an equitable adjustment shall be allowed if made after final payment under this contract.

b. The following clause applies only to contracts for services.

1. The recipient may at any time, by written order and without notice to the sureties, make changes within the general scope of this contract in the services or work to be performed. If such changes cause an increase or decrease in the contractor's cost or time required to perform any services under this contract, whether or not changed by any order, the recipient shall make an equitable adjustment and modify this contract in writing. The contractor must assert any claim for adjustment under this clause in writing within 30 days from the date it receives the recipient's notification of change, unless the recipient grants additional time before the date of final payment.

2. No claim by the contractor for an equitable adjustment shall be allowed if made after final payment under this contract.

3. No services for which the contractor will charge an additional compensation shall be furnished without the written authorization of the recipient.

c. the following clause applies only to contracts for supplies.

1. The recipient may at any time, by written order and without notice to the sureties, make changes within the general scope of this contract in any one or more of the following:

(i) Drawings, designs or specifications where the supplies to be furnished are specifically manufactured for the recipient;

(ii) Method of shipment or packing; and

(iii) Place of delivery.

2. If any changes cause an increase or decrease in the cost or time required to perform any part of the work under this contract, whether or not changed by such order, the recipient shall make an equitable adjustment in the contract price or delivery schedule, or both, and modify the contract in writing. The contractor must assert any claim for adjustment under this clause within 30 days from the date the contractor receives the recipient's notification of change. If the recipient decides that the facts justify such action, the recipient may receive and act upon any such claim asserted at any time before final payment under this contract. Where the cost of property made obsolete or excess as a result of a change is included in the contractor's claim for adjustment, the recipient has the right to prescribe the manner of disposition of such property. Nothing in this clause shall excuse the contractor from proceeding with the contract as changed.

3. No claim by the contractor for an equitable adjustment shall be allowed if made after final payment under this contract.

3. DIFFERING SITE CONDITIONS

The following clause applies only to construction contracts.

a. The contractor shall promptly, and before such conditions are disturbed, notify the recipient in writing of:

1. Subsurface or latent physical conditions at the site differing materially from those indicated in this contract, or

2. Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this contract.

b. The recipient shall promptly investigate the conditions. If it finds that conditions materially differ and will cause an increase or decrease in the contractor's cost or the time required to perform any part of the work under this contract, whether or not changed as a result of such conditions, the recipient shall make an equitable adjustment and modify the contract in writing.

c. No claim of the contractor under this clause shall be allowed unless the contractor has given the notice required in paragraph (a) of this clause. However, the recipient may extend the time prescribed in paragraph (a).

d. No claim by the contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

4. SUSPENSION OF WORK

The following clause applies only to construction contracts.

a. The recipient may order the contractor in writing to suspend, delay or interrupt all or any part of the work for such period of time as the recipient may determine to be appropriate for the convenience of the recipient.

b. If the performance of all or any part of the work is suspended, delayed or interrupted for an unreasonable period of time by an act of the recipient in administration of this contract, or by the recipient's failure to act within the time specified in this contract (or if no time is specified, within a reasonable time), the recipient shall make an adjustment for any increase in the cost of performance of this contract (excluding profit) necessarily caused by such unreasonable suspension, delay or interruption and modify the sub-agreement in writing. However, no adjustment shall be made under this clause for any suspension, delay or interruption to the extent (1) that performance would have been so suspended, delayed or interrupted by any other cause, including the fault or negligence of the contractor, or (2) for which an equitable adjustment is provided for or excluded under any other provision of this contract.

c. No claim under this clause shall be allowed (1) for any costs incurred more than 20 days before the contractor notified the recipient in writing of the act, or failure to act, involved (this requirement does not apply to a claim resulting from a suspension order), and (2) unless the amount claimed is asserted in writing as soon as practicable after the termination of such suspension, delay or interruption, but not later than the date of final payment under the contract.

5. TERMINATION

The following clause applies only to contracts over $10,000.

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, and (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 recipient for its convenience, provided that the contractor is given (1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.

c. If termination for default is effected by the recipient, an equitable adjustment in the price provided for in 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 recipient because of the contractor's default. If the contractor effects termination for default, or if the recipient effects termination for convenience, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the contractor for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the contractor relating to commitments which had become firm prior to the termination.

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 recipient all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the contractor in performing this contract, whether completed or in process.

e. Upon termination under paragraphs (a) or (b) above, the recipient may take over the work and may award another party a contract to complete the work under 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 recipient. In such event, adjustment of the sub-agreement price shall be made as provided in paragraph (c) of this clause.

6. REMEDIES

This clause applies only to contracts over $25,000.

Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the recipient and the contractor arising out of, or relating to, this contract or the breach of it will be decided, if the parties mutually agree, by arbitration, mediation, or other alternative dispute resolution mechanism; or in a court of competent jurisdiction within the State in which the recipient is located.

7. PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA

NOTE- The following clause applies to (1) any contract negotiated between the recipient and its contractor in excess of $100,000; (2) negotiated contract amendments or change orders in excess of $100,000 affecting the price of a formally advertised, competitively awarded, fixed price contract, or (3) any lower tier contract or purchase order in excess of $100,000 under a contract other than a formally advertised, competitively awarded, fixed price contract. This clause does not apply to contracts awarded on the basis of effective price competition.

a. The contractor and subcontractor, where appropriate, assure that the cost and pricing data submitted for evaluation with respect to negotiation of prices for negotiated contracts, lower tier contracts and change orders is based on current, accurate and complete data supported by their books and records. If the recipient or EPA determines that any price (including profit) negotiated in connection with this contract, lower tier contract or amendment there under was increased by any significant sums because the data provided was incomplete, inaccurate or not current at the time of submission, then such price or cost or profit shall be reduced accordingly and the recipient shall modify the contract in writing to reflect such action.

b. Failure to agree on a reduction shall be subject to the remedies clause of this contract.

NOTE - Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with lower tier contracts, the contractor may wish to include a clause in each lower tier contract requiring the lower tier contractor to appropriately indemnify the contractor. It is expected that any lower tier contractor subject to such indemnification will generally require substantially similar indemnification for defective cost and pricing data submitted by lower tier contractors.

8. AUDIT; ACCESS TO RECORDS

a. The contractor shall maintain books, records, documents and other evidence directly pertinent to performance on EPA funded work under this contract in accordance with generally accepted accounting principles and practices consistently applied, and the applicable EPA regulations in effect on the date of execution of this contract. The contractor shall also maintain the financial information and data used in the preparation or support of any cost submission required under applicable regulations for negotiated contracts or change orders and a copy of the cost summary submitted to the recipient. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, the recipient, and [the State] or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. The contractor will provide proper facilities for such access and inspection.

b. If this is a fixed price contract awarded through sealed bidding or otherwise on the basis of effective price competition, the contractor agrees to make paragraphs (a) through (g) of this clause applicable to all negotiated change orders and contract amendments affecting the contract price. In the case of all other types of prime contracts, the contractor agrees to make paragraphs (a) through (g) applicable to all contract awards in excess of $10,000, at any tier, and to make paragraphs (a) through (g) of this clause applicable to all change orders directly related to project performance.

c. Audits conducted under this provision shall be in accordance with generally accepted auditing standards and with established procedures and guidelines of the reviewing or audit agency(ies).

d. The contractor agrees to disclose all information and reports resulting from access to records under paragraphs (a) and (b) of this clause to any of the agencies referred to in paragraph (a).

e. Access to records is not limited to the required retention periods. The authorized representatives designated in paragraph (a) of this clause shall have access to records at any reasonable time for as long as the records are maintained.

f. This right of access clause applies to financial records pertaining to all contracts (except for fixed price contracts awarded through sealed bidding or otherwise on the basis of effective price competition) and all contract change orders regardless of the type of contract, and all contract amendments regardless of the type of contract. In addition this right of access applies to all records pertaining to all contracts, contract change orders and contract amendments:

1. To the extent the records pertain directly to contract performance;
2. If there is any indication that fraud, gross abuse or corrupt practices may be involved; or
3. If the sub-agreement is terminated for default or for convenience.

9. COVENANT AGAINST CONTINGENT FEES

The contractor assures that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. For breach or violation of this assurance, the recipient shall have the right to annul this agreement without liability or, at its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

10. GRATUITIES

a. If the recipient finds after a notice and hearing that the contractor or any of the contractor's agents or representatives offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of the recipient, the State or EPA in an attempt to secure a contract or favorable treatment in awarding, amending or making any determinations related to the performance of this contract, the recipient may, by written notice to the contractor, terminate this contract. The recipient may also pursue other rights and remedies that the law or this contract provides.

b. In the event this contract is terminated as provided in paragraph (a), the recipient may pursue the same remedies against the contractor as it could pursue in the event of a breach of the contract by the contractor, and as a penalty, in addition to any other damages to which it may be entitled by law, be entitled to exemplary damages in an amount (as determined by the recipient) which shall be not less than three nor more than ten times the costs the contractor incurs in providing any such gratuities to any such officer or employee.

11. BUY AMERICAN

This clause applies only to construction contracts award under 40 CFR Part 35, Subparts E and I.

In accordance with Section 215 of the Clean Water Act (33 U.S.C. 1251 et. seq.) the contractor agrees that preference will be given to domestic construction material by the contractor, subcontractors, material-men and supplies in the performance of this contract.

12. RESPONSIBILITY OF THE CONTRACTOR

(a) The following clause applies only to sub-agreements for services.

1. The contractor is responsible for the professional quality, technical accuracy, timely completion and coordination of all designs, drawings, specifications, reports and other services furnished by the contractor under this contract. The contractor shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in his designs, drawings, specifications, reports and other services.

2. The contractor shall perform the professional services necessary to accomplish the work specified in this contract in accordance with this contract and applicable EPA requirements in effect on the date of execution of the assistance agreement for this project.

3. The owner's or EPA's approval of drawings, designs, specifications, reports and incidental work or materials furnished shall not in any way relieve the contractor of responsibility for the technical adequacy of his work. Neither the owner's nor EPA's review, approval, acceptance or payment for any of the services shall be construed as a waiver of any rights under this agreement or of any cause for action arising out of the performance of this contract.

4. The contractor shall be, and shall remain, liable in accordance with applicable law for all damages to the owner or EPA caused by the contractor's negligent performance of any of the services furnished under this contract, except for errors, omissions or other deficiencies to the extent attributable to the owner, owner-furnished data or any third party. The contractor shall not be responsible for any time delays in the project caused by circumstances beyond the contractor's control.

5. The contractor's obligations under this clause are in addition to the contractor's other express or implied assurances under this contract or State law and in no way diminish any other rights that the owner may have against the contractor for faulty materials, equipment or work.

b. The following clause applies only to contracts for construction.

1. The contractor agrees to perform all work under this contract in accordance with this agreement's designs, drawings and specifications.

2. The contractor guarantees for a period of at least one (1) year from the date of substantial completion of the work that the completed work is free from all defects due to faulty materials, equipment or workmanship and that he shall promptly make whatever adjustments or corrections which may be necessary to cure any defects, including repairs of any damage to other parts of the system resulting from such defects. The owner shall promptly give notice to the contractor of observed defects. In the event that the contractor fails to make adjustments, repairs, corrections or other work made necessary by such defects, the owner may do so and charge the contractor the cost incurred. The performance bond shall remain in full force and effect through the guarantee period.

3. The contractor's obligations under this clause are in addition to the contractor's other express or implied assurances under this contract or State law and in no way diminish any other rights that the owner may have against the contractor for faulty materials, equipment or work.

13. FINAL PAYMENT

Upon satisfactory completion of the work performed under this contract, as a condition before final payment under this contract or as a termination settlement under this contract the contractor shall execute and deliver to the owner a release of all claims against the owner arising under, or by virtue of, this contract, except claims which are specifically exempted by the contractor to be set forth therein. Unless otherwise provided in this contract, by State law or otherwise expressly agreed to by the parties to this contract, final payment under this contract or settlement upon termination of this contract shall not constitute a waiver of the owner's claims against the contractor or his sureties under this contract or applicable performance and payment bonds.

United States Environmental Protection Agency
Region 6

Policy for Bypass During Construction

It is a violation of an NPDES permit to bypass any part of a collection system or treatment plant. Such violations are subject to the enforcement provisions of Section 309 of the Clean Water Act. Under extreme circumstances, bypassing can sometimes be employed for short periods, but only after thorough review and authorization by the regulatory agency.

NPDES regulations and permits prohibit the diversion of wastes from any portion of the treatment facility unless:

1. Bypass is unavoidable to prevent loss of life, personal injury. or severe property damage; or

2. There are no feasible alternatives to bypass. such as the use of auxiliary treatment facilities. retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the Permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The Permittee submits prior notice of an anticipated bypass. if possible, at least ten days before the date of the bypass.

The regulatory agency may authorize an anticipated bypass after considering its adverse effects, if it determines that it will meet the above conditions.

) The construction sequence must be such that wastes are provided a minimum of secondary treatment, or the equivalent for industrial treatment facilities during all phases of construction unless more stringent treatment levels are required by the state agency; or

2) The facility must maintain compliance with interim limitations set by the regulatory agency based on plant performance.

3) Disinfection is to be utilized if required to protect public health.

CROSS-CUTTING FEDERAL AUTHORITIES

Environmental Authorities

- Archeological and Historic Preservation Act of 1974, Pub. L 86-523, as amended
- Clean Air Act, Pub. L 84-159, as amended
- Coastal Barrier Resources Act, Pub. L 97-348
- Coastal Zone Management Act, Pub. L 92-583, as amended
- Endangered Species Act, Pub. L 93-205, as amended
- Executive Order 11593, Protection and Enhancement of the Cultural Environment
- Floodplain Management, Executive Order 11988, as amended by Executive Order 12148
- Protection of Wetlands, Executive Order 11990
- Farmland Protection Policy Act, Pub. L. 97-98
- Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended
- National Historic Preservation Act, PL 89-665, as amended
- Safe Drinking Water Act, Pub. L. 93-523, as amended
- Wild and Scenic Rivers Act, Pub. L. 90-542, as amended
- Wilderness Act, Pub. L. 88-577, as amended

Economic and Miscellaneous Authorities

- Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended, Executive Order 12372
- Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans
- Uniform Relocation and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646 as amended
- Debarment and Suspension, Executive Order 12549
- New Restriction on Lobbying, Section 319 of Pub. L. 101-121

Social Policy Authorities

- Age Discrimination Act of 1975, Pub. L. 94-135
- Title VI of the Civil Rights Act of 1964, Pub. L. 88-352
- Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (including Executive orders 11914 and 11250)
- The Drug-Free Workplace Act of 1988, Pub. L. 100-690
- Equal Employment Opportunity, Executive Order 11246
- Women's and Minority Business Enterprise, Executive Orders 11625, 12138 and 12432
- Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590

Federal Davis Bacon Wage Decision

General Decision Number: NM120017 07/20/2012 NM17

Superseded General Decision Number: NM20100022

State: New Mexico

Construction Type: Heavy

County: Santa Fe County in New Mexico.

HEAVY CONSTRUCTION PROJECTS

Modification Number	Publication Date
0	01/06/2012
1	04/13/2012
2	05/25/2012
3	07/20/2012

* CARP1353-001 06/01/2012

	Rates	Fringes
CARPENTER	$ 22.94	7.92

ELEC0611-014 05/01/2012

	Rates	Fringes
Electrician		
Zone 1	$ 29.90	5%+8.10

ZONE 1: Mileage calculated from the main post office in the following towns: Albuquerque-40 miles, Belen-12 miles, Carrizozo-12 miles, Clovis-12 miles, Espanola-14 miles, Farmington-6 miles, Gallup-10 miles, Las Vegas-8 miles, Los Lunas-12 miles, Portales-12 miles, Ratan-6 miles, Roswell-12 miles, Ruidoso-12 miles, Santa Fe-10 miles, Tucumcari-6 miles.

ZONE 2: Extending up to 20 miles beyond Zone 1, EXCEPT ALBURQUERQUE, shall receive 9% above Zone 1 rate.

ZONE 3: Extending up to 30 miles beyond Zone 1, EXCEPT ALBURQUERQUE, shall receive 15% above Zone 1 rate.

ZONE 4: Extending more than 30 miles beyond Zone 1, EXCEPT ALBURQUERQUE, shall receive 26% above Zone 1 rate.

ENGI0953-005 04/01/2011

	Rates	Fringes
Power Equipment Operator		
(3) Forklift	$ 19.40	5.44
(4) Bulldozer	$ 19.54	5.44

SHAFT AND TUNNEL WORK - $.15 per hour above regular rate.

HAZARDOUS PAY - The following pay shall be applicable for every hour an operating engineer is required by governmental regulations and does wear special equipment for hazardous work at the designated levels. This is applicable in all three zones

LEVEL C - 10% above regular hourly wage

LEVEL B - 10% above regular hourly wage

LEVEL A - 15% above regular hourly wage

ZONE PAY The reference point for determining zone pay shall be from the intersection of Interstate Highway 25 and I-40.

ZONE 1 - Albuquerque - 0 to 50 mile radius from I-40 shall be a Free Zone
- Farmington - 0 to 15 mile radius of Farmington City Hall shall be a Free Zone

Zone 2 - Shall be $3.50 per hour above base pay. Will apply outside of above parameters up to 35 miles

Zone 3 - Shall be $2.50 cents per hour above Zone 2 for a total of $6.00 per hour and will apply after 35 miles of Zone one's parameters.

SUNM2009-011 09/14/2010

	Rates	Fringes

CEMENT MASON/CONCRETE FINISHER...$ 16.53 1.95

IRONWORKER, REINFORCING.....$ 20.79 7.56

LABORER: Common or General.....$ 9.95 0.35

LABORER: Flagger.....$ 10.65 1.91

LABORER: Landscape.....$ 11.00 0.35

LABORER: Mason Tender -
Cement/Concrete.....$ 12.46 0.00

LABORER: Pipelayer.....$ 13.60 0.00

OPERATOR: Backhoe.....$ 14.03 0.26

OPERATOR: Bobcat/Skid
Steer/Skid Loader.....$ 13.77 0.00

OPERATOR: Grader/Blade.....$ 18.56 0.00

OPERATOR: Loader (Front End)....$ 13.43 0.26

OPERATOR: Tractor.....$ 14.74 0.26

PAINTER: Brush, Roller and
Spray.....$ 17.30 1.80

TRUCK DRIVER: Dump Truck.....$ 12.45 0.26

TRUCK DRIVER: Pickup Truck.....$ 12.10 1.73

TRUCK DRIVER: Water Truck.....$ 14.74 0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

==========
=

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)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters , PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable , i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rate.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

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

NEW MEXICO DEPARTMENT OF WORKFORCE SOLUTIONS - PUBLIC WORKS BUREAU

QUESTIONS?? Call OR E-mail:
Otis Caddy @ (505) 841-4406 OR Lynno.caddy@state.nm.us or
Kim Kew @ (505) 841-4405 OR kim.kew@state.nm.us fax (505) 841-4423

Contracting Agency/Owner	County	Decision Date	Decision No.
City of Santa Fe	Santa Fe	11/05/12	SF-12-1814 H
		Expires for Bids	
Type of Construction: H		03/05/13	

Description of Work: Buckman Direct Diversion Booster Station 2A Solar Project
The construction project involves development of a 1 megawatt solar photovoltaic generating facility on approximately 8 acres of land administered by the Bureau of Land Management. Construction will involve site survey, grading, trenching, pole driving into soil, installation of mounting and racking hardware, installation of electrical conduit and wiring, concrete forming of pads, installation of solar panels and inverters, and installation of fencing and security monitoring cameras

***REMINDER* to those preparing BID documents:** If bids are not opened by the above "Expires for Bids" date, a **NEW** wage decision may be required. If bids are NOT submitted before new wage rates go into effect, a NEW wage decision WILL be required. Call the Public Works Bureau at (505) 841-4409 to check status of new wage rates.

NOTICES

ALL contractors **MUST** have an active registration with the Labor Enforcement Fund before bidding on any public works project. Bids from contractors who are not registered will be considered **INVALID**.

The General/Prime Contractor selected for this project **MUST** submit a completed Statement of Intent to Pay Prevailing Wages to the Contracting Agency (or it's agent) before any work is started.

Sub-contractors & 2nd/3rd Tier Contractors **MUST** also submit Statements through their General/Prime before they start work. The General/Prime is responsible for informing the Contracting Agency or it's agent whenever there is a change to the subcontractors on the project.

The Contracting Agency or it's agent **MUST** fill out and submit the Notification of Award and Subcontractor list to the Public Works Bureau and forward the remainder of this wage decision package to the General/Prime Contractor that is awarded the project contract. That contractor is also responsible for making certain that all subcontractors have copies of the wage decision and other needed forms.

The General/Prime Contractor **MUST** post the wage rate table at the job site outside the Superintendent's trailer/office in an easily accessible place.

Workers **MUST** be classified & paid according to the work they perform, regardless of qualifications.

These wage rates are good for the life of a project.

New Mexico Department of Workforce Solutions
Public Works Bureau
625 Silver Ave SW, Suite 410, Albuquerque, NM 87102
Kim Kew (505) 841-4405 Otis Caddy (505) 841-4406 Email to: public.works@state.nm.us or fax to: (505) 841-4423

Wage Decision # SF-12-1814 H
NOTIFICATION OF AWARD (NOA)

***Description and Location of Work*: Buckman Direct Diversion Booster Station 2A Solar Project**
The construction project involves development of a 1 megawatt solar photovoltaic generating facility on approximately 8 acres of land administered by the Bureau of Land Management. Construction will involve site survey, grading, trenching, pole driving into soil, installation of mounting and racking hardware, installation of electrical conduit and wiring, concrete forming of pads, installation of solar panels and inverters, and installation of fencing and security monitoring cameras

City of Santa Fe Santa Fe County : Old Buckman Rd/County Rd. 77

***REMINDER for Agency Conducting BID Process:* If bids are NOT submitted before new wage rates go into effect, a NEW wage decision WILL be required.**
When the Contract is awarded for this project the Wage Rate Poster and the Wage Rate Packet, excluding this NOA and Subcontractor List, must be delivered to the ***GENERAL/PRIME CONTRACTOR.*** The Contracting Agency or its agent must complete this form (including the next page listing all of the subcontractors including 2nd tier subcontractors) and fax or mail it to the address above. ***If the project is canceled,*** this form must be completed by the agency conducting the bid process. Failure to submit the NOA in a timely manner is a violation of paragraph 11.1.2.10.B (3) of the Public Works Minimum Wage Act Policy Manual.

General/Prime Contractor Company Name:_____ License#:_____

Address:_____ City:_____ State:_____ Zip:_____

Telephone: _____ Fax:_____

Project Contact's name:_____E-Mail:_____

Approximate Date Work to Start:_____

Estimated Completion Date:_____

Estimated Cost of Project:_____

Bid Opening Date:_____

Note: The General/Prime Contractor MUST mail/fax in their Statement of Intent to Pay Prevailing Wages to the Contracting Agency or its agent before beginning work on the project. Each Subcontractor (and all tiers of subcontractors) **MUST** also mail/fax their Statement of Intent to Pay Prevailing Wages through the General/Prime Contractor before they start work. After work on the project is completed **(but before final payments),** subcontractors and all tiers of subcontractors must mail/fax (through the General/Prime Contractor) an Affidavit of Wages Paid.

Signature for Contracting Agency (or agent) _____
Printed Name_____
Date _____

8/10/07

SUBCONTRACTOR LIST

Do NOT list suppliers or professional services (such as surveyors)

INCLUDE individual subcontractor dollar amount for project

Email to: public.works@state.nm.us or fax to: (505) 841-4423

Please include **2nd & 3rd Tier** subcontractors. Make extra copies of form if necessary.

Wage Dec. # SF-12-1814 H

General Contractor:

Company Name:
Address: City: State: Zip:
E-Mail Address: License No.:
Phone No.: Fax No.: Sub 2nd TIER (To Whom) 3rd TIER (To Whom)
Work to be performed: Amount ($):

Company Name:
Address: City: State: Zip:
E-Mail Address: License No.:
Phone No.: Fax No.: Sub 2nd TIER (To Whom) 3rd TIER (To Whom)
Work to be performed: Amount ($):

Company Name:
Address: City: State: Zip:
E-Mail Address: License No.:
Phone No.: Fax No.: Sub 2nd TIER (To Whom) 3rd TIER (To Whom)
Work to be performed: Amount ($):

Company Name:
Address: City: State: Zip:
E-Mail Address: License No.:
Phone No.: Fax No.: Sub 2nd TIER (To Whom) 3rd TIER (To Whom)
Work to be performed: Amount ($):

Company Name:
Address: City: State: Zip:
E-Mail Address: License No.:
Phone No.: Fax No.: Sub 2nd TIER (To Whom) 3rd TIER (To Whom)
Work to be performed: Amount ($):

Company Name:
Address: City: State: Zip:
E-Mail Address: License No.:
Phone No.: Fax No.: Sub 2nd TIER (To Whom) 3rd TIER (To Whom)
Work to be performed: Amount ($):

Buckman Direct Diversion Booster Station 2A Solar Project : Wage Decision # SF-12-1814 H

The construction project involves development of a 1 megawatt solar photovoltaic generating facility on approximately 8 acres of land administered by the Bureau of Land Management. Construction will involve site survey, grading, trenching, pole driving into soil, installation of mounting and racking hardware, installation of electrical conduit and wiring, concrete forming of pads, installation of solar panels and inverters, and installation of fencing and security monitoring cameras

Type H - Heavy Engineering, Effective January 1, 2012

Trade Classification	Base Rate	Fringe Rate	Apprenticeship
Asbestos Worker - Heat & Frost Insulator	27.35	10.23	0.20
Boilermaker	18.50	3.31	0.56
Bricklayer/Blocklayer/StoneMason	20.78	4.73	0.54
Carpenter/Lather	20.86	6.00	0.35
Millwright/Piledriver	26.38	5.96	0.40
Cement Mason	21.83	6.98	0.40
Electricians			
Outside Classifications			
Groundman	21.14	10.23	0.25
Equipment Operator	23.96	10.23	0.25
Lineman/Tech	24.55	10.23	0.25
Cable Splicer	25.73	10.23	0.25
Inside Classifications			
Wireman/Tech	26.85	8.36	0.54
Cable Splicer	28.58	8.36	0.54
Sound Classifications			
Installer	0.00	0.00	0.00
Technician	0.00	0.00	0.00
Soundman	0.00	0.00	0.00
Glazier	0.00	0.00	0.00
Ironworker	31.04	9.40	0.42
Painter (Brush/Roller/Spray)	16.00	3.78	0.00
Plumber/Pipefitter	28.30	11.00	0.32
Roofer	19.56	11.34	0.23
SheetmetalWorker	27.56	14.20	0.42
Operators			
Group I	33.08	6.98	0.35
Group II	33.28	6.98	0.35
Group III	33.86	6.98	0.35
Group IV	33.88	6.98	0.35
Group V	33.88	6.98	0.35
Group VI	34.03	6.98	0.35
Group VII	34.08	6.98	0.35
Group VIII	34.23	6.98	0.35
Group IX	34.73	6.98	0.35
Group X	35.53	6.98	0.35
Laborers			
Group I	14.95	4.27	0.26
Group II	15.25	4.27	0.26
Group III	15.55	4.27	0.26
Group IV	16.12	4.27	0.26
Group V	16.37	4.27	0.26
Group VI	15.10	4.27	0.26
Group VII	15.04	4.27	0.26
Group VIII	15.50	4.27	0.26
Group IX	15.70	4.27	0.26
Group X	16.37	4.27	0.26
Truck Drivers			
Group I	15.05	4.94	$0.26
Group II	15.25	4.94	$0.26
Group III	15.45	4.94	$0.26
Group IV	15.65	4.94	$0.26

NOTE: SUBSISTENCE AND INCENTIVE PAY DO NOT APPLY TO TYPE "H" CONSTRUCTION.

Type H - Heavy Engineering, Effective January 1, 2012

Trade Classification	Base Rate	Fringe Rate	Apprenticeship
Asbestos Worker - Heat & Frost Insulator	27.35	10.23	0.20
Boilermaker	18.50	3.31	0.56
Bricklayer/Blocklayer/StoneMason	20.78	4.73	0.54
Carpenter/Lather	20.86	6.00	0.35
Millwright/Piledriver	26.38	5.96	0.40
Cement Mason	21.83	6.98	0.40
Electricians			
Outside Classifications			
Groundman	21.14	10.23	0.25
Equipment Operator	23.96	10.23	0.25
Lineman/Tech	24.55	10.23	0.25
Cable Splicer	25.73	10.23	0.25
Inside Classifications			
Wireman/Tech	26.85	8.36	0.54
Cable Splicer	28.58	8.36	0.54
Sound Classifications			
Installer	0.00	0.00	0.00
Technician	0.00	0.00	0.00
Soundman	0.00	0.00	0.00
Glazier	0.00	0.00	0.00
Ironworker	31.04	9.40	0.42
Painter (Brush/Roller/Spray)	16.00	3.78	0.00
Plumber/Pipefitter	28.30	11.00	0.32
Roofer	19.56	11.34	0.23
SheetmetalWorker	27.56	14.20	0.42
Operators			
Group I	33.08	6.98	0.35
Group II	33.28	6.98	0.35
Group III	33.86	6.98	0.35
Group IV	33.88	6.98	0.35
Group V	33.88	6.98	0.35
Group VI	34.03	6.98	0.35
Group VII	34.08	6.98	0.35
Group VIII	34.23	6.98	0.35
Group IX	34.73	6.98	0.35
Group X	35.53	6.98	0.35
Laborers			
Group I	14.95	4.27	0.26
Group II	15.25	4.27	0.26
Group III	15.55	4.27	0.26
Group IV	16.12	4.27	0.26
Group V	16.37	4.27	0.26
Group VI	15.10	4.27	0.26
Group VII	15.04	4.27	0.26
Group VIII	15.50	4.27	0.26
Group IX	15.70	4.27	0.26
Group X	16.37	4.27	0.26
Truck Drivers			
Group I	15.05	4.94	$0.26
Group II	15.25	4.94	$0.26
Group III	15.45	4.94	$0.26
Group IV	15.65	4.94	$0.26

NOTE: SUBSISTENCE AND INCENTIVE PAY DO NOT APPLY TO TYPE "H" CONSTRUCTION.

Type H Construction: Laborers, Operators, and Truck Drivers

Laborer classification groups and wage spreads for type "H" heavy engineering construction:

(1) Group I (unskilled): -$0.30: building and common laborer; carpenter tender; chainman; rodman; stakedriver; concr. buggy opr. (hand); concr. workers; flagmen; soil sample tester;

(2) Group II (semi-skilled): (base): wagon, air tract, drill and diamond drillers' tender (outside); air and power tool opr. (not a carpenter's tool); asbestos remover; asph. heaterman; asph. jointman; asph.raker; batching plant scaleman; tenderers (to cement mason and plasterer); chain sawman; concr. power buggyman opr.; concr. touch-up man; concr. sawman - coring mach.; curbing mach., asph. or cement; cutting torchman; metal form setter-road; grade setter; hod carrier; mortar mixer and mason tender; powderman or blaster helper; sandblaster; scaler; vibratorman (hand type); vibratory compactor (hand type); window washer; nurseryman-gardener; wagon, air tract, drill and diamond driller (outside); roadway hardware worker;

(3) Group III (miscellaneous): +$0.30: gunite pumpcreteman and nozzleman; multi-plate setter; manhole builder; pipelayer; powderman - blaster - makeup; landscaper; traffic control technician; laboratory technician;

(4) Group IV (shaft workers): +$0.87: air tugger opr.; concr. workers (incl. all cement chipping and finish, underground); drillers; form setters and handlers; hand muckers; miners; powdermen; timbermen (wood or steel); reinforcing steel setters; tunnel liner; plate setters, all cutting and welding incidental to miner's work; toplanders; bottomlanders;

(5) Group V (shaft workers): +$1.12: shifters;

(6) Group VI (tunnel workers): -$0.15: laborers and handmuckers;

(7) Group VII (tunnel workers): +$0.00: groutmen; nippers; trackmen;

(8) Group VIII (tunnel workers): +$0.25: drillers; form setters and handlers; scalers; miners; timbermen; brakemen; concr. workers (incl. all cement chipping and finishing underground); reinforcing steel setters; timbermen (wood or steel); tunnel liner plate setters; all cutting and welding incidental to miner's work;

(9) Group IX (tunnel workers): +$0.45: powdermen;

(10) Group X (tunnel workers): +$1.12: shifters.

Equipment operator classification groups and wage spreads for type "H" - heavy engineering construction:

(1) Group I: -$0.80: concr. paving curing machine;

(2) Group II: -$0.60: belt type conveyors (material and concr.); broom (self prop.); forklift; greases truck oper.; head oiler; hydro lift; tractor (under 50 drawbar HP with or without attach.); indus. loco. brakeman; front end loader (2 CY or less); fireman; oiler; screedman; roller (pull type); mulching machine, roller (self propelled);

(3) Group III: -$0.02: concr. paving form grader; concr. paving gang vibrator; concr. paving joint or saw mach.; concr. paving sub grader; tractor with backhoe attachment; subgrade or base finisher; power plant (elec. gen. or welding mach.);

(4) Group IV: (base): bulldozer (including self-propelled roller with dozer

attachment); batch or continuous mix plant (concr., soil-cement, or asph.); roller (steel wheel); front end loader (2 through 10 CY); scraper oper.; motor grader;

(5) Group V: +$0.00: asph. distr.; paving or laydown mach.; asph. retort heater; mixer, heavy duty, asph. or soil cement; trenching mach.; clam type shaftmucker; backhoe, clamshell, dragline, gradall, shovel (under 3/4 CY); elevating grader or belt loader; cranes (crawler or mobile) under 20 ton; air compressor (300 CFM and over); crushing screening and washing plants; drlg. mach. (cable core or rotary); mixer, concr. (1 CY and less); pump (6 in. intake or over); winch truck; hoist (1 drum); indus. loco. motorman; lumber stacker; tractor (50 drawbar HP or over);

(6) Group VI: +$0.15: concr. paver mixer; hoist (2 drums and over); side boom; traveling crane; piledriver; backhoe, clamshell, dragline, gradall, shovel (3/4 CY to 3 CY); cranes (crawler or mobile) 20 ton to 40 ton; front end loader (over 10 CY); mixer., concr. (over 1 CY); mechanic and/or welder;

(7) Group VII: +$0.20: concr. slip-form paving mach.; concr. paving finishing mach.; concr. paving longitudinal float; gunite mach.; refrig.; jumbo form or drlg.; stage; slusher; concr. paving spreader; pumpcrete mach.; grout pump oper.;

(8) Group VIII: +$0.35: mine hoist; bulldozer (multiple units); scraper (multiple units); mucking mach.; backhoe, clamshell, dragline, gradall, shovel (over 3 CY); cranes (crawler or mobile) over 40 tons;

(9) Group IX: +$0.85: belt loader (CMI type) oper.; pipemobile oper. assistant; derrick, cableway;

(10) Group X: +$1.65: pipemobile operator; mole operator.

Truck driver classification groups and wage spreads for type "H" - heavy engineering construction:

(1) Group I: -$0.20: pick-up truck 3/4 ton or under; warehouseman; dump truck, under 8 cubic yards; flatbed, 1 1/2 ton or under;

(2) Group II: (base): dump truck, 8 to 16 cubic yards; tank truck, under 6,000 gallons; flatbed, over 1 1/2 ton;

(3) Group III: +$0.20: spreader box (self-propelled); distributor (asphalt) transit mix; lowboy, light equipment; off-highway hauler; tank truck, over 6,000 gallons; dump truck, over 16 cubic yards; trailer semi-trailer dump;

(4) Group IV: +$0.40: diesel-powered transport; lowboy, heavy equipment.

SUSANA MARTINEZ
GOVERNOR

JOHN SANCHEZ
LT. GOVERNOR

CELINA BUSSEY
SECRETARY

STATE OF NEW MEXICO
DEPARTMENT OF WORKFORCE SOLUTIONS
625 Silver Ave SW Suite 410
Albuquerque, NM 87102
Telephone (505) 841-4405
Fax (505) 841-4420

PUBLIC WORKS PROJECT REQUIREMENTS

As a participant in a Public Works project valued at more than $60,000 in the State of New Mexico, the following list addresses many of the responsibilities that are assigned by statute to each project stakeholder.

Contracting Agency

- Ensure that all contractors wishing to bid on a Public Works project valued at more than $60,000 are registered with the Labor Relations Division, Labor Enforcement Fund (LEF) prior to bidding.
- Provide completed Notice of Award (NOA) to Labor Relations Division within 3 (Three) days of this project being awarded.

General Contractor

- Provide to Labor Relations Division within 3 (Three) days a complete sub-contractor list and Statements of Intent (SOI) to pay Prevailing Wages.
- Ensure that all sub-contractors wishing to bid on a Public Works project valued at more than $60,000 are registered with the Labor Relations Division prior to bidding.
- Submit weekly certified payrolls to the owner/contracting agency.
- NM Apprenticeship and Training Fund payments are to be paid to either an approved Apprenticeship program or to the Labor Relations Division.
- The Wage Rate poster must be displayed at the job site in an easily accessible place.
- When a project has been completed, Affidavits of Wages Paid (AWP) need to be sent to the Labor Relations Division.

Sub-Contractor

- Ensure that all sub-contractors wishing to bid on a Public Works project valued at more than $60,000 are registered with the Labor Relations Division prior to bidding.
- Submit weekly certified payrolls to the General Contractors.
- NM Apprenticeship and Training Fund payments must be paid to either an approved Apprenticeship program or the Labor Relations Division.

Additional Information

Reference material and forms for these requirements are available through the following New Mexico Workforce Solutions Web Link.
.www.dws.state.nm.us/new/Labor_Relations/publicworks.html..

Additional Information

Additional information, requirements, and documents on these topics can be found through the Public Works web pages.

- Labor Enforcement Fund (LEF)
- Weekly Certified Payroll
- Public Works Apprenticeship and Training Fund (PWAT)
- Forms: Statement of Intent (SOI), Affidavit of Wages Paid (AWP)
- Prevailing Wage Rates (Base Rates, Fringe, and Apprenticeship Contributions)

CONTACT INFORMATION

Contact us for any questions relating to Public Works Projects.

Kim Kew at .kim.kew@state.nm.us. or 505-841-4405
Otis Caddy .LynnO.Caddy@state.nm.us. 505-841-4406

City of Santa Fe

Living Wage Ordinance

Ordinance Number §28-1 28-1.12 SFCC 1987

Purpose:

The City of Santa Fe Living Wage Ordinance was adopted to establish minimum hourly wage rates.

Who it affects:

- All businesses and non-profit organization required to have a business license or business registration issued by the City of Santa Fe.

Compliance:

- Affected businesses are required to pay employees an hourly wage of $9.85 effective January 1, 2009.
- Beginning January 1, 2009, and each year thereafter, the minimum wage shall be adjusted upward by an amount corresponding to the previous year's increase, if any, in the consumer price index for the western region for urban wage earners and clerical workers.
- For workers who customarily receive more than $100 per month in tips or commissions, any tips or commissions received and retained by a worker shall be counted as wages and credited towards satisfaction of the minimum wage provided that, for tipped workers, all tips received by such workers are retained by the workers, except that the pooling of tips among workers shall be permitted.
- The value of health care benefits and child care shall be considered as an element of wages.
- Non-profit organizations whose primary source of funds is from (Medicaid) waivers are exempt.

Prohibitions against retaliation and circumvention:

- It shall be unlawful for any business, employer or employer's agent or representative to take any action against an individual in retaliation for exercising or communicating rights under this ordinance. This includes retaliation against individuals who mistakenly but in good faith allege noncompliance with the ordinance.
- Taking adverse action against an individual within sixty days of the individual's assertion of or communication of information regarding rights raises a reputable presumption of retaliation for assertion of rights.
- It shall be unlawful for any business or employer to intentionally circumvent the requirements of this ordinance by contracting portions of its operations or leasing portions of its property.

Enforcement; Remedies:

- **Administrative Enforcement** - The city manager, or his/her designee, is authorized, as appropriate and as resources permit, to enforce this ordinance.
- **Criminal Penalty** - A person violating this ordinance shall be guilty of a misdemeanor and, upon conviction, for Each offense may be subject to fines and imprisonment as set forth in Section 1-3 SFCC 1987. A person violating any of the requirements of this ordinance shall be guilty of a separate offense for each day or portion thereof and for each worker or person to which any such violation occurred.
- **Other remedies** - The city, any individual aggrieved by a violation of this ordinance, or any entity the members of which have been aggrieved by a violation of this ordinance, may bring a civil action in a court of competent jurisdiction to restrain, correct, abate or remedy any violation of this ordinance and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, reinstatement, the Payment of any wages due and an additional amount as liquidated damages equal to twice the amount of any wages due, injunctive relief, and reasonable attorney's fees and costs.

Nonexclusive Remedies and Penalties - The remedies provided in this section are not exclusive, and nothing in this ordinance shall preclude any person from seeking any other remedies, penalties, or relief provided by law.

Posting and Publication:

- Any business subject to the provisions of this ordinance shall as a condition to obtaining and holding a city of Santa Fe business license or registration, post and display in a prominent location next to its business license or registration on the business premises a notice, in English and Spanish, that the business is in compliance with the provisions of this ordinance and post the text of this notice. Failure to comply with this section shall be construed a violation of this ordinance and, in addition, shall be considered grounds for suspensions, revocation, or termination of the business license or registration.

For further information, please contact the office of: Constituent Services at (505) 955-6949 or by Email at:constituentservices@santafenm.gov

AE Solar Energy, Inc.

Warranty Statement

AE Solar Energy, Inc. ("AESE") warrants that new inverter and PV accessory products sold by AESE will be free from defects in material and workmanship for the period of time indicated in the table below, from the date AESE ships the product.

Product Line	Standard Warranty Period	Available Extensions
AE NX Inverters	5 years	+5, 10, 15
AE NX PowerStation (excluding inverters)	1 year	-
AE TX Inverters	10 years	+5, 10
AE TX PowerStation (excluding inverters)	1 year	-
AE TL String Inverters	10 years	-
AE TL String Data Monitoring Card	1 year	-
String Combiners	5 years	-
Remote PV-Tie Accessories	5 years	-
Inverter Integrated Sub-Combiners	5 years	-
Data Monitoring & Controls Equipment	5 years	-

*excludes sensor products

If AESE Technical Support receives a completed Warranty Card from the Customer within 6 months of the date AESE ships the inverter product, the warranty will start on the earlier of the six month anniversary of the shipment date or the installation date indicated on the applicable Warranty Card (inverter products only).

Subject to the Warranty Terms herein, AESE will cover the costs of parts, AESE labor, travel expenses for AESE personnel and shipping costs for parts and tools to perform service on Products within "Specified Locations" which are the contiguous United States, Hawaii, Puerto Rico, Ontario, Taiwan, India, United Kingdom, Czech Republic, Belgium, France, Germany, Netherlands, Switzerland, Greece, Italy, Portugal and Spain. Other countries, territories and overseas territories of Specified Locations are "Remote Locations" and Customer will pay shipping costs for parts and tools and travel expenses for AESE personnel for warranty service in Remote Locations. Extended inverter warranties may be purchased from AESE at the time of original purchase, or any time up to 1 year from the original ship date. Availability is at AESE's discretion. The Warranty Terms of this document apply to all extended warranties.

Purchases of Extended Warranties can be rescinded within 60 days of the date of customer purchase order date. After 60 days, it will be at AESE's discretion as to whether a rescission of will be granted. If approved, AESE will issue a credit memo to Customer's account for the value of the extended warranties purchased that can be applied against future inverter purchases during the next 12 months. Certified used or refurbished products sold by AESE will be free from defects in material and workmanship for 180 days from the date AESE ships the product. Additionally, for any product that AESE repaired, serviced, converted, or upgraded, AESE warrants that any repaired or replaced component of the product will be free from defects in material and workmanship for the longer of (i) 90 days from the date of service or return shipment for depot service or (ii) or the remainder of the new product warranty. In the event Customer transfers ownership of product to a third-party, the warranty will only transfer to the third-party if the product remains installed at the original site.

AESE has sole responsibility in the exercise of its reasonable discretion for determining the cause and nature of a product defect, and AESE's determination with regard thereto shall be final, subject to the dispute resolution provisions of these Terms. Customer must notify AESE of any breach of warranty within the applicable warranty period. The exclusive remedy for any breach of warranty shall be, at AESE's option, the repair of the product or replacement of such product with a product of the same type,

or the refund of the purchase price for such product. When notifying AESE of, or returning to AESE, any products that fail to meet an applicable warranty, Customer shall comply with AESE's then-current Return Material Authorization procedure (available upon request). AESE owns, and Customer hereby assigns to AESE ownership of, any part, component, or item removed from a product by AESE during a warranty repair under these terms.

The Warranty does not cover fuses, filters, and the value of lost energy production or costs related to the removal, installation, or troubleshooting of customer electrical systems.

The Warranty does not cover defects or damage caused by:

- Shipping or transportation damages
- Improper installation
- Exposure to unsuitable environmental conditions, including but not limited to damage due to lightning strikes
- Corrosion or rust
- Unauthorized or abnormal use or operation
- Negligence or accidents, including but not limited to lack of maintenance or improper maintenance
- Material or workmanship not provided by AESE or its authorized service centers
- Relocation of the commercial inverter from its original installation location
- Alteration of equipment without prior approval by AESE
- Acts of God, such as earthquake, flood or fire

If your product requires troubleshooting or warranty service, contact your installer or dealer. If you are unable to contact your installer or dealer, or the installer or dealer is unable to provide service, contact AESE directly at:

invertersupport@aei.com
Within the U.S., call 877.312.3832
Outside the U.S., call +1.541.323.4143

AESE reserves the right to charge for service time expended if the defect is due to any cause not covered by the warranty. In all cases, AESE reserves the right to inspect the Product that is subject to a warranty claim. Customer agrees to provide reasonable access for AESE to conduct such inspection. If an inverter's direct connectivity to enable AESE to perform remote firmware updates, inverter fault alerts and remote diagnostics, that was agreed upon as part of an Extended Warranty connectivity discount is not present throughout the Extended Warranty contract period, Customer will pay AESE's then current service fees to perform on-site troubleshooting and firmware updates associated with a warranty claim. Customer will pay freight on Products returned to Customer that are not covered by warranty. AESE will pay freight on Products sent to AESE, and those returned to Customer, which are covered by the Warranty Terms. AESE owns, and Customer hereby assigns to AESE ownership of, any part, component, or item removed from a Product by AESE under these Terms for any reason. AESE may, at its discretion, use new and/or reconditioned parts in performing warranty repair and in building replacement products. AESE reserves the right to use parts or products of original or improved design in the repair or replacement. If AESE repairs or replaces a product, the Warranty Terms will continue for the remaining portion of the original warranty period applicable to the Product or 90 days from the date of repair, whichever period expires later.